



U.S. Department of Justice

Civil Rights Division

*Federal Coordination and Compliance Section-NWB
950 Pennsylvania Ave, NW
Washington, DC 20530*

May 22, 2013

CERTIFIED, RETURN-RECEIPT REQUESTED

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
San Francisco, CA 94102

Honorable David S. Wesley
Presiding Judge
Los Angeles County Superior Court
111 North Hill Street
Los Angeles, CA 90012

Re: Complaint No. 171-12C-31
Investigation of the Superior Court of California, Los Angeles County and
Judicial Council of California

Dear Chief Justice Cantil-Sakauye, Judge Jahr, and Presiding Judge Wesley:

We write to provide a summary of our observations and recommendations based on our review to date of an investigation of the Superior Court of California, Los Angeles County (LASC) and the Judicial Council of California. In doing so, we seek a dialogue aimed at achieving voluntary compliance. Our investigation to date indicates that several current policies, practices, and procedures regarding the provision of language assistance services in LASC appear to be inconsistent with Title VI of the Civil Rights Act of 1964 and its implementing regulations. This letter describes these inconsistencies, which should be addressed to ensure that limited English proficient (LEP) individuals have meaningful access to court proceedings and court operations.

In February 2011, the Civil Rights Division of the United States Department of Justice (DOJ) initiated an investigation of the LASC and the Judicial Council of California. The Civil Rights Division and the United States Attorney's Office for the Central District of California are

jointly investigating this matter. DOJ's investigation was prompted by a complaint filed by the Legal Aid Foundation of Los Angeles that alleged discrimination against LEP individuals on the basis of national origin. Specifically, the complainants alleged that LASC fails to provide LEP individuals with meaningful access to its court services, including civil proceedings and court operations. While our investigation is focused on LASC, the structure of the California judicial system requires us to review mandates and policies that are promulgated and enforced at the state level through the Judicial Council and its staff agency, the California Administrative Office of the Courts (AOC). We appreciate the cooperation and continued dialogue that our offices have shared during this investigation.

Legal Background

The Civil Rights Division is responsible for investigating complaints against recipients of federal financial assistance under Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7, and the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d(c). Together, these statutes and their implementing regulations prohibit discrimination on the basis of race, color, national origin, sex, or religion by recipients of federal financial assistance. See 42 U.S.C. §§ 2000d, 3789d(c); 28 C.F.R. Part 42, Subparts C and D. LASC, the AOC, and the Judicial Council are subject to the requirements of Title VI and the Safe Streets Act because these entities are part of the unified state court system of California, which receives federal financial assistance, including from DOJ.

In order to comply with Title VI, the Safe Streets Act, and their implementing regulations, recipients of federal financial assistance must provide meaningful access to LEP individuals. The Supreme Court decided over three decades ago that a federally funded recipient's denial of education to a group of non-English speakers violated Title VI and its implementing regulations. *Lau v. Nichols*, 414 U.S. 563, 568- 69 (1974). As the Court explained, “[i]t seems obvious that the 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” Title VI regulations.¹ *Id.* at 568. Title VI regulations also require recipients to translate

¹ Since the Supreme Court's decision in *Lau*, other courts have found that the failure by a recipient to provide meaningful access to LEP individuals can violate Title VI's prohibition of national origin discrimination. See, e.g., *Sandoval v. Hagan*, 197 F.3d 484, 510-11 (11th Cir. 1999) (holding that English-only policy for driver's license applications constituted national origin discrimination under Title VI), *rev'd on other grounds sub nom. Alexander v. Sandoval*, 532 U.S. 275 (2001); *Cabrera v. Alvarez*, C 12-04890 SI, 2013 WL 1283445 at *5-6 (N.D. Cal. Mar. 27, 2013) (quoting 28 C.F.R. § 42.405(d)(1)) (Title VI intent claim properly alleged when public housing project failed to provide language assistance services); *Nat'l Multi Housing Council v. Jackson*, 539 F. Supp. 2d 425, 430 (D.D.C. 2008) (citing 28 C.F.R. § 42.405(d)) (“Longstanding Justice Department regulations also expressly require communication between funding recipients and program beneficiaries in languages other than English to ensure Title VI compliance.”); *Almendares v. Palmer*, 284 F. Supp. 2d 799, 808 (N.D. Ohio 2003) (holding that plaintiff sufficiently alleged Title VI violation based on Defendant's failure to ensure bilingual services in a food stamp program); *Pabon v. Levine*, 70 F.R.D. 674, 677 (S.D.N.Y. 1976) (summary judgment for defendants denied in case alleging failure to provide unemployment insurance information in Spanish violated Title VI); *accord, Ling v. State*, 702 S.E. 2d 881, 884 (Ga. 2010) (“as a recipient of federal funding, the court system in this State is obligated to provide persons who are ‘limited English proficient’ with meaningful access to the courts in order to comply with Title VI . . . and the Safe Streets Act . . . [V]igilance in protecting the rights of non-English speakers is required in all of our courts.”).

