

Testimony of Maureen Keffer, Indigenous Program Director at California Rural Legal Assistance, Inc., to the Judicial Council of California’s Joint Working Group for California’s Language Access Plan

Public Hearing, February 24, 2014, San Francisco, California

Justice Cantil-Sakauye, Justice Rivera, Judge Covarrubias, and Members of the Joint Working Group, thank you for the opportunity to address you today regarding the issue of language access in California’s courts. My name is Maureen Keffer, and I am the Director of the Indigenous Program and Co-Chair of the Language Access Rights Working Group at California Rural Legal Assistance, Inc. (CRLA). For nearly 50 years, our organization has provided legal services to low-income individuals in rural areas and small cities throughout the state, and every day, we see firsthand the vital importance of language access for individuals with Limited English Proficiency.

There is a great deal of linguistic diversity among CRLA’s client communities. I would like to speak in particular about the language needs of California’s indigenous farmworker population, how CRLA has worked to respond to those needs, and recommendations for addressing those needs in the California courts’ Language Access Plan.

Language Needs of California’s Indigenous Farmworker Population

For 20 years, CRLA’s Indigenous Program, formerly known as the Indigenous Farmworker Program, has provided legal advocacy and educational outreach to California’s rural indigenous communities on issues including employment rights, education, housing, discrimination, and language access. The term “indigenous” refers to descendants of the original occupants of the American continent, the Latin American equivalent of Native Americans. For the last 30 years, indigenous Mexicans in particular have come to California in increasing numbers to work in farm labor.

Official statistics fail to capture the size of the indigenous immigrant population in the United States. Researchers refer to a “mega-undercount” of indigenous farmworkers in the US Census due to a number of factors, including failure to address shared and informal housing and confusion about racial and ethnic Census categories and how they apply to Latin Americans of indigenous descent.¹ Because of the gap between official numbers and the reality we see on the ground, CRLA commissioned a study of the indigenous farmworker population in California. Completed in 2010, the Indigenous Farmworker Study estimated that approximately 165,000 indigenous farmworkers and their family members live in California.² This number excludes indigenous people working in non-agricultural jobs, as well as residents of large cities.

¹ Kissam, Edward and Ilene J. Jacobs, “Practical Research Strategies for Mexican Indigenous Communities in California Seeking to Assert Their Own Identity,” in *Indigenous Mexican Migrants in the United States*, ed. Jonathan Fox and Gaspar Rivera-Salgado, 2004.

² Mines, Richard, et al., *California’s Indigenous Farmworkers: Final Report of the Indigenous Farmworker Study (IFS) to the California Endowment*, January 2010, available at http://www.indigenousfarmworkers.org/final_report.shtml

Many indigenous individuals speak Spanish in addition to an indigenous language, but a significant number, especially older people and women, speak little or no Spanish, and no English. Time and again we see agencies and service providers – including court personnel – fail to understand that indigenous languages are in fact distinct languages, totally unrelated to Spanish. Indigenous languages are erroneously referred to as “dialects,” and service providers often assume that indigenous language speakers can get by with assistance in Spanish.

The Indigenous Farmworker Study identified 23 different indigenous languages spoken in California agriculture.³ The three most common languages, spoken by about 90% of indigenous Mexican farmworkers, are Mixteco, Triqui, and Zapoteco, but there is tremendous diversity even among these language families.⁴ Linguists differ as to the number of varieties of each of these languages; the Mexican government recognizes four varieties of Triqui, 62 varieties of Zapoteco, and 81 varieties of Mixteco.⁵ Many of these varieties are mutually unintelligible.

The diversity among indigenous languages poses challenges in providing appropriate interpretation for indigenous language speakers. Providing a Mixteco interpreter for a Mixteco-speaking client or litigant may not ensure meaningful access because the interpreter may speak a variety of Mixteco that the client does not understand. To ensure the right interpreter match, service providers must determine where exactly the LEP indigenous language speaker comes from, down to the name of the town or city where he or she grew up. Most interpreters should then be able to determine whether they can communicate with people from that area, though it may be necessary to arrange an initial conversation to gauge whether interpreter and client adequately understand each other.

CRLA’s Efforts to Provide Language Access to Indigenous Language Speakers

With five indigenous Community Workers, CRLA employs more indigenous language speakers than the entire state government of California. Indigenous Program Community Workers serve as our direct link to indigenous-speaking farmworkers and their families, but we also rely on a growing network of indigenous language interpreters to supplement our multilingual staff and ensure we provide equal access to all indigenous community members. CRLA’s Language Access Rights Working Group maintains a list of indigenous-language contract interpreters and indigenous interpreting services, in addition to utilizing a telephone interpreter service.⁶ (Most large telephone interpreter service providers do not offer services in the indigenous languages spoken by our clients.)

