

County of Santa Clara
Office of the District Attorney

70 West Hedding Street, West Wing, 5th Floor
San Jose, California 95110
(408) 299-7400



Jeffrey F. Rosen
District Attorney

**SANTA CLARA COUNTY DISTRICT ATTORNEY'S OFFICE
LANGUAGE ASSISTANCE PLAN FOR ADDRESSING LIMITED
ENGLISH PROFICIENT (LEP) INDIVIDUALS**

(A) BACKGROUND

Title VI of the *Civil Rights Act of 1964* (Title VI) and the *Omnibus Crime Control and Safe Streets Act of 1968* (Safe Streets Act) and their implementing regulations require that recipients of federal financial assistance ensure meaningful access to their programs and activities for LEP individuals.

In the context of the functions of this office, it should be noted that language barriers can prevent LEP individuals from understanding their rights, complying with the law, and receiving meaningful access to law enforcement services and information. These types of negative impacts may be experienced by persons who are accused of criminal acts as well as persons who are the victims of, or witnesses to, criminal acts.

(B) POLICY

It is the policy of the Santa Clara County District Attorney's Office (Office) to provide meaningful access to all programs, activities, functions or services of this Office, to any individual, regardless of their national origin or a limited ability to speak, read, write or understand English.

This statement of policy is found in the Office's *Policy and Procedure Manual* (PPM) at § 5.01(a)(i)2).

(C) DEFINITIONS

- *Bilingual* – The ability to speak two languages fluently and communicate directly and accurately in both languages.
- *Direct Communication* – Monolingual communication in a language other than English between a qualified bilingual Office employee or representative and an LEP individual (i.e., Spanish to Spanish).
- *Interpretation* – The act of listening to a communication in one language and orally converting it into another language, while retaining the same meaning. Interpreting is a sophisticated skill needing practice and training, and should not be confused with simple bilingualism. Even the most proficient bilingual individuals may require additional training and instruction prior to serving as interpreters. Qualified interpreters are generally required to have undergone rigorous and specialized training.
- *Language Assistance Coordinator (LAC)* – The individual designated by the Office as the person responsible for coordinating and implementing language services to LEP individuals.
- *Limited English Proficient (LEP) Individuals* – Those who do not speak English as their primary language and have a limited ability to read, write, speak or understand English. Many LEP persons are in the process of learning English and may read, write, speak and/or understand some English, but not proficiently. LEP status may be context-specific – for example, an individual may have sufficient English language skills to communicate basic information (e.g., name, address, etc.) but may not have sufficient skills to communicate detailed information (e.g., medical information, eyewitness accounts, information elicited in an interrogation, etc.) in English.
- *Primary Language* – The language in which an individual is most effectively able to communicate.
- *Translation* – The replacement of written text from one language into an equivalent written text in another language. Translation also requires special knowledge and skills.

(D) IMPLEMENTATION PLAN

(1) Assessing the Number or Proportion of LEP Individuals in our Service Population

On an annual basis, the Supervising Deputy District Attorney (SuDDA) in charge of juvenile justice matters will review demographic data for Santa Clara County available from the U.S. Census Bureau, the California Department of Education and local school districts. This review shall seek to determine the number or percentages of reported primary languages spoken at home other than English and the number or percentages of foreign-born persons in the county. This review shall also seek to determine the relative

size of foreign-language groups in the county and also any identifiable shifts or changes in likely LEP population groups.

The SuDDA will provide the results of this review to the Chief Assistant District Attorney and the Chief of the Bureau of Investigation, who will use the results to evaluate the suitability of existing language resources and to identify needs for different or additional language resources.

This information will annually be made available by the Juvenile Justice SuDDA in summary form to attorney, investigative and support staff and to other partner agencies providing services to language minorities related to criminal and juvenile justice.

(2) Notifying the Public about Available Language Services

a) Signs will be maintained at the main office reception area, south county branch office and north county branch office stating the following in English, Spanish and Vietnamese:

“Upon request, free language services are available to assist you in communicating with this office.”