written materials for LEP individuals. *Colwell v. Dep't of Health and Human Services*, 558 F.3d 1112, 1126 (9th Cir. 2009) (citing 28 C.F.R. § 42.405(d)(1)) (“[W]ritten translation is mandated . . . by the 1976 DOJ regulation . . .”).

Under Executive Order 13166, each federal agency that extends financial assistance is required to issue guidance explaining the obligations of their recipients to ensure meaningful access by LEP persons to their federally assisted programs and activities. *See* 65 Fed. Reg. 50,121 (Aug. 16, 2000). The DOJ Guidance issued pursuant to this requirement states that recipients of financial assistance from DOJ should take “every effort . . . to ensure competent interpretation for LEP individuals during all hearings, trials, and motions.” Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. 67 Fed. Reg. 41,455, 41,471 (June 18, 2002) (DOJ Guidance). Since that time, DOJ has provided substantial additional guidance² and technical assistance regarding the application of Title VI and the Title VI regulations to recipient courts and court systems.

Every application for federal financial assistance is also accompanied by a contractual assurance that the program will be conducted in compliance with all of the requirements set forth in Title VI, the Safe Streets Act, and their implementing regulations. For example, the assurance for grants from DOJ’s Office of Justice Programs states, in part, that the applicant must assure and certify that it will comply with “all applicable Federal statutes, regulations, policies, guidelines, and requirements” and specifically enumerates several statutorily-imposed nondiscrimination requirements including the Safe Streets Act and the Civil Rights Act of 1964, which includes Title VI. Thus, DOJ has the authority to enforce the contractual obligations attendant to receipt of its federal financial assistance. *See Guardians Ass’n v. Civil Serv. Comm’n*, 463 U.S. 582, 603 n.24 (1983). The United States also may attach conditions to a grant of federal assistance, and the recipient of the grant is obligated to perform the conditions, creating an inherent right on the part of the United States to sue for enforcement of the recipient’s obligation in court. *See Rex Trailer Co. v. United States*, 350 U.S. 148, 151 (1956); *United States v. City and Cnty. of San Francisco*, 310 U.S. 16, 30-31 (1940).

Current Investigation: Observations and Recommendations

During the course of this investigation, attorneys from the Civil Rights Division and the United States Attorney’s Office for the Central District of California have: (i) requested documents and data from the AOC and the LASC relating to their policies and practices for providing LEP litigants with access to court proceedings and operations; (ii) conducted on-site

² The Assistant Attorney General for the Civil Rights Division issued a letter in August 2010 to all Chief Justices and State Court Administrators describing the obligation of state courts under Title VI and the Safe Streets Act to provide LEP individuals with meaningful access to court proceedings, notwithstanding any conflicting state or local laws or court rules. The letter also described several practices “that significantly and unreasonably impede, hinder, or restrict participation in court proceedings and access to court operations based upon a person’s English language ability,” including denying LEP parties access to court interpreters in civil proceedings and charging LEP parties for the cost of interpreter services. *See also, United States v Maricopa County, Ariz.*, CV-12-00981-PHX-ROS, 2012 WL 6742314 at *4 (D. Ariz. Dec. 12, 2012), citing *Auer v. Robbins*, 519 U.S. 452, 461 (1997) (explaining that the DOJ’s interpretation of Title VI regulations is “controlling” and entitled to deference so long as not plainly erroneous or inconsistent with the regulations).

