

**STATE OF ALASKA**

**Department of Law**

**Criminal Division**



**Language Access Plan**

**August 2013**

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## **Alaska Department of Law Criminal Division Language Access Plan**

### **I. Policy**

The Criminal Division of the Alaska Department of Law (Criminal Division) shall take all reasonable steps to ensure victims and witnesses in Alaska have safe, timely, and meaningful access to our offices and services as we prosecute those who violate state law. It is the responsibility of the Criminal Division staff to provide free access to language assistance services for all contacts with limited English proficient (LEP)<sup>1</sup> victims and witnesses. The Criminal Division staff must identify LEP individuals and inform LEP persons that language assistance services are available. If such services are requested, the staff must take all reasonable steps to provide language assistance to LEP individuals.

### **II. Purpose**

The purpose of this plan is to provide guidance on how to fulfill the Criminal Division's commitment to ensuring victims and witnesses in Alaska have safe, timely, and meaningful access to our offices and services as we prosecute those who violate state law. While most people in Alaska read, write, speak, and understand the English language, there are many people for whom English is not their primary language. Those individuals may not be able to fully participate in the criminal justice system and thus have meaningful access to it, unless various agencies including the Criminal Division in the criminal justice system work towards that goal.

#### *The Legal Basis*

Providing all victims and witnesses safe, timely, and meaningful access to the criminal justice system certainly has a moral imperative, but there is also a legal basis. The legal obligation to provide services to LEP persons in the criminal justice system arises from the constitutional requirements of equal protection and due process of law, as well as Title VI of the Civil Rights Act of 1964.<sup>2</sup> Title VI prohibits recipients of federal financial assistance from discriminating on the basis of national origin (among other bases) in funded programs or activities. As a result, and as explained in the United States Department of Justice (DOJ) regulations implementing Title VI, recipients of federal financial assistance have a responsibility to ensure meaningful access to their programs and activities by LEP persons.<sup>3</sup> The implementing regulations of Title VI also provide for enforcement of these statutory requirements. If there appears to be a failure or threatened failure to comply with the regulations and if the noncompliance or threatened noncompliance cannot be corrected by informal means, the responsible official may suspend or terminate, or refuse to grant or continue, federal financial assistance, or use any other means authorized by law, to induce compliance with these requirements.<sup>4</sup>

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<sup>1</sup> LEP individuals are persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English

<sup>2</sup> 42 U.S.C. § 2000d et seq. A separate statute, the Omnibus Crime Control and Safe Streets Act, 28 U.S.C. § 3789d(c)(1) (Safe Streets Act), also includes a nondiscrimination requirement that is applicable to most of the federal financial assistance that the Criminal Division receives from the Department of Justice.

<sup>3</sup> See 28 C.F.R. §§ 42.104(b)(2) (Title VI), 42.203(a) (Safe Streets Act).

<sup>4</sup> See *id.* §§ 42.108, 42.210.

Executive Order 13166 directs every federal agency that provides financial assistance to recipients to publish guidance about how those recipients can ensure meaningful access to their programs and activities by individuals who, as a result of their national origin, are LEP.<sup>5</sup> Pursuant to Executive Order 13166, on June 18, 2002, DOJ published a guidance document for recipients regarding LEP issues.<sup>6</sup>

Recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. In an effort to assist recipients in satisfying this standard, the DOJ Guidance emphasizes the importance of balancing the following four factors: 1) the number or proportion of LEP persons served or encountered in the eligible service population; 2) the frequency with which LEP individuals come in contact with the program; 3) the nature and importance of the program, activity, or service provided by the program; and 4) the resources available to the recipient and costs. The DOJ Guidance further notes that recipients should develop a written plan to address the identified needs of the LEP populations they serve.

### III. Needs Assessment

The four factors identified in the DOJ Guidelines have been considered in assessing the Criminal Division's language needs and determining the steps the Criminal Division will take to provide safe, timely, and meaningful access to its services to all victims and witnesses of crimes regardless of language.

#### 1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the Criminal Division.

##### A. U.S. Census 2010

The demographic profile by the U.S. Census shows that Alaska had a noticeable increase in its minority population during the past decade. The 2010 census data released May 12, 2011 shows Alaska's minority population stands at 35.9% of the state's total population of 710,231. That's a 3.5% jump since 2000, when minorities accounted for 32.4% of the total population of 626,932. Mexican is one of the fastest growing minorities in Alaska, from 13,334 (2.1%) to 21,642 (3%).<sup>7</sup>

The census data has two shortcomings. First, while the U.S. Census tracks the ethnic or cultural background of the population, it does not track the language(s) spoken by any person. Thus while it serves as a starting point for identifying the size of minority groups who may have a language access issue, it cannot reveal how many members of a minority group do not speak English, or might need help communicating. Second, the census data provides a picture of the cultural background of Alaska *residents*, but it may not provide information about *non-*

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<sup>5</sup> Exec. Order No. 13166, 65 Fed. Reg. 50121 (Aug. 16, 2000).

<sup>6</sup> Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (June 18, 2002) (DOJ Guidance).