³ *Id.*

⁴ *Id.*

⁵ Instituto Nacional de Lenguas Indígenas (National Institute of Indigenous Languages), *Catálogo de las Lenguas Indígenas Nacionales, Variantes lingüísticas de México con sus autodenominaciones y referencias geoestadísticas*, available at <http://www.inali.gob.mx/clin-inali/>.

⁶ The major organizations providing indigenous interpreter services in California are Centro Binacional Para el Desarrollo Indígena Oaxaqueño (CBDIO); Frente Indígena de Organizaciones Binacionales (FIOB); Mixteco Indígena Community Organizing Project (MICOP); and Indigenous Interpreting Plus, a project of Natividad Medical Foundation. Dozens of other individuals provide indigenous language interpretation as independent contractors.

CRLA's Language Access Policy – which is currently undergoing a periodic update – provides step-by-step guidance to staff on identifying a person's preferred language, achieving the appropriate interpreter match, and ensuring meaningful language access throughout our representation. CRLA provides yearly training to staff on language access topics including working with interpreters, identifying the correct interpreter resources, and legal and ethical obligations to LEP clients.

Much of our community legal education and outreach with indigenous community members focuses on language access rights. Through our "I Speak" initiative, we have distributed thousands of wallet-sized cards that identify the cardholder's primary language (including his or her town or city, state, and country of origin) and request that an interpreter be provided. The Indigenous Program provides training to CRLA staff and to other agencies and service providers on the unique language and cultural characteristics of the rural indigenous population in California. We also partner with indigenous community organizations to support interpreter training initiatives to help increase the supply of qualified indigenous language interpreters.

Recommendations for Ensuring Language Access for Indigenous Language Speakers in the Courts

CRLA staff have seen firsthand how the lack of language services bars indigenous language speakers from full and equal access to the courts. The examples are disturbing in their frequency and severity. Mixteco-speaking litigants who cannot afford an interpreter rely on family members' attempts to explain what is happening in their unlawful detainer. A Zapoteco speaker is bilked out of thousands of dollars by an unscrupulous mechanic and cannot testify at his own small claims hearing because no interpreter is provided. A judge orders a Triqui-speaking mother's children into county custody, and she does not understand what has happened until Child Protective Services arrives at her house to take her children away.

Access issues persist outside the courtroom as well. CRLA staff often refer applicants for services directly to a court self-help center because their legal issue is in an area in which we do not provide assistance, or because they do not qualify for our services. Whenever we refer an indigenous language speaker to a self-help center, we inform them that they will not receive assistance in their language, and that at best, they may be able to obtain assistance in Spanish. We tell them that they should bring with them to the court a friend or family member who speaks Spanish, but we know that all too often this is impossible, and that it never amounts to the kind of meaningful access they would have if provided professional interpretation.

While these problems are particularly urgent in the agricultural communities of the Central Valley, the Central Coast, San Diego County, and the North Coast, they are by no means confined to the rural areas of California that CRLA serves. In meeting with service providers throughout the state, I am continually surprised to learn that there are indigenous language speakers in practically every county. Urban areas like Los Angeles and San Francisco have indigenous populations that likely rival the total population of indigenous farmworkers in rural California.

Court staff, like other government agencies and service providers, often point to the lack of trained, qualified indigenous language interpreters as a barrier to providing meaningful access for indigenous

language speakers. However, there are far more indigenous interpreters available than are currently being used by the courts. Moreover, the continued failure of the courts to provide interpreters for indigenous language speakers means that there is little incentive for more individuals to invest in interpreting as a career.

To ensure meaningful access to the courts for all indigenous language speakers, we recommend:

1. The Joint Working Group and local court officials should look beyond US Census data to sources such as the Indigenous Farmworker Study to obtain a more accurate estimate of the indigenous population and the need for indigenous language services for court users.
2. Court staff, especially in areas with significant indigenous populations, should receive periodic training in how to identify an indigenous language speaker's primary language and how to ensure the correct interpreter match.
3. The Judicial Council should support efforts to train more indigenous language interpreters to ensure that interpreter supply matches the increased demand that will result from providing meaningful access to the courts to all LEP indigenous language speakers.

CRLA welcomes the efforts of the Judicial Council and the members of the Joint Working Group to ensure equal access for all court users through the creation of the Language Access Plan. We look forward to continuing to work with you. Thank you.