visits in Los Angeles County with judges, administrators, court staff, court interpreters, public interest advocates, and attorneys in September 2011, September 2012, and December 2012; (iii) conducted on-site visits in the San Francisco Bay area with AOC staff and other stakeholders in December 2012; (iv) met with members of the Court Interpreter Advisory Panel and Access and Fairness Committee to the Judicial Council, as well as AOC leadership including Curt Child, Chad Finke, and Mary Roberts; and (v) held numerous telephonic conferences with staff at the California Department of Finance, interpreter union representatives, California State Assembly Judiciary Committee counsel staff, and former employees of the California Judicial Branch, among others.

As noted at the beginning of this letter, our investigation to date indicates that several current policies, practices, and procedures of LASC, the AOC, and the Judicial Council appear to be inconsistent with Title VI and DOJ's Title VI implementing regulations. These inconsistencies should be addressed in order to ensure that LEP individuals have meaningful access to court proceedings and court operations. We provide the following summary of some of the major areas of concern with the expectation that it will assist in ensuring a dialogue that will result in voluntary compliance.³

1. Title VI requires that interpreter services in court proceedings be provided free of charge.

The limitation on providing free court-certified or qualified interpreters for LEP litigants in non-criminal/non-juvenile proceedings is codified by state law, Rules of Court, and AOC guidelines and policy.⁴ The lack of free and certified or qualified language services in court proceedings disproportionately and negatively impacts national origin minorities, resulting in, among other things, greater costs, delays, and lack of full participation because of the use of family and friends, or similar volunteers, with untested language and interpreting skills serving as interpreters. Latinos, Chinese, Koreans, and Armenians alone make up over 86% of the LEP population in Los Angeles County.⁵ 48% of Spanish speakers, 50% of Armenian speakers, 59% of Chinese speakers, and 64% of Korean speakers in the County are LEP.⁶ DOJ's LEP Guidance makes clear that the requirement to provide meaningful access extends to all national origin groups, but the numbers represented by these groups demonstrates a striking impact of the language access policies on the basis of national origin.

³ DOJ seeks to resolve concerns through voluntary means when possible. *See* 28 C.F.R. § 42.108(d)(1).

⁴ *See, e.g.*, Government Code §§ 26806(c), 68092, 71802(b)(3); Los Angeles County Superior Court Rules of Court 3.105, 3.230, 3.258; Administrative Office of the Courts, "Use of Court-Appointed Interpreters and Payment of Interpreter Fees in Court Proceedings" (Jan. 2012). Interpreters are also provided at no cost to litigants in a limited number of family matters that involve an underlying protective order, but only when there is funding available pursuant to the Domestic Violence-Family Law Interpreter Program. If a party is indigent, an interpreter may be provided free of charge in small claims matters but the AOC has advised that a non-certified volunteer may be used. We found the use of family and friends serving in an interpreter role to be common practice in small claims matters in LASC. We also interviewed many practitioners who stated that the likelihood of obtaining a fee waiver for a court-provided interpreter varied significantly based on the judicial official presiding over the matter and/or the judicial assistant assigned to a particular Department.

⁵ *See*, American U.S. Census Bureau, 2007-2011 American Community Survey 5-Year Estimates, Table B16001; using American Factfinder, <http://factfinder.census.gov>.

⁶ *Id.*

2. Incompetent interpreter services provided through the use of non-interpreters in court proceedings, including by family and friends.

DOJ has explained that the need for a competent interpreter is particularly great in a court proceeding where “credibility and accuracy are important to protect an individual’s rights.”⁷ Competency requires “more than self-identification as bilingual.”⁸ An interpreter must demonstrate “proficiency in and ability to communicate information accurately in both English and in the other language and identify and employ the appropriate mode of interpreting.”⁹ The obligation to ensure competent interpretation is why the use of non-interpreter volunteers, family members, or friends is not appropriate in the context of court proceedings.