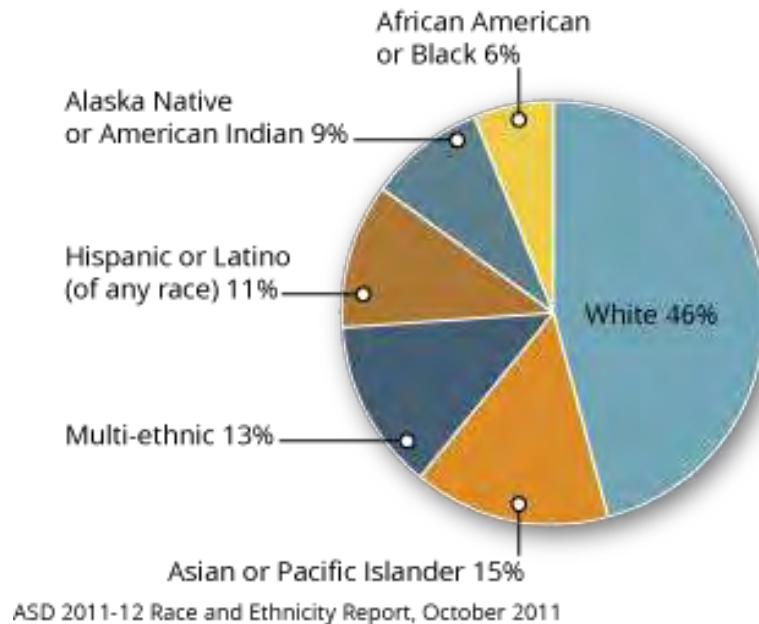
<sup>7</sup> Source: U.S. Census Bureau, located at <http://2010.census.gov/2010census/data/>. Hispanic and Latino populations other than Mexican also grew, but not even close to the same rate.

*residents*. Anecdotal data suggests that a significant number of non-English speaking people associated with both the tourist and fishing industries come to Alaska – even if only for short periods of time. These non-residents may become victims or witnesses of crime while in Alaska.

*B. Anchorage School District*

Another measure of the state’s language diversity can be found in Anchorage School District’s demographics for the 2010-11 school year. The Anchorage School District is the largest school district in the state with approximately 50,000 students. Unlike the census, the school district does track the demographics for those students who speak different languages. This does not mean those students do not or cannot speak English, but it helps to identify other languages spoken. The demographics for the 2010-11 school year indicate 91 different languages other than English as “Home” languages by students in the Anchorage School District. The district reports that after English, the five most common are Spanish, Hmong, Samoan, Tagalog, and Yup’ik. The school district does not give percentages of students who speak those languages, but it does provide percentages of ethnic backgrounds. Minority students currently comprise more than 50 percent of the student population.<sup>8</sup>

**Anchorage School District Student Diversity**



<sup>8</sup> Source: *Anchorage School District 2011-12 Race and Ethnicity Report*, October 2011; ASD Online 2012, located at [www.asdk12.org/aboutasd/](http://www.asdk12.org/aboutasd/).

**2. The frequency with which LEP individuals come in contact with the Criminal Division.**

*A. Criminal Division's Case Management System*

The Criminal Division currently collects data on which cases involve LEP victims and witnesses, the languages they speak, and what type of interpretation services are required by monitoring contracts for language access services.<sup>9</sup> While this method provides good data about past use, it does not allow that data to be used proactively when those same LEP persons are encountered in the future. The Criminal Division is seeking new case management program. The case management system will hopefully be able to flag individuals in the database so that if the Criminal Division has contact with that person again, the Criminal Division will already know of the need for an interpreter and in which language. The recording of such information will also allow the Criminal Division to collect data on the numbers of cases involving LEP individuals and provide statistical reports. Finally, an on-going review of this data will document the changing needs for interpreter and translation services so that management of the Criminal Division can plan accordingly. Tracking interpreter contracts historically reveals the use of interpreters in fewer than 50 cases per year. The Department of Law is currently evaluating proposals through an RFP process for a case management system for the Criminal Division. We anticipate the deployment to take 12-18 months from January 1, 2014.

*B. Statewide Language Interpretation needs Survey (2005)*

In 2005, the Alaska Court System conducted a statewide survey to assess the need for interpreter services. The survey was distributed to 913 organizations representing for-profit and non-profit businesses, Alaska Native groups, and state and federal government. The survey found that the most common languages requested for interpretation services were Spanish, Yup'ik, Russian, Korean, Tagalog, Ukrainian, and Inupiaq.<sup>10</sup> The Alaska Court System's contact with LEP individuals is much greater than the Criminal Division's because of the wide range of services the courts provide in both civil and criminal matters. The Criminal Division provides services to victims and witnesses only in criminal cases. It should also be noted that the Criminal Division is not the sole prosecuting authority in Alaska as at least two municipal governments and the federal government have prosecutors in Alaska as well.

*C. AT&T Language Line---Domestic Violence Protective Orders*

The Alaska Court System collected data from January 2007 to December 2008, of AT&T Language Line usage for 390 LEP individuals in domestic violence proceedings. That data indicated that the six languages most often requested were

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<sup>9</sup> Events where such services might be required include but are not limited to meetings with victims or witnesses, arraignments of a defendant, bail hearings, evidentiary hearings, trials, and sentencing.

<sup>10</sup> Language access plan Appendix A, Office of the Administrator Director, Alaska Court System Anchorage AK, June 2007.