Judicial Council – Public Hearing
Monday, February 24, 2014 (San Francisco, CA)

**Developing California’s Language Access Plan:
How Language Access Impacts Court Users**
Panel: State and Regional Approach to Accessibility to Justice

Thank you to Justice Cantil-Sakauye, Justice Rivera, Judge Covarrubias and the Joint Working Group for your leadership in improving language access in California’s courts and for providing this opportunity to address you today.

Introduction

My name is Karin Wang, and I am the Vice-President of Programs and Communications for Asian Americans Advancing Justice-Los Angeles (www.advancingjustice-la.org). Advancing Justice-LA is the nation’s largest legal organization serving the Asian American and Pacific Islander (AAPI) community. Although we serve mostly Los Angeles and Orange Counties, some of our programs operate at the state and even national level. Since our founding in 1983, we have provided free legal assistance with a focus on serving low-income, limited English proficient individuals.

Asian American and Pacific Islander communities face significant language challenges

Asian Americans and Pacific Islanders (AAPIs) are a significant population in California. Based on 2010 Census data, AAPIs now comprise 16 percent of the state’s population with nearly 6 million people, and are also the fastest growing racial group in the state – growing at 34 percent for Asian Americans, 29 percent for Pacific Islanders – surpassing the 28 percent growth rate of Latinos.

It is also a very complex and diverse community, with more than two dozen Asian and Pacific Islander ethnic groups having a significant presence in California. And although there have been Asian immigrants in the state since the 1800s, AAPIs today are a predominantly immigrant community, with more than three million or nearly 60 percent foreign-born compared to only 27 percent overall. Some emerging Asian ethnic groups have significantly higher foreign-born rates, such as Nepalese (83 percent) and Sri Lankan (77 percent).

With these high rates of foreign birth come significant rates of limited English proficiency (LEP). More than one-third (1.7 million) of Asian Americans are LEP,

compared to 20 percent overall. And again, some ethnic groups have much higher rates, such as Vietnamese and Burmese at 52 percent LEP and Korean at 48 percent.

Beyond high LEP rates, nearly 25 percent of Asian American households are “linguistically isolated,” meaning that the household lacks a family member over age 14 who is fluent in English. That means that one-quarter of Asian Americans do not have an adult or even teen-age family member at home to fall back on for language assistance. Some Asian ethnic groups have significantly higher rates of linguistic isolation, notably Koreans at 40 percent and Vietnamese at 36 percent.

(Detailed language and other demographic data on more than 20 AAPI ethnic groups can be found in Advancing Justice-LA’s “Community of Contrasts” series of demographic reports. See in particular Advancing Justice-LA’s [California](#) and [Los Angeles County](#) reports.)

How Advancing Justice-LA addresses the needs of our LEP community members

Advancing Justice-LA’s clients reflect the complexity and diversity of the larger AAPI community in California, so since our founding 31 years ago, we have faced the constant challenge of effectively reaching and serving multiple language communities.

1. Dedicated services by language: About 14 years ago, we launched our Asian Language Legal Intake Project (ALLIP), which provides legal information and assistance on a range of poverty law and civil rights issues. ALLIP is actually a system of dedicated legal intake lines. All legal aid organizations have intake lines, but what is unusual about ALLIP is that we offer five in-language lines, one each for: Chinese (including both Mandarin and Cantonese dialects), Khmer (or Cambodian), Korean, Thai, and Vietnamese. In addition, we have an English language intake line that also offers Tagalog capacity. Each line is toll-free and staffed by at least one full-time bilingual staff person. Callers get a live intake worker or can leave a voicemail for call back if the worker is unable to pick up. Everything is in-language.

Before we created these dedicated intake lines, we had only one phone number that everyone called regardless of the language they spoke or their English proficiency. Our outgoing voicemail had a series of prompts for non-English speakers, along the lines of “press 1 for Chinese, press 2 for Korean.” We found that hardly anyone stayed on until the first prompt, let alone beyond that, because the message was in English. In frustration, callers would drop in to our office unannounced or call multiple staff trying to reach someone who understood them.

Once we launched the dedicated in-language lines, we found that many more LEP community members were able to reach us because they no longer had to navigate past an English-language system before getting language assistance. While we have always helped limited English speakers, our accessibility for LEP community members jumped significantly after adopting the dedicated intake lines. Last year, for example, the overwhelming majority of our callers and clients were LEP: 83 percent of 7,000 callers

and 60 percent of 3,700 clients. Our intake lines operate at capacity and we are constantly asked to expand the lines to include other languages.