On-site interviews indicate that LEP litigants commonly receive interpreting services from non-interpreters (*e.g.*, family, friends, waiting litigants in other cases). For example, LASC judicial officials and staff we interviewed overwhelmingly stated they allowed family and friends to interpret in order to avoid delays and cost to the LEP individual. However, even where a language assessment was attempted, the judicial official often does not have sufficient language capabilities to assess an individual’s ability to communicate in both English and the other language. Our staff personally witnessed or reviewed transcripts demonstrating the use of non-interpreters in non-mandated matters and problematic practices including the failure to question the non-interpreter regarding their language abilities, inappropriate interjections by the non-interpreter during proceedings, and the use of witnesses to interpret for parties and the court.

3. Non-Spanish-speaking LEP litigants suffer even greater barriers to access due to substantial deficits in the availability of language services.

Although there are fewer LEP individuals in language groups that speak a language other than Spanish, courts are still required to provide meaningful access to all LEP individuals. DOJ’s search of the California Judicial Branch’s forms website, for example, yielded only Spanish translations of the mandatory fee waiver forms. During interviews, judges, court staff, and practitioners explained that long wait times for non-Spanish interpreters led to a much greater likelihood that a proceeding will move forward with a family member, friend, or similar volunteer acting as an interpreter for the court in those matters to avoid delay. These delays are exacerbated by the long distances that non-Spanish interpreters often must travel to meet the needs of non-Spanish speaking litigants. Due to their smaller numbers, non-Spanish interpreters are less available than Spanish interpreters to provide incidental services in non-mandated proceedings to LEP individuals during periods when those interpreters are not providing services in mandated proceedings.

With respect to court operations, we understand that LASC has recently instituted some positive changes to improve language services provided by that court such as hiring an LEP coordinator and working to provide signage translated into languages other than English and Spanish. We also understand that LASC has considered the use of video remote interpreting,

⁷ DOJ Guidance at 41462.

⁸ *Id.* at 41461.

⁹ *Id.*

which we identify later in this letter as a possible tool for improving and increasing language services. We encourage innovations and attempts to better serve the diverse language groups within Los Angeles County, but additional and formal changes in these areas are still needed.

4. Unclear budgetary guidance from AOC regarding reimbursement of interpreter costs for non-mandated cases.

Staff members for the AOC confirmed that, as a practical matter, if the court chooses within its discretion to provide an interpreter free of charge, all court requests for reimbursement for interpreter costs were honored, regardless of whether the costs were incurred for mandated (*e.g.*, criminal and juvenile) or non-mandated (*e.g.*, most civil) cases. However, the AOC has not provided any official written guidance to Superior Courts that interpreter costs for non-mandated cases would be reimbursed. It is our understanding that LASC has requested formal guidance on this matter, but the AOC has not confirmed that such costs, if incurred, would be reimbursed. The AOC has widely distributed a document to Superior Courts entitled “Use of Court Appointed Interpreters and Payment of Fees in Court Proceedings” that appears to contrast with the AOC’s willingness to reimburse courts for their interpreter expenditures in non-mandated cases. The document specifies that the LEP party is responsible for the cost of an interpreter in non-mandated cases and instructs that the court will only pay for those matters listed as mandated. DOJ is further informed that without confirmation, LASC will not expand the use of court-certified interpreters for non-mandated cases.¹⁰

Underutilization of Trial Court Trust Fund 45.45

An area of great concern for DOJ has been the underutilization and transfer of funds appropriated for Trial Court Trust Fund (“TCTF”) 45.45, which provides state-based funding for all court interpreters and limited supervisory staff. Since Fiscal Year 2009-2010, TCTF 45.45 has been appropriated \$92.794 million annually as part of the California state budget. However, for each of the past three fiscal years, TCTF 45.45 has consistently failed to use the total amount of its expenditure authority, even as LEP litigants in non-mandated cases were refused court-provided interpretation services.