Spanish (163 persons), Tagalog (38 persons), Korean (34 persons), Hmong (28 persons), and Russian (24 persons).<sup>11</sup> Individuals applying for such orders are more likely than the average citizen (or even citizens in other civil proceedings) to have contact with the Criminal Division given the nature of this civil proceeding. However, it should be remembered that not every person who attempts to obtain such an order will report a crime to the police and, as previously noted, the Criminal Division is not the only prosecuting authority in Alaska.

**3. The nature and importance of the program, activity, or service provided by the Criminal Division to people’s lives.**

The Criminal Division works to assure safe and healthy communities by prosecuting and convicting criminal offenders in urban and rural Alaska. The Criminal Division prosecutes violations of state criminal law committed by adults and a large portion of the serious crimes committed by juveniles. The day-to-day prosecution services are carried out by thirteen regional district attorney offices and the Office of Special Prosecutions (see offices listed on the map below). In accordance with Article I, section 24 of the Alaska Constitution and various state statutes the Criminal Division provides assistance to victims and witnesses of crimes, including information about their rights, their legal options, and who to contact for additional information. Victim and witness services are provided through the district attorney and Special Prosecutions offices throughout the state. When individuals become victims or witnesses of a crime and are also LEP persons, providing reasonable and appropriate language assistance is necessary to ensure full access to these services and preserve the integrity of the criminal justice system.



<sup>11</sup> Language access plan Appendix B, Office of the Administrator Director, Alaska Court System Anchorage AK, June 2007.

#### 4. The costs to the Criminal Division for providing resources.

The Criminal Division recognizes its responsibility to ensure effective, accurate and timely communication between its staff and the victims and witnesses we serve. The unique and complex challenges facing the Criminal Division are similar to those addressed in the Alaska Court Systems Language access plan from June 2007. Travel in Alaska is extremely complicated given the size of the state, the limited road system, and the weather. As an example travel between Bethel and Anchorage (340 miles) is the equivalent of traveling between Washington D.C. and Hartford, Connecticut (341 miles).



The only difference is that there are no roads which connect Anchorage and Bethel and all communication has delays. Internet communication is slow and can be affected by either the weather or lack of technicians in town to address any problems thus requiring the technicians generally to be flown in from Anchorage. Even communication over the phone involves a time delay much like talking on a ship-to-shore phone. There is only one wireless phone company in Bethel, but that company does not provide services to all of the villages in the Yukon Kuskokwim Delta which the Bethel District Attorney's Office serves. There are no roads to any of those villages and they are spread out over an area approximately the size of the state of Oregon. Travel occurs by small plane or river boat in the summer and snow machine in the winter. Given these modes of transportation, it is understandable how inclement weather can further hamper travel.

Bethel is one of five offices in such circumstances. (Bethel, Nome, Kotzebue, Dillingham, and Barrow). Another four offices in the Criminal Division are isolated by sea and are also not connected to the road system. (Kodiak, Sitka, Ketchikan and Juneau). These nine offices serve 25% of the population and cover 75% of the state.

These geographic barriers and the lack of infrastructure combined with the limited availability of competent interpreters and finite funding sources for payment of interpreters present significant challenges to the Criminal Division in providing language access services of the highest quality statewide.

The Criminal Division attempts to overcome these barriers in multiple ways including but not limited to: 1) continually assessing the availability of resources to provide language



assistance such as certified interpreters and conditionally approved interpreters; 2) identifying multilingual employees and seeking to hire new ones; and 3) training staff about the importance of language access and the Criminal Division's plan to provide safe, timely, and meaningful access.

##### **5. Available resources provided by the Criminal Division.**

In 2007 the Alaska Court System's collaboration with multiple government and business agencies resulted in the idea of pooling resources from a number of public and private entities for the development of an oral language interpreter center. The center is administratively separate from the court system and is under the auspices of the nonprofit Alaska Immigration Justice Project. The reported mission of the Alaska Oral Language Interpreter Center (LIC) is to provide to its stakeholders: 1) training programs to develop interpreters skills and professional ethics; 2) maintain a roster of trained interpreters; 3) testing to prepare interpreters for certification; and 4) training for groups and agencies on the roles, responsibilities, and professional ethics expected of qualified interpreters. The LIC's primary focus is on common languages requested for interpretation services in Alaska: Spanish, Yup'ik, Russian, Korean, Tagalog, Inupiaq, and Korean.<sup>12</sup> The LIC has been in operation since 2007. Currently, the LIC has one fully trained interpreter in Alaska. She is the first interpreter to receive certification by the Alaska Court System.<sup>13</sup> She interprets Spanish. Yup'ik and Inupiaq have presented special challenges in that both are primarily oral languages. There are no tests yet developed to assess the abilities of interpreters of these two native Alaska languages. The Criminal Division has an MOU with the LIC to contract for registered interpreters, in person or telephonic. The Criminal Division also contracts the Language Line Services (LLS) based out of Monterey, CA<sup>14</sup> for interpreter services by telephone. Both LIC and LLS provide written document translations. All of the LIC and LLS interpreters/translators have undergone extensive training and are qualified to provide interpreter/translation services in Alaska. The Criminal Division also maintains lists of provisionally qualified interpreters (outside of the LIC) and multilingual staff. The provisionally qualified interpreters must demonstrate to the satisfaction of the court the ability to interpret court proceedings from English to a designated language and from that language into English. Multilingual staff must pass language proficiency assessments and received language assistant training.