Staff assigned to those locations will be reminded by the Operations Manager (or his/her designee) of the Office’s meaningful access language policy and of staff members and other resources available to assist with interpretation and translation services. Bureau of Investigation staff assigned to Officer of the Day duties will be reminded by the Chief of Investigations (or his/her designee) of this policy and available resources.

b) Staff who appear at community events will be reminded by the support staff member in charge of the Speaker’s Log, at the time a scheduled appearance is entered into the Speaker’s Log, to advise the community of our commitment to cultural competence and the providing of appropriate language resources. Staff members will also be encouraged to display and distribute translated documents, including informational brochures, at such events.

c) The Office ombudsman will monitor the printing of all vital documents (including informational brochures, announcements of new programs, etc.) requiring updating and/or replacement and will determine if a translation of each updated replacement document (in Spanish and Vietnamese) has been created. If so, the updated replacement document shall be produced in English, Spanish and Vietnamese versions. If not, the ombudsman will confer with the Chief Assistant District Attorney to obtain authority to have the updated replacement document translated into Spanish and Vietnamese. If a non-Spanish- or non-Vietnamese-speaking LEP person requests a vital document, the ombudsman will confer with the Chief Assistant District Attorney to obtain authority to have that requested document translated into the LEP person’s primary language. If an LEP person requests a vital document that is not translated into his or her primary language, then staff shall provide competent oral interpretation of that

document in the LEP person's primary language. The Office ombudsman will create and maintain an inventory of all translated vital documents, including the title of each document and the date of the most recent revisions and translation. Exemptions to this subsection may be granted only by the Chief Assistant District Attorney or the District Attorney.

d) On an ongoing basis, as technical and fiscal limitations allow, the webmaster will ensure that important information on the Office's web site is made available in English, Spanish and Vietnamese. These efforts will be coordinated by the LAC.

(3) Notifying Staff about Available Language Services

a) All staff will be reminded, at the time of hiring and by periodic advisements from the LAC, of the Office's language access policy and the need to produce any new vital documents (including informational brochures, announcements of new programs, etc.) in English, Spanish and Vietnamese. Exemptions to this subsection may be granted only by the Chief Assistant District Attorney or the District Attorney.

b) At the time of new employee orientation, staff will be reminded of the relevant sections of the PPM, including § 5.01(a)(i)2 (*Language Access Policy*, set forth above), § 5.02(b)(iii)1)b (*Request for Court Interpreter*) and related legal authority, including *California Rule of Court 984.4 (Rules of Conduct for Interpreters)* and *Appendix to California Rules of Court, § 18.1 (Interpreted Proceedings – Instructing Participants on Procedure)*.

(4) Responding to Public Inquiries

When a member of the public in the reception area of the main office or any outlying branch is determined to be LEP, the support staff on duty shall attempt to identify the primary language of the person by use of the *United States Census Language Identification Flashcard Packet* (<http://www.lep.gov/ISpeakCards2004.pdf>). These packets invite LEP persons to self-identify their language needs in any one of 38 languages. A supply of these packets will be kept in each reception area of the office and both support and investigative staff will be trained by the Operations Manager (or his/her designee) in the use of this resource at the time of their being assigned to duties associated with the reception area. A representative copy of the *United States Census Language Identification Flashcard Packet* is attached hereto as *Exhibit A*.

When a primary language is identified, the staff interacting with the LEP individual will refer to the Office's list of staff members with multi-language ability in order to promptly request that an available staff member with the appropriate language ability respond to the reception area to provide language assistance and if possible, to engage in Direct Communication with the LEP subject. The LAC shall ensure that this list is updated at least once per calendar year. Updated copies of this list will be kept in each reception area of the office and this resource is also available online in the TRANSLATORS folder in the network L:\ drive. In outlying branch offices, it is recognized that such language assistance, by necessity, may only be available by

telephonic communication between a staff member with the appropriate language ability and an LEP subject. In instances where a staff member with the appropriate language ability is not available, the matter shall be referred to the LAC and in his or her absence, to the Bureau of Investigations Officer of the Day.