As shown in the table below, the millions in unused expenditure authority in TCTF 45.45 could have made a positive difference in ensuring expanded access to the courts. Each year, millions of dollars remained unspent. These funds could have been used to cover thousands of hours of interpreter services without cost to LEP litigants. Instead, in July 2011, the Judicial Council diverted \$3.0 million of the unused TCTF 45.45 funds to fund trial court operations. Moreover, in July 2012, the Judicial Council considered a recommendation to transfer another \$6.5 million of the unused TCTF 45.45 funds for other uses. This recommendation was tabled, and later withdrawn. While DOJ recognizes the Judicial Council’s recent efforts to protect TCTF 45.45 funds from another transfer, it appears that TCTF 45.45 funds have been – and

¹⁰ Judges, court staff, and practitioners across the state have informed us that counties are inconsistently providing language services in some civil matters and some counties, such as Los Angeles and San Diego, appear to be providing fewer interpreters in civil matters per incidental usage than in recent years. We have been unable to ascertain the exact reason for this other than a general connection to budgetary concerns even though the fund for the majority of interpreter services has had a surplus for several years. *See discussion infra.*

continue to be – at risk of being diverted to uses other than the interpreter services for which they were intended.

TCTF 45.45	Total Appropriation	Total Expenditures	Unused Appropriation
FY 2009-2010	\$92.794 million	\$87.955 million ¹¹	\$4.839 million
FY 2010-2011	\$92.794 million	\$89.952 million ¹²	\$2.842 million
FY 2011-2012	\$92.794 million	\$89.187 million ¹³	\$3.607 million (est.)
FY 2012-2013	\$92.794 million	---	---
	CUMULATIVE UNUSED APPROPRIATION FOR FY 2009-2010 to FY ¹⁴ 2011-2012		\$8.282 million

At present, approximately \$8.282 million from past unused TCTF 45.45 appropriations remain unspent and available in the general Trial Court Trust Fund. This fund may be designated by the Judicial Council for any purpose within its statutory mandate. However, DOJ understands that the Judicial Council’s spending authority is bound by the expenditure limits as set forth in the state budget, although the Judicial Council may seek permission from the California Department of Finance to exceed expenditure authority as set forth in the state budget.

In the instant situation, the California Governor’s proposed FY 2013-2014 budget preserves the current appropriation for TCTF 45.45 at \$92.794 million. The language of the California Budget Act (FY 2012-2013) for TCTF 45.45¹⁵ broadly provides that the fund “shall be for payments to contractual court interpreters, and certified and registered court interpreters employed by the courts for services provided during court proceedings and other services related to pending court proceedings, including services provided outside a courtroom, . . .” DOJ interprets this language of the California Budget Act expansively to allow spending of the TCTF 45.45 appropriation on any type of proceeding (mandated or non-mandated) or technology to assist interpreters in their work (*e.g.*, headsets, video conference equipment).

Recognition of the Importance of Language Services

Notwithstanding the unused expenditures in TCTF 45.45, DOJ is keenly aware of the budget cuts that have faced the California state courts over the last several years, including the cuts LASC is currently addressing. However, we also recognize that California has indicated an interest in providing meaningful access to LEP individuals in all proceedings and court operations. We have reviewed many California state court-sponsored or supported studies over

¹¹ *Trial Court Interpreters Programs Expenditure Report for 2009-2010*, Ca. Admin. Office of the Courts at 2 (Dec. 10, 2010).

¹² *Trial Court Interpreters Programs Expenditures Report for 2011-2012*, Ca. Admin. Office of the Courts at 2 (Feb. 2013).

¹³ *Id.*

¹⁴ This total unused allocation, which is an approximate number, deducts the \$3.0 million that was transferred in 2011 to fund trial court operations.

¹⁵ There is no indication that the language for the California Budget Act (FY 2013-2014) will materially differ from the previously approved language.

the years addressing various aspects of increasing language services¹⁶ and recognize the Judicial Council's support for AB 3050 and similar legislation, which would have provided for expanded language services and greater access to the courts for LEP individuals. The text of AB 3050 highlights many of the issues we identify in this letter, recognizing, among other things, that court interpreter services are a "core court function," that reliance on family members to serve as interpreters can threaten a court's ability to dispense justice, and that the "inability to respond to language needs of parties in court impairs trust and confidence in the judicial system and undermines efforts to secure justice for all." A.B. 3050 §1, reg. Sess. (Cal. 2008) (vetoed on September 27, 2008). These barriers to access existed before current budget challenges and they remain now but we are hopeful that we may work cooperatively with LASC, the AOC, and the Judicial Council to meet the common goal of ensuring meaningful access for LEP individuals to court proceedings and operations in LASC.