The contracts for these vendors require that they abide by the Interpreter Code of Ethics and Professional Responsibility to ensure: confidentiality, accuracy, completeness, impartiality, disclosure of any real or perceived conflict of interest, decline of any assignment beyond technical or linguistic ability, and interpret only the languages authorized to interpret.

The Criminal Division's language assistance resources appear to satisfactorily meet the current need for interpreter/translation services. The Criminal Division will periodically

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<sup>12</sup> See the Language Interpreter Center located at: <http://www.akijp.org/interpreter.html>.

<sup>13</sup> Source: Anchorage Daily News, Alaska Business People, page A-10 May 6, 2011 edition; <http://www.adn.com/2011/05/06/v-printer/1849993/alaska-business-people.html>.

<sup>14</sup> See the Language Lines Services located at <http://www.language.com/>

reassess the language assistance needs so that the services can be enhanced or modified to continue to meet the language needs of the LEP individuals.

#### **IV. Language Access Plan**

The four factor analysis discussed above is used to balance available resources to meet the Criminal Division's commitment to ensure meaningful interpreter services are provided to victims and witnesses of crimes who come in contact with the district attorney offices statewide. The steps taken are based on information gathered from examining census data, Anchorage School District demographics, Alaska Court System's statewide survey, other court system data collection, Criminal Division's needs assessment survey of its own resources, and employee feedback. After completing the four-factor analysis, the Criminal Division determined an appropriate "mix" of LEP services required three main ways to provide language services: oral interpretation using qualified multilingual staff providing direct "in-language" communication, in-person or via telephone interpretation services, and written translation. The underlying assumption is that given the differing needs and resources of each district attorneys office and the various populations and communities it serves, flexibility is important in designing a plan that provides meaningful access to LEP individuals. Offices statewide will ensure nondiscrimination by taking reasonable steps to ensure safe, timely, and meaningful access for persons who are LEP.

The Criminal Division will also use the U.S. Department of Justice Language Access Assessment and Planning Tool<sup>15</sup> as a resource in guiding the steps that the Criminal Division takes to provide LEP individuals with meaningful access to our offices and services. The Language Assessment and Planning Tool provide a set of elements that may be helpful in designing an LEP policy or plan. These elements include:

1. Identifying LEP individuals who need language assistance
2. Providing language assistance measures
3. Training staff
4. Providing notice to LEP persons of the availability of language assistance
5. Monitoring and updating the LEP Plan

The following plan explains the need to undertake language assistance activities and follow the recommended procedures on how to identify a person who may need language assistance<sup>16</sup>, the ways in which assistance may be provided, the training of staff, how to notify LEP persons that assistance is available, and information for future plan updates.

##### **1. Identifying LEP individuals who need language assistance**

THE FOLLOWING METHODS FOR DETERMINING THE NEED FOR LANGUAGE ASSISTANCE WILL BE EMPLOYED:

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<sup>15</sup> Source: [http://www.lep.gov/resources/2011\\_Language\\_Access\\_Assessment\\_and\\_Planning\\_Tool.pdf](http://www.lep.gov/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf)

<sup>16</sup> In the extraordinarily unlikely event that the courts were to allow a defendant who is LEP to represent him/herself, the Criminal Division will take the position that the court system must appoint an interpreter for any and all interactions with the Criminal Division for the protection of that defendant's interests and the integrity of the criminal justice system.

- Signage is displayed in the Division’s 14 offices and on its website. Using Alaska’s most frequently used languages, the sign notifies citizens that: “If you are in need of an interpreter please let the District Attorney’s office know. One will be provided at no cost to you.” This notice also is provided in victim-witness assistance brochures.
- The LEP individual may self-identify that they are in need of an interpreter and what language they speak.
- Staff should watch for those individuals who may not self-identify as LEP. These individuals may speak broken English, struggle to find the right words, or ask for a second person to help them find the right words. Staff may also identify LEP individuals by asking open-ended questions that require a narrative response. Examples include ‘tell me what happened’ or ‘how did you get to our office.’ Questions that require a short ‘yes’ or ‘no’ response may not reveal a communication barrier in the same way. If staff suspect the individual is LEP, staff should be trained to inquire tactfully whether there the individual feels comfortable conversing in another language.
- Language identification cards “I Speak” are available in each district attorney’s office to help identify the primary language of LEP individuals.
- If available, a multilingual staff may be asked to assist to verify an individual’s primary language.
- When a caller speaks a language other than English, and multilingual staff are not available, contact can be made with the telephone contract interpreter service, Language Line Services to assist in identifying the language spoken and providing an interpreter.
- Beginning September 2013, the criminal case intake and disposition (CCID) forms will be amended to identify LEP victims and the primary language spoken.
- The Criminal Division’s case management system (scheduled for implementation fall 2014) will have the capability of tracking interpreter needs through case records. Flags would be generated for all future contact with those LEP individuals.

## **2. Providing language assistance services**

Meaningful access for LEP individuals is provided through two types of free language assistance services: oral (interpretation, direct “in-language” communication) and written (translation).

The four sources of language assistance are the Language Interpreter Center (LIC), Language Line Services (LLS), other provisionally qualified interpreters, and qualified multilingual staff. Both LIC and LLS provide oral and written services. The LLS is only able to interpret over the telephone. All LIC and LLS interpreters/translators have undergone extensive training and are qualified to provide interpreter/translation services in Alaska.