At least once per month, the support staff supervisor for each reception area will advise the LAC of each instance where language assistance was requested and / or provided (including the language(s) used). The LAC will retain this data to assist in evaluating language assistance efforts by the Office.

(5) Communicating with Victims and Witnesses and Conducting Interviews

In accordance with PPM § 5.02(b)(iii)1)b) (*Request for Court Interpreter*) an attorney assigned to any criminal or juvenile justice matter should review the file to determine if any LEP victims or witnesses are known to be associated with the case. In such matters, the assigned attorney should arrange for appropriate language assistance resources in advance of any interview with such LEP person(s).

In preparation for such an interview, the assigned attorney and/or investigative staff will refer to the Office's list of staff members with multi-language ability in order to request that an available staff member with the appropriate language ability attend the interview to provide language assistance. This resource is available online in the TRANSLATORS folder in the network L:\ drive

Staff members providing such language assistance should be reminded that their duties extend only to interpreting statements to and from the LEP victim or witness.

Attorneys should remain mindful of PPM § 5.02(b)(xiv)3) (*Witness Preparation and Interview*) in any out-of-court interaction with victims and witnesses (including LEP victims and witnesses) involving case facts or any review of a witness statement.

In each instance where interpretation services are utilized to facilitate the interview of a victim or witness who is LEP, the assigned attorney should note that fact in CIBERLaw under the "Interpreter Services Utilized" Event Tab. In instances where investigative documents or other written communication are required to be translated to an LEP subject, that function will be performed by a staff member with certified translation ability and the assigned attorney or investigator should note that fact in CIBERLaw under the "Translation Services Utilized" Event Tab. Review of this collected data by the LAC will assist in evaluating language assistance efforts by the Office.

(6) Communicating with Persons Before, During and After Court Proceedings

Attorney staff should be familiar with PPM § 5.02(b)(iii)1)b) (*Request for Court Interpreter*) as it pertains to procedures for case issuing and obtaining and using interpretation services for court hearings (see also *California Rule of Court 984.4* and

Appendix to California Rules of Court, §18.1 Interpreted Proceedings — Instructing Participants On Procedure) for LEP victims and/or witnesses.¹

It is common practice, and acceptable, for attorneys to utilize the services of court interpreters to converse with LEP victims and witnesses before and after court proceedings regarding routine matters such as notification of dates, times and locations of additional court hearings or advisement of case disposition details. Attorneys should remain mindful of PPM § 5.02(b)(xiv)3) (*Witness Preparation and Interview*) in any out-of-court interaction with victims and witnesses (including LEP victims and witnesses) involving case facts or any review of a witness statement. Further, attorneys, absent exigent circumstances, should not rely on an LEP person's family members (including children), friends, or acquaintances to provide language assistance to that individual.

In each instance where interpretation services are utilized before, during or after a court proceeding, the assigned attorney should note that fact in CIBERLaw under the "Interpreter Services Utilized" Event Tab. Review of this collected data by the LAC will assist in evaluating language assistance efforts by the Office.

(7) Language Assistance Complaints

a) A member of the public who believes this Office has not met its standard of providing the highest level of service, including meaningful access to all programs, activities, functions or services of this Office, to any individual, regardless of their national origin or a limited ability to speak, read, write or understand English, may make a written complaint to this Office on a standardized *Language Assistance Complaint Form*.

A set of *Instructions for Completing a Language Assistance Complaint Form* and a *Language Assistance Complaint Form* should be made available to any member of the public who requests them, or who otherwise communicates their dissatisfaction with specific language access efforts. A supply of these materials, in English, Spanish and Vietnamese, will be kept at each office reception area and are also available for downloading and printing from the Office's web site. Both support and investigative staff will be trained (as set forth in Section D(4)) in the use of these resources.

A representative copy of the *Instructions for Completing a Language Assistance Complaint Form* is attached hereto as *Exhibit B*.