2. Funded community partnerships: While Advancing Justice-LA strives to have as many bilingual staff in as many languages as possible (in addition to our dedicated intake lines), we also realize that we can never have every language or community we serve represented on staff. Thus, we frequently partner with community-based organizations (CBOs) to ensure we reach as many LEP community members as possible – for example, we work with CBOs to outreach to and enroll LEP APIs in Covered California. We find that CBOs offer a wealth of resources – most have bilingual staff and they typically have deep knowledge of their community as well as the trust of community members. These CBOs also tend to reach deeply into the most vulnerable segments of our community – e.g., undocumented, elderly, most recently arrived – where lawyers or anything tied to law enforcement or the legal system may be viewed with suspicion.

But CBOs are invariably overwhelmed and under-resourced. So, in addition to providing training and legal support, we also provide subcontracts to many of our partner CBOs, to help them cover staff time, overhead, etc. We have found that funded community partnerships benefit both of us, because it enables us to treat our partner organizations fairly, as they are constantly being asked to translate and interpret for free, as well as to ensure accountability (e.g., participation in required trainings, reporting data, etc.).

3. Ethnic media: One of Advancing Justice-LA’s most important assets in terms of bridging the language gap with our client base is the Asian-language ethnic media. I cannot overstate the importance of ethnic media. For our LEP callers and clients, we find that they rely heavily on ethnic media – newspapers, radio and TV news programs – for information in ways that most of us who are English-speakers no longer do, because we have access to so much information directly. For example, if I wanted to know about the courts in my county, I could just google the Los Angeles Superior Court and read their website in English. But most of our clients cannot do that.

As a result, we spend a great deal of time and energy cultivating and maintaining Asian-language ethnic media relationships because a strong relationship can serve as an effective extension of our outreach team. Our strong relationships mean that whenever we hold a press conference or send out a press release, the ethnic media is likely to be responsive, even if the same information or issue might not be deemed newsworthy by a mainstream media source. We also find that building strong relationships with ethnic media can lead to creative partnerships. For example, we are working with one Asian language TV station in Southern California to air public services announcements that we are producing to encourage bilingual individuals to serve as election pollworkers.

Comments on proposed state language access plan

Legal aid organizations from around the state will be submitting a joint letter with specific recommendations, and we fully support those recommendations. However, I want to emphasize a few points based on our own experiences.

1. Need to ensure language access both inside and outside the courtroom: We are happy to see that the outline of the draft plan distinguishes between language access needs inside as well as outside of the courtroom. We definitely agree that interpreters must be provided during court proceedings, particularly where critical rights are at stake (e.g., child custody, eviction). But we also want to underscore the important of ensuring language access outside the courtroom as well. For example, for the past three years, we staffed a Vietnamese self-help center in Orange County and our staff attorney saw first-hand how difficult it was for LEP Vietnamese litigants to do basic things, like find the right window or room in the court house in order to file a form. Translated signs in the courthouse and access to interpreters in settings such as self-help centers are critical to ensure that LEP litigants can even literally get through the courthouse door to assert or protect their legal rights.

2. Cost is a significant hurdle: While we know the courts are facing budget challenges, we want to stress that for low-income or even moderate-income litigants, the cost of court interpreters is a major issue. Probably the second most common concern our attorneys have regarding language access in the courts, after the lack of interpreters and translated materials generally, is the cost of interpreters. Many pro pers, as well as the clients of legal aid organizations like ours, cannot afford to pay for attorneys let alone interpreters. The outline of the draft plan does not appear to address the issue of fee waivers for indigent litigants, and we believe that this is an important issue that needs clear guidance and significant education targeted at potentially eligible litigants.

3. State as well as local responsibilities: It is not clear from the outline of the draft plan if the Judicial Council is considering how language access should be improved on two parallel tracks – meaning what can be centralized at the state level as well as what is localized at the county level. Of course, things like local forms and signage will need to be handled locally, but we hope and encourage the working group to also consider and recommend what can be centralized at the state level to take advantage of economies of scale as well as to ensure standardization and consistency. For example, forms that are not county-specific should be translated at the state level in at least the top five languages for the entire state and there should be statewide language glossaries to ensure that translations on local forms are standardized. On the other hand, even if the state translates forms into the top five languages statewide, the county should ensure that all forms are available in the top five languages of that county, which may differ from the top five for the state. It's important to have the language access plan operate at both the statewide and local levels to ensure that limited resources are used wisely and that as many languages are covered as efficiently as possible.

In closing, Advancing Justice-LA appreciates the Judicial Council's work to develop this important language access plan and we look forward to working with you to ensure that our clients and community members have equal and meaningful access to the courts.