The Criminal Division’s language access coordinator also maintains lists of

- (1) Multilingual staff who complete language assistance training;
- (2) Provisionally qualified court interpreters;

- (3) Approved translators for written documents; and
- (4) Written instructions to access in-person and telephone interpreters/translators

The lists of names and instructions are distributed to management, prosecutors and paralegals statewide. The lists of names and instructions are also located on the intranet (the department's internal website) for easy access by all staff.

In order to use the LIC or LLS, the Criminal Division contracts with those vendors. Victim witness paralegals (paralegals) are the primary staff authorized to initiate the Department's *Contract for Interpreter/Translator Services*. Paralegals prepare the contract for an in-person, provisionally qualified or telephonic interpreter for a criminal case and submit it to the Criminal Division's central office for immediate approval and data collection. All current paralegals are trained on the protocols of identifying the language needs of an LEP individual, accessing an interpreter or translator, and have written instructions on accessing an interpreter/translator through LIC and LLS. Training will be provided to all new paralegals during new employee orientation.<sup>17</sup>

### **Oral Language Services**

Oral language assistance may come in the form of "in-language" or direct communication<sup>18</sup> with LEP individuals by multilingual staff or by qualified interpreters.

*Multilingual staff* that have passed language proficiency assessments and undergone language assistant training may provide "in-language" assistance to LEP individuals. Examples of assistance include but are not limited to:

- When a LEP individual calls Criminal Division's central offices or district attorney offices, and the call taker needs assistance to identify the primary language of the caller;
- When a LEP individual is requesting status of their case; and
- When a LEP individual is in need of other community resources that are available to them.

Multilingual staff will **not** be used for victim and witness interviews, grand jury, jury trial proceedings, or any other hearing at which a victim or witness must testify.

*In-person interpreters* should be LIC registered court interpreters or someone from the Criminal Division's list of provisionally qualified court interpreters. The following rules apply to the use of qualified court interpreters.

- Qualified court interpreters assist with
  - (1) Court testimony including grand jury, jury trial proceedings, or any other hearing at which a victim or witness must testify.
    - Preference will be given to the registered court interpreter since those individuals will have more training in court interpretation.

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<sup>17</sup> See Staff Training and Coordination section of the Language Access Plan

<sup>18</sup> See definitions of "in-language" or direct communication

- If a registered court interpreter or provisionally qualified interpreter is unavailable the staff should request a continuance so an interpreter can be contacted.
  - If a continuance is not an option, such as grand jury, a telephonic interpreter may be used. A telephonic interpreter may also be used if the witness is testifying telephonically.
- (2) Office contact for LEP victim and witness interviews, notification of criminal proceedings or review of relevant case information.
- Preference will be given to the registered court interpreter.
  - If a registered court interpreter or provisionally qualified interpreter is unavailable, the staff evaluates whether a telephonic certified interpreter will provide timely and meaning full access for that office visitation.

*Oral Interpretation – Use of Other Interpreter:* The Criminal Division has a vested interest in ensuring that interpretation is accurate: an error in interpreting the testimony of a victim or witness could result in a conviction being overturned on appeal. It is for this reason that the Criminal Division tries to avoid using family members to interpret.

There are two scenarios where an exception may be made in rare circumstances:

#### In Court

If a victim indicates that s/he does not want to appear or call in to a non-testimonial court hearing, but later has a family member call or appears in court with a family member. In this situation, the Division should request a continuance explaining the importance of the victim's participation/presence. The Division should explain the issues around family members attempting to interpret. The court must decide if a continuance is appropriate. If the court denies a continuance, then the family member is the only option left for the victim to understand what is occurring. The Division should follow up with the victim or witness at a later with an interpreter to ensure the communication was accurate.

#### In Office

The second scenario is if the contact occurs at the office with an unexpected visit or call. To make an exception to rule of not using family members to interpret, there must be an emergency related to safety or health. The determination of whether an emergency exists can be made through the assistance of the family member.

If it is an emergency the Criminal Division will first attempt to get an in-person interpreter on short notice. If that fails, then the Division will try to arrange a telephonic interpreter. If that fails then the family member may be used. Again, the Division should follow up with that victim or witness as soon as possible with a qualified interpreter to ensure the information received and given was communicated accurately.

*Telephone interpreters* are provided through the LIC and the LLS. The LIC and LLS provide three-way-call service that can be used:

- When an LEP individual calls the Criminal Division’s central offices or the district attorney offices.
- When Criminal Division staff call an LEP individual with notifications of criminal proceedings and/or information of regarding the status of their case.
- When an LEP individual visits the Criminal Division’s central offices or the district attorney office without prior notice and a qualified in-person interpreter cannot be arranged in a timely fashion.

*Notification of Court Proceedings:* One of the victims’ rights under the Alaska Constitution is to be provided information about and be allowed to attend all criminal or juvenile proceedings where the defendant has a right to be present. Currently this notification is being done by the paralegals in each of the district attorney’s offices. Upgrades to the VINE Court Notification System will provide victims or witnesses with 24-hour access to case status, hearing dates, and location information. This service will also be provided in the common languages requested for interpretation services in Alaska. The Criminal Division received funding for upgrades to the VINE Court Notification System. The Division is currently discussing the timeline for upgrades.