¹ Note also that a non-English-speaking defendant has a right to have an interpreter present throughout *all* proceedings. (California Constitution, Article I, section 14.) In multiple defendant cases, the prosecutor should make sure each defendant has a separate interpreter if s/he has not waived that right. Absent a knowing and intelligent personal waiver of a non-English-speaking defendant's right under the State Constitution to an interpreter during all stages of criminal proceedings, even a "shared" interpreter during any portion of proceedings will constitute error. (*People v. Chavez* (1991) 231 Cal.App.3d 147; *People v. Rodriguez* (1986) 42 Cal.3d 1005, 1012-13 ("Harmless beyond a reasonable doubt" standard used to determine if a reversal is required after error found).)

A representative copy of the *Language Assistance Complaint Form* is attached hereto as *Exhibit C*.

b) Completed *Language Assistance Complaint Forms* may be submitted in person or by U.S. Mail. If a *Language Assistance Complaint Form* is delivered in person, the employee receiving the complaint should make no promises, assurances or comments regarding the timing or likely content of any responsive actions other than to advise the complainant, if asked, that the complaint will be processed in accordance with the policies set forth in the *Instructions for Completing a Language Assistance Complaint Form*.

Undated and/or unsigned *Language Assistance Complaint Forms* will not be processed (complainants are advised of this in the *Instructions for Completing a Language Assistance Complaint Form*). If the complainant delivers an unsigned or undated *Language Assistance Complaint Form* in person, a request should be made that they sign and/or date the form.

Submitted *Language Assistance Complaint Forms* shall be forwarded to the LAC who will retain a copy to be scanned into a limited access shared drive and forward a copy to the direct supervisor of the employee(s) named in the complaint.

The direct supervisor shall determine whether the complaint is likely to be successfully resolved informally or whether it should receive more formal attention (for example, in situations where, if the allegations are true, a violation of policy or law has occurred). The direct supervisor may contact the complainant, or any person(s) identified by the complainant, to obtain further information to assist in making this determination. The direct supervisor may contact his or her supervisor for assistance in making this determination. If more formal attention is deemed warranted, the matter shall be referred to the Executive Manager responsible for the direct supervisor.

If a *Language Assistance Complaint Form* includes a complaint against any District Attorney Investigator, the LAC will forward a copy of the *Language Assistance Complaint Form* to the Chief of the Bureau of Investigation for further handling of that specific complaint. Complaints against District Attorney Investigators must be handled pursuant to specific applicable statutes and are not subject to the further procedures set forth below.

Persons who submit a *Language Assistance Complaint Form* should receive, within three business days, a response from a supervisor confirming that their complaint has been reviewed and: that the Office has considered their complaint and taken action; that additional information is needed to completely evaluate the complaint; or that the complaint has been determined to be unfounded.

Complainants are not entitled to be advised of any specific action(s) taken in response to a complaint, although, at the conclusion of the Office's review of a

complaint, the Office will provide verbal or written notice that the complaint has been reviewed and action taken.

Copies of all written responses (or a summary of any oral response) shall be forwarded to the LAC for scanning and retention in a limited access shared drive. No less frequently than once per year, the LAC shall review a summary of Language Assistance Complaints and Responses with the Chief Assistant District Attorney and the Chief of the Bureau of Investigation and the results of this review will be used to evaluate the suitability of existing language resources and to identify needs for different or additional language resources.

The protocol for processing submitted *Language Assistance Complaint Forms* is set forth in the *Language Assistance Complaint Procedure (for Internal Use Only)* document. A copy of this resource will be kept at each office reception area and both support and investigative staff will be trained (as set forth in Section D(4)) in this protocol.

A representative copy of the *Language Assistance Complaint Procedure (for Internal Use Only)* is attached hereto as *Exhibit D*.

8) Recruiting Bilingual Staff Members

The County of Santa Clara has a Policy on Diversity which includes a recognition that a diverse workforce provides advantages both internally, in terms of the human resources potential offered by a variety of diverse perspectives, and externally, in increasing the County's ability to respond to an equally diverse community.

The County of Santa Clara Equal Opportunity Division (EOD) provides comprehensive services to the County Organization in compliance with Federal and State laws, and County Policies. EOD duties include the administration of a discrimination/harassment complaint process for employees and applicants for employment.