Proposed Steps towards Voluntary Compliance

DOJ would like to work collaboratively with the Judicial Council, the AOC, and LASC in ensuring meaningful access for LEP individuals to LASC. Information from the AOC and LASC, interviews with court staff, judges, and others, including those who have worked on this issue in the California courts for many years, suggest that the California judicial branch is supportive of expanding language services and fully complying with Title VI. Full compliance will require a commitment to providing language services free of charge in all proceedings and court operations in LASC. However, to further our mutual interests and because we understand that full compliance will take time, DOJ offers the following recommendations for discussion and as voluntary steps toward compliance that may be taken immediately pending broader resolution of this matter:

1. The Judicial Council should refrain from taking any actions to re-allocate the unspent appropriations from the TCTF 45.45 funds (currently \$8.282 million).
2. The AOC should immediately and formally notify LASC that there is no statutory impediment or Judicial Council authority that prevents the AOC from reimbursing the court for eligible expenditures as defined within Section 2 of the Budget Act of 2012 (Assem. Bill No. 1464 (2011-2012 Reg. Session)). To the extent there are concerns about exceeding expenditure authority, under TCTF 45.45, the AOC and LASC may want to consider initially prioritizing those sensitive matters where consequences of ineffective communication are particularly onerous, including matters involving civil

¹⁶ See e.g., UC Hastings College of the Law, Public Law Research Institute, *Enhancing Language Access Services for LEP Court Users* (2013) (developed pursuant to a grant to the AOC and recognizing that the California courts are subject to the requirements of Title VI); National Center for State Courts, *The Provision of Court Interpreter Services in Civil Court in California: An Exploratory Study* (2008); California Commission on Access to Justice, *Language Barriers to Justice in California* (2005).

harassment, domestic violence¹⁷, family law—including in mandatory mediation proceedings¹⁸—and unlawful detainers.

3. The AOC should consider efficiencies and practices that, when implemented appropriately, can improve and increase language services in proceedings and operations, such as identifying LEP litigants as early as possible and ensuring that information is captured on court files; greater utilization of staff interpreters;¹⁹ and appropriately utilizing technology, such as video remote interpreting.²⁰
4. The Judicial Council should renew and expand its efforts to provide interpreter services for all LEP litigants across the state. In the past, the Judicial Council has supported efforts to expand interpreters services piecemeal (*e.g.*, by covering all family law matters) and by supporting legislation to pay for interpreters through telephonic appearance fees.
5. While working to ensure that interpreters are provided to litigants in all civil matters in LASC, the AOC and the LASC should clarify the ability to waive interpreter fees for indigent litigants with, and ensure training on this issue for, judicial officials and court staff. The AOC should also arrange for translation of fee waiver forms into the most common languages other than English and Spanish, including Chinese,²¹ Korean, Armenian, and Vietnamese.
6. The AOC should implement a statewide complaint process to help identify language assistance issues and specific areas in need of improvement.

¹⁷ DOJ understands that family law matters involving domestic violence cases are provided a court-certified interpreter based on the availability of Family Law Interpreter Program funding until those funds are exhausted.

¹⁸ According to interviews with LASC's Supervising Family Court Judge and the Senior Administrator for Family Law, the court provides an interpreter free of charge in mandatory mediations although this practice could change at any time as it is permissible under California law for the court to charge for this service.

¹⁹ LASC's courtroom reorganization plans currently reduce the number of courthouses where certain matters will be heard and may create additional opportunities to increase the effectiveness of interpreter usage.