### **Written Translation Services**

The Criminal Division has established a translation process that ensures all translations are done effectively and efficiently and set minimum requirements for determining which documents must be translated. The Criminal Division advisory board will annually review the department’s documents to determine which documents should and must be translated. The board will evaluate (1) public communication materials and (2) vital documents for the district attorney offices.

To ensure greater certainty of compliance with Title VI obligation, the board will use the “safe harbor” requirement of

- 5% percent or 1,000, people of the population eligible to be served, or likely to be affected or encountered.
- If there are less than 50 people in a language group, recipients should provide in-language written notices of the right to receive oral interpretation of written materials.

Examples of (1) public communication materials and (2) vital documents for the district attorney offices include but are not limited to:

- Brochures describing crime victim rights; information for victim and witnesses to access victim service advocates; and applying for Alaska’s Violent Crime Compensation, Office of Crime Victims’ Rights, and VINE system (an automated notification system).
- Notices advising LEP individual free language assistance and complaint and complaint process documents.
- Criminal Division website’s Victim-Witness Assistance Program information.

- Case specific documents including victim notification letters will be translated on a case by case basis.

Paralegals will complete the *Contract for Interpreter/Translation Services* for translation of case specific documents for LEP individuals. The contract is submitted to Criminal Division's central office for immediate approval and data collection.

As appropriate, external stakeholders will be consulted with respect to reaching non-literate LEP individuals.

### **Quality Control**

The Criminal Division shall take reasonable steps to ensure that all staff or contracted personnel who serve as interpreters, translators or who communicate "in-language" with LEP individuals:

- Demonstrate proficiency in and ability to communicate information accurately in both English and in the other language;
- Identify and employ the appropriate mode of interpreting (e.g., consecutive, simultaneous, or sight translation), translating, or can communicate fluently in the target language;
- Have knowledge in both languages of any specialized legal terms or concepts and of any particularized vocabulary used by the LEP persons;
- Understand and follow confidentiality, impartiality, and ethical rules to the same extent as the Criminal Division staff; and
- Understand and adhere to their role as interpreters, translators or multilingual staff.

This will be accomplished through periodic testing of this knowledge.

The Criminal Division will also ensure quality control of written translations by contracting with a language service provider that uses a translation process that includes:

- Multilingual experts to translate into target language;
- Translations that are edited by a second, multilingual expert for contextual and linguistic accuracy;
- Materials returned to a translator for a linguistic review / proofreading and acceptance or rejection of copy's editors changes / corrections; and
- Once the documents are formatted, the original translator will perform a final proofreading step to check for accuracy.

Criminal Division's procurement guidelines for professional contracting of language assistance services are structured to allow a diversity of providers that demonstrate both economies of scale for price and quality assurance. To further enhance quality assurance the department coordinates with the Western States Contracting Alliance (WSCA) to participate in contracts for telephonic interpreter and translation services.

### **3. Personnel / Human Resource Planning**

To achieve the maximum safe, timely, and meaningful access for LEP individuals Criminal Division management should:

- Consider language needs of each regional office, in consultation with the language access coordinator and any available language data. Proficiency in a second language common to the area that a regional office serves is a factor to be considered in recruitment and hiring plans; and
- Provide training opportunities to improve existing language skills for staff.

#### **4. Staff Training and Coordination**

The Criminal Division's office chiefs will be notified of and trained on LEP requirements annually and are expected to fully understand the department's LAP. This will reinforce its importance, and to help ensure its implementation by staff within their offices. The district attorneys should also contact the language access coordinator for additional guidance on such matters. The LAP is distributed to all staff, and it has been placed on the department's website and intranet (the department's internal website) for easy access by staff and the public to review. This distribution is designed to be a precursor to formal training for staff who have contact with LEP individuals.

Due to the size and geographic complexity of the Criminal Division's workforce, different training options will continue to be made available.

(1) *Formal Training:* The department will partner with Department of Public Safety to provide at least thirteen regionally-sponsored training courses for prosecutors, paralegals, law office assistants, and state and local law enforcement. All department employees will attend one of the regional conferences for the interpreter training session. Additional face-to-face training will strive to be offered annually either through regionally sponsored trainings or the statewide DA/Paralegal conference. The training course will be designed for staff that are likely to have contact with LEP individuals. The curriculum is currently being developed but at a minimum will include:

- Criminal Division's LAP and obligation to provide language assistance services.
- How to identify the language needs of LEP individuals.
- Instructions on accessing interpreter and translation services.
- How to effectively work with an interpreter in-person or on the telephone.
- Understanding the duties of professional responsibility and interpreter code of ethics.

The LIC program manager has agreed to provide the LEP training and it will begin in May and conclude by March 31, 2014.

(2) *Computer Based Training:* Criminal Division is currently exploring modules for online training. This computer-based training covering the basic language access guidelines for working with an interpreter will be made available in December 2013 to all staff that utilizes language assistance services in direct LEP individual interactions.