This Office recruits and hires qualified bilingual staff members. Attorney position postings are brought to the attention of regional minority bar associations. Investigative and support staff members with qualifying multi-lingual skills are eligible for salary premiums as recognition for the value of those skills to this Office.

(E) MONITORING AND UPDATING LANGUAGE ASSISTANCE EFFORTS

In addition to the guidelines set forth elsewhere in this Language Assistance Plan, at the end of each calendar year, the LAC will meet with the District Attorney, Chief Assistant District Attorney and Chief of the Bureau of Investigation to review relevant data regarding instances where language assistance was requested and/or was provided to LEP persons. This review is intended to facilitate the recommendation and

implementation of responsive changes to the Office's language assistance efforts and the creation of related budgetary requests, where appropriate.

Effective Date:

December 3, 2012

Exhibit A

LANGUAGE IDENTIFICATION FLASHCARD

ضع علامة في هذا المربع إذا كنت تقرأ أو تتحدث العربية.

1. Arabic

Խոսողո՞ւմ ե՞նք նշո՞ւմ կատարե՞ք այս քանակուսում,
եթե խոսում կամ կարդում եք հայերեն:

2. Armenian

যদি আপনি বাংলা পড়েন বা বলেন তা হলে এই বাক্স দাগ দিন।

3. Bengali

លូមបញ្ជាក់ក្នុងប្រអប់នេះ បើអ្នកអាន ឬនិយាយភាសា ខ្មែរ ។

4. Cambodian

Motka i kahhon ya yangin ûntûngnu' manaitai pat ûntûngnu' kumentos Chamorro.

5. Chamorro

如果你能读中文或讲中文，请选择此框。

6. Simplified Chinese

如果你能讀中文或講中文，請選擇此框。

7. Traditional Chinese

Označite ovaj kvadratić ako čitate ili govorite hrvatski jezik.

8. Croatian

Zaškrtněte tuto kolonku, pokud čtete a hovoříte česky.

9. Czech

Kruis dit vakje aan als u Nederlands kunt lezen of spreken.

10. Dutch

Mark this box if you read or speak English.

11. English

اگر خواندن و نوشتن فارسی بلد هستید، این مربع را علامت بزنید.

12. Farsi

- Cocher ici si vous lisez ou parlez le français. 13. French
- Kreuzen Sie dieses Kästchen an, wenn Sie Deutsch lesen oder sprechen. 14. German
- Σημειώστε αυτό το πλαίσιο αν διαβάζετε ή μιλάτε Ελληνικά. 15. Greek
- Make kazyè sa a si ou li oswa ou pale kreyòl ayisyen. 16. Haitian Creole
- अगर आप हिन्दी बोलते या पढ़ सकते हैं तो इस बक्स पर चिह्न लगाएँ। 17. Hindi
- Kos lub voj no yog koj paub twm thiab hais lus Hmoob. 18. Hmong
- Jelölje meg ezt a kockát, ha megérti vagy beszéli a magyar nyelvet. 19. Hungarian
- Markaam daytoy nga kahon no makabasa wenno makasaoka iti Ilocano. 20. Ilocano
- Marchi questa casella se legge o parla italiano. 21. Italian
- 日本語を読んだり、話せる場合はここに印を付けてください。 22. Japanese
- 한국어를 읽거나 말할 수 있으면 이 칸에 표시하십시오. 23. Korean
- ໃຫ້ໝາຍໃສ່ຊ່ອງນີ້ ຖ້າທ່ານອ່ານຫຼືປາກພາສາລາວ. 24. Laotian
- Prosimy o zaznaczenie tego kwadratu, jeżeli posługuje się Pan/Pani językiem polskim. 25. Polish