²⁰ The AOC indicated that the video remote interpreting pilot program currently underway in other county courts for American Sign Language interpretation has been very successful. DOJ is aware of the challenges that a video remote interpreting program may raise with respect to the interpreters' union, California Federation of Interpreters (CFI). DOJ has spoken with CFI representatives numerous times in an effort to understand their potential objections to video remote interpreting. We intend to continue these discussions to provide our perspective on the appropriate use of video remote interpreting. We strongly suggest that the AOC and LASC seek interpreter input in any efforts to develop a video remote interpreter program. We have been informed that the National Association of Judicial Interpreters and Translators and the National Center for State Courts are both working toward identifying official positions and standards in support of video remote interpreting, although the specifics of their respective positions and standards may differ.

²¹ Though Mandarin and Cantonese speakers use the same written language, we recommend consulting with appropriate community organizations to determine whether to translate into simplified or traditional Chinese or both.

7. Identify a statewide language access coordinator.²²
8. Identify appropriate ways to estimate the cost of expansion of language services to all civil proceedings in order to facilitate and support legislative changes and budgetary requests to fund an expansion of language services.²³

DOJ is committed to working cooperatively with LASC, the Judicial Council, and the AOC to voluntarily resolve this investigation. To support that effort, the Federal Coordination and Compliance Section of the Civil Rights Division is available to provide technical assistance and to identify potential sources of information and promising practices in other states and organizations that would be helpful to the judiciary.

We anticipate that a collaborative approach will be most effective in addressing the inconsistencies with full Title VI compliance that we have identified to date. In the event that efforts toward voluntary resolution are unsuccessful, we may be required to pursue additional efforts. These efforts may include, in the event that we reach a finding of noncompliance with Title VI or the Safe Streets Act, the issuance of a public findings letter that details any violations of the law, as well as administrative enforcement efforts or civil litigation if warranted to achieve injunctive relief and the termination of federal financial assistance.²⁴

²² AOC documentation and interviews with AOC staff suggest that the Court Interpreter Program (CIP) seems to largely be focused on recruitment, certification, and registration of interpreters. Efforts toward providing greater language access generally in the courts do not appear to have a central management location. CIP, staff in the Center for Children and Families in the Court, Access and Fairness Advisory Committee, Court Interpreter Advisory Panel, local courts, Task Force on Self-Represented Litigants, among others, all have an interest in this issue, and would benefit from a management position that could facilitate communication and coordination amongst these groups.

²³ We understand that the AOC is considering conducting a survey of local courts to ascertain potential need in civil matters. We recently provided Linda Foy, Supervising Attorney, Labor and Employment Unit at the AOC, with contact information for the individual in Colorado who helped to design their survey and has offered to speak with AOC staff about the process, including lessons learned. We also suggested to AOC leadership that they consider working with the National Center for State Courts to identify a reliable way to create an estimate of the cost of providing language services in all proceedings and contacting states like New York, which currently provides language services in all proceedings. In addition, we noted to AOC leadership that providing language services in all civil matters in LASC, which accounts for over 30% of the interpreter budget for the state, will provide a significant and reliable data set by which to plan for full compliance in the rest of the state.

²⁴ DOJ also notifies other federal agencies of our findings so that they can consider what actions may be appropriate by their agencies, which may include termination of their federal financial assistance. The United States Department of Health and Human Services also provides federal financial assistance to the California judicial branch and is aware of DOJ's investigation into this matter.

In order to facilitate voluntary resolution of this investigation, please contact Ms. Anna Medina, one of the attorneys assigned to this investigation, at (202) 353-3936 or anna.medina@usdoj.gov by Thursday, June 6, 2013 to discuss the recommendations in this letter and steps to proceed. You may also direct any correspondence to Ms. Medina at the above-captioned address and reference Complaint No. 171-12C-31. We appreciate your continued cooperation in this matter.

Sincerely,



Deeana Jang
Chief,
Federal Coordination and Compliance Section
Civil Rights Division

cc: Ivette Peña, Counsel for Los Angeles County Superior Court
Linda Foy, Counsel for Administrative Office of the Courts
Sarah Chang, Counsel for Administrative Office of the Courts
Robyn-Marie Lyon Monteleone, United States Attorney's Office, Central District of California
Richard Park, United States Attorney's Office, Central District of California