- (3) *Informal Training:* Staff that are not likely to have contact with LEP individuals will be required to receive informal training covering the basics of the LAP and the obligation of the plan. This training should be conducted by his/her supervisor or by the language access coordinator if requested.
- (4) *New Employee Training:* The language access coordinator will work with the office managers statewide in order to orient new employees to the LAP and the obligation of the plan. At a minimum, the Criminal Division will provide new employees with a copy of the LAP and a summary of the Division's obligation to provide language assistance services. Additional one-on-one, in-depth training will be provided if a new employee will likely have immediate contact with LEP individuals, including how to use "I Speak" cards, how to identify the language needs of LEP individuals, and procedures on accessing interpreter and translator services. New employee training is on-going.
- (5) *Multilingual Staff Training:* Multilingual staff that are requested to communicate "in-language" with LEP individuals will have passed an oral proficiency exam with an accredited language testing service and receive annual language assistants training in collaboration with the Alaska Court System. This two-day training is designed to develop the translation and language skills, ethics, specialized terminology, and other topics as needed. The results of this staff assessment and training will be distributed to each district attorney and office manager so they know what resources are available within the Department.
- (6) *Tip Sheet:* Provide a tip sheet on how to work with interpreters to all attorneys and paralegals.

The language access coordinator will work with each district attorney's office on an as-needed basis to provide continuing education to department staff with regard to the LAP, as well as track employee attendance to the various LEP training courses.

The Criminal Division Director designated the Statewide Victim Witness Coordinator as the Language Access Coordinator for ensuring that the Criminal Division adheres to its language access policy and plan. The Criminal Division Director oversees all of the thirteen regional district attorney office's and has designated the District Attorneys within each office to monitor compliance with the language access policy and to coordinate all reports and actions through his/her office. The responsibilities of the Language Access Coordinator include:

- Develop a language access policy and daily implementation plan,
- Oversee the language access policy and implementation,
- Ensure that staff are aware of the language access policy and the steps needed to implement the policy,

- Track and monitor use of language access services,
- Respond to complaints regarding language access services,
- Assist in procurement of contract language access services and assist in managing the relationship with language services contractors, and
- Develop a legal glossary for victim rights in Yup'ik, Inupiaq, Spanish, Korean, Russian, and Tagalog. The department is currently reviewing a list of legal terms to include in the legal glossary for translations.

## **5. Providing notice to LEP persons of the availability of language assistance**

The Criminal Division will take the following actions to let the LEP persons know that language assistance services are available and that they are free of charge:

- Post written notices in the public areas in central offices and all thirteen district attorney offices statewide and on the Criminal Division's website;
- Partner with law enforcement and community agencies to inform them of the Criminal Division's Language Access Plan and solicit their assistance and cooperation in communication of the Criminal Division's policies to provide meaningful access to LEP persons; and

Maintain a website that provides LEP persons with access to victim-witness assistance information, including a handbook on victims' rights and four brochures on crime victims' rights, domestic violence, sexual assault and safety planning in Yup'ik, Inupiaq, Spanish, Korean, Russian, and Tagalog.“”

## **6. Monitoring and updating the LEP Plan**

The Criminal Division's language access plan will be reviewed annually prior to the District Attorney/Paralegal Conference, and updated as needed. This review will be conducted by an advisory board of Criminal Division staff. The board shall be chaired by the criminal division director and composed of the language access coordinator, two office managers (from one urban and one rural office), a line attorney, and two paralegals (from one urban and one rural office). Preference for advisory board members will be given to multilingual staff. As appropriate, external stakeholders will be solicited for their views and ideas to help shape the Criminal Division's commitment to ensuring victims and witnesses in Alaska have safe, timely and meaningful access to our offices and services. This plan is designed to be flexible, and should be viewed as a work in progress. As such it is important that the review assess:

- Whether there have been any significant changes in the demographics or language needs of the LEP population;
- If additional vital documents require translations; and
- Any issues or problems related to serving LEP persons which may have emerged during the past year and identify recommended actions to provide more responsive and effective language assistance.

The Criminal Division's language access plan will be available to the public and Criminal Division staff on the Department of Law's official website at:

<http://www.law.state.ak.us/>

LEP persons may obtain copies/translations of the plan upon request. Questions about the language access policy and plan should be directed to the Criminal Division Language access coordinator at 907.269.6379

## V. Complaint Procedure

1. Any LEP individual has a right to file a complaint against the Criminal Division where he or she believes that the Criminal Division did not provide necessary LEP services as appropriate, and will be provided with a Criminal Division complaint form.<sup>19</sup> The language access coordinator shall take reasonable steps to inform LEP individuals and stakeholders about the availability of complaint forms and shall ensure that the complaint process is meaningfully accessible to LEP individuals.
2. All complaints, alleging a violation under Title VI will be referred to the language access coordinator:

Susie Frenzel  
P.O. Box 110300  
Juneau, AK 99811  
907.465.3600  
[susie.frenzel@alaska.gov](mailto:susie.frenzel@alaska.gov)

3. The language access coordinator will investigate whenever it receives a complaint, report, or other information that alleges or indicates possible noncompliance with Title VI. If the investigation results in a finding of compliance, the coordinator will inform the LEP individual in writing of this determination, including the basis for the determination. However, if a case is fully investigated and results in a finding of noncompliance, the coordinator will inform the LEP individual of the noncompliance through a Letter of Findings that sets out the areas of noncompliance and the steps that will be taken to correct the noncompliance.
4. If the LEP individual is not satisfied with the findings they may appeal to the Alaska State Commission for Human Rights (see contact information below).