- Assinale este quadrado se você lê ou fala português. 26. Portuguese
- Însemnați această casuță dacă citiți sau vorbiți românește. 27. Romanian
- Пометьте этот квадратик, если вы читаете или говорите по-русски. 28. Russian
- Обележите овај квадратих уколико читате или говорите српски језик. 29. Serbian
- Označte tento štvorček, ak viete čítať alebo hovoriť po slovensky. 30. Slovak
- Marque esta casilla si lee o habla español. 31. Spanish
- Markahan itong kuwadrado kung kayo ay marunong magbasa o magsalita ng Tagalog. 32. Tagalog
- ให้กาเครื่องหมายลงในช่องดำท่านอ่านหรือพูดภาษาไทย. 33. Thai
- Maaka 'i he puha ni kapau 'oku ke lau pe lea fakatonga. 34. Tongan
- Відмітьте цю клітинку, якщо ви читаете або говорите українською мовою. 35. Ukrainian
- اگر آپ اردو پڑھتے یا بولتے ہیں تو اس خانے میں نشان لگائیں۔ 36. Urdu
- Xin đánh dấu vào ô này nếu quý vị biết đọc và nói được Việt Ngữ. 37. Vietnamese
- באצייכנט דעם קעסטל אויב איר לייענט אדער רעדט אידיש. 38. Yiddish

Exhibit B

County of Santa Clara

Office of the District Attorney

70 West Hedding Street, West Wing, 5th Floor
San Jose, California 95110
(408) 299-7400



Jeffrey F. Rosen
District Attorney

Instructions for Completing a *Language Assistance Complaint Form*

Please read these entire instructions before completing or submitting a *Language Assistance Complaint Form*.

The Santa Clara County District Attorney's Office is committed to providing the highest level of service, including meaningful access to all programs, activities, functions or services of this Office, to any individual, regardless of their national origin or a limited ability to speak, read, write or understand English

A member of the public who believes those standards have not been met may make a written complaint on the attached *Language Assistance Complaint Form*.

Completed *Language Assistance Complaint Forms* should be returned to the District Attorney's Office location where they were received or mailed to:

Santa Clara County District Attorney's Office
County Government Center
70 West Hedding Street, West Wing
San Jose, CA 95110
Attn: Language Assistance Complaint Unit

An individual should submit any written complaint as soon as possible after any purported failure by the Office to provide sufficient oral or written language assistance.

If you are represented by an attorney in a pending criminal matter you should consult with your attorney before making any statements to this office, including any statements on a *Language Assistance Complaint Form*. If you are represented by an attorney in a pending criminal matter, we cannot communicate directly with you, but will communicate with your attorney as necessary.

Print or type your complete responses in all sections of the *Language Assistance Complaint Form*. If any sections are left blank or cannot be read, this may delay or prevent action being taken on your complaint.

If you would like to attach any documents to your complaint that you feel will help us understand your concerns, you may do so. You should attach copies of any such documents and keep the originals.

Please sign and date the *Language Assistance Complaint Form* before submitting it. Unsigned or undated forms will not be processed.

All submitted *Language Assistance Complaint Forms* will be reviewed by a supervisor in the District Attorney's Office and you will be contacted by a representative of the District Attorney's Office within three business days advising whether or not any action has been taken and/or whether any additional information is necessary to evaluate your complaint.

At the conclusion of the District Attorney's Office's review of your complaint, the Office will provide you either verbal or written notice that your complaint has been reviewed and action taken. You will not be advised of any personnel actions or decisions.

Submitting a *Language Assistance Complaint Form* does not affect any statute of limitation for any civil claim or lawsuit.

The District Attorney's Office will not retaliate against an individual who submits a *Language Assistance Complaint Form* or who participates in the Office's review of a complaint.

Exhibit C

County of Santa Clara

Office of the District Attorney

70 West Hedding Street, West Wing, 5th Floor
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(408) 299-7400



Jeffrey F. Rosen
District Attorney

Language Assistance Complaint Form (Print or Type all Requested Information Using the Provided Instructions)

Your Name: _____

Your Street Address: _____

Your E-Mail Address: _____

Your Telephone Number: _____

Name(s) of District Attorney's Office Staff Member(s) (if known) related to your Language Assistance Complaint:

Names(s) and contact information of any persons who may have additional information about your Language Assistance Complaint:

Statement of Language Assistance Complaint (you may attach additional pages):

Signature _____ Date: _____

Exhibit D Intentionally Omitted