Alaska State Commission for Human Rights  
800 A Street, Suite 204  
Anchorage AK 99501-3669  
907-274-4692 (Anchorage Area)  
907-276-3177 (Anchorage Area TTY/TDD)  
800-478-4692 (Toll-Free in-state only Complaint Hot Line)  
800-478-3177 (TTY/TDD Toll-Free in-state only Complaint Hot Line)  
<http://humanrights.alaska.gov/>

### Important Links:

U.S. Equal Employment Opportunity Commission – <http://www.eeoc.gov>  
U.S. Department of Housing and Urban Development – <http://www.hud.gov>

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<sup>19</sup> Interpreters will be made available upon request or where the Language access coordinator identifies a need for an interpreter.

U.S. Department of Justice, Civil Rights Division –  
<http://www.justice.gov/crt/index.php>

5. Language access coordinator will maintain a database tracking all complaints and their resolution. The database will include the following items:
  - Source of complaint
  - LEP request including relevant contact information
  - Nature of complaint
  - Date complaint/request received
  - Date complaint/request resolved
  - Manner of resolution
  - Comments

## **VI. Definitions**

1. **CERTIFIED COURT INTERPRETER:** A certified court interpreter in Alaska is an individual who has mastered speaking both English and a second language and are able to perform the three major types of court interpreting (consecutive interpreting, simultaneous interpreting and sight translation) and have passed a series of written and oral examinations through the Language Interpreter Center (LIC).
2. **CONSECUTIVE INTERPRETING:** Providing the interpreted words after the speaker has stopped speaking. Interpreters often take notes to help them recall what has been said.
3. **CRIMINAL DIVISION ADVISORY BOARD:** Criminal Division employees responsible for monitoring and updating the LAP. The board shall be chaired by the Criminal Division Director and composed of the Language Access Coordinator, two office managers (from one urban and one rural offices), a line attorney, and two paralegals (from one urban and one rural offices). Preference for advisory board members will be given to multilingual staff.
4. **DIRECT “IN-LANGUAGE” COMMUNICATION:** Monolingual communication in a language other than English between a multilingual staff person and an LEP person (e.g., Spanish to Spanish).
5. **INTERPRETATION:** The process of listening to a communication in one language and orally converting it to another language while retaining the same meaning. Interpretation deals with oral or signed speech. Someone who interprets is called an interpreter.
6. **LANGUAGE ACCESS COORDINATOR:** The Criminal Division employee who is responsible for development and oversight of the language access policy and implementation plans ensuring that all Criminal Division staff are aware of the language access policy and the steps needed to implement the policy.

7. LANGUAGE ASSISTANCE SERVICES: Oral and written language services needed to assist LEP individuals to communicate effectively with staff, and to provide LEP individuals with meaningful access to, and an equal opportunity to participate fully in the services, activities, or other programs administered by the Criminal Division.
8. LANGUAGE INTERPRETER CENTER (LIC): The LIC is a collaborative, multi-agency, public-private effort to train bilingual individuals to interpret in the legal, medical and community settings in Alaska. Language Interpreter Center 431 W. 7<sup>th</sup> Avenue #208 Anchorage AK 99501 telephone 907-279-2457; <http://www.akijp.org/interpreter.html>
9. LIMITED ENGLISH PROFICIENT (LEP): A person is LEP if his/her primary language is not English and she/he has a limited ability to speak, read, write, or understand English. LEP individuals may be competent in certain types of communication (e.g. speaking or understanding), but still be LEP for other purposes (e.g. reading or writing). Similarly, LEP designations are context specific: an individual may possess sufficient English language skills to function in one setting, but these skills may be insufficient in other situations.
10. MEANINGFUL ACCESS: Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals.
11. MULTILINGUAL EMPLOYEE: Criminal Division employee who has demonstrated proficiency in English and reading, writing, speaking, or understanding in at least one other language.
12. PRIMARY LANGUAGE: The language in which an individual is most effectively able to communicate or an individual's native language
13. PROVISIONALLY QUALIFIED INTERPRETER: The provisionally qualified interpreter is an individual who speaks two languages fluently and successfully, but has not completed interpreter training or passed a series of tests and exams in Alaska. The provisionally qualified interpreter when used in court must demonstrate to the satisfaction of the court the ability to interpret court proceedings from English to a designated language and from that language into English. Each interpreter must sign a confidentiality agreement which shall remain on file with the language access coordinator and is bound by a strict Code of Ethics ensuring that all information remains strictly confidential.
14. REGISTERED COURT INTERPRETER: A registered court interpreter in Alaska is an individual who speaks two languages fluently and successfully, and has completed the interpreter training series through the Language Interpreter Center (LIC). The LIC maintains a list of "registered" court interpreters who can provide interpreter services in legal proceedings.

15. SIGHT TRANSLATION: Oral rendering of written text into spoken language by an interpreter without change in meaning based on a visual review of the original text or document.
16. SIMULTANEOUS INTERPRETING: Providing the interpreted words continuously at the same time someone is speaking.
17. TELEPHONIC INTERPRETING SERVICE: An over-the-phone interpretation service in which off-site interpreters assist public and private organizations in communicating with people who are LEP. These telephonic interpretation services must demonstrate a high degree of training and professionalism among the interpreter staff. Each interpreter must sign a confidentiality agreement and is bound by a strict Code of Ethics ensuring that all information remains strictly confidential.
18. TRANSLATION: Changing a written text from one language into an equivalent written text in another language. Translation deals with written texts. A translator performs the act of translating.
19. VITAL DOCUMENTS: Paper or electronic written material that contains information that is critical for accessing the Criminal Division's offices or services or is required by law.