

AGENDA

LANGUAGE ACCESS COMMITTEE

Administrative Office of the Courts
450 South State Street
Salt Lake City, Utah 84111

Council Room (3rd Floor, N31)

Friday, September 23, 2016

12:00 p.m. to 1:30 p.m.

12:00 p.m.	Welcome	Judge Su Chon
12:05 p.m.	Approval of Minutes (Tab 1)	Judge Su Chon
12:10 p.m.	Farsi Interpreter Exemption Request (Tab 2)	Rosa Oakes
12:40 p.m.	Defense Counsel Member Application (Tab 3)	Keisa Williams
12:45 p.m.	DoJ - Language Access in State Courts (Tab 4)	Keisa Williams
1:00 p.m.	Subcommittee & Program Update	Keisa Williams
1:15 p.m.	Other Business	

Upcoming Meetings:

November 18, 2016

January 20, 2017

March 17, 2017

May 19, 2017

September 15, 2017

November 17, 2017

Tab 1

Meeting Date	Language Access Committee	
June 10, 2016	Conference Room B/C	
Members Present	Member Excused	
Judge Rick Romney	Judge Leavitt	
Judge Su Chon	Gabriela Grostic	
Mary Kaye Dixon	Jennifer Andrus	
Randall McUne		
Russell Pearson		
Maureen Magagna		
Miguel Medina		
Amine El Fajri		
Michelle Draper		
Megan Haney		
Staff: Keisa Williams, Rosa P. Oakes		
Guests: Luther Gaylord		
Topic: Approve minutes of January 29, 2016		
Judge Chon moved to approve the minutes. Maureen Magagna seconded the motion. No further discussion.		
Motion: Passed		
Topic: Interpreter Applicant Certification Issues		By Rosa P Oakes
<p>Ms. Oakes reported that a person certified in another state has requested reciprocity of the credential in Utah. The original certification was granted in 2001 in a state that requires compliance with their continuing education. The candidate has not complied with the CE requirement and according to the resume, has since only sporadically worked as a court interpreter.</p> <p>The committee regards the credential invalid and recommends the candidate start the certification process in Utah.</p> <p>Ms. Oakes also reported that a request was received from a person who obtained Utah certification in 2012. The interpreter has not worked due to immigration status nor has complied with the continuing education requirement for four years. The request is for permission to submit CE hours for the years missed.</p> <p>The committee asks that the interpreter submit a letter disclosing current immigration status or valid work visa in addition to the four years of CE hours (32 hours).</p>		
Topic: Bilingual Signage in the Courts		By Rosa P Oakes
<p>Ms. Oakes informed the committee on conducting an investigation on the needs and feasibility of converting some court signage into bilingual signs – primarily English/Spanish. Judge Chon suggested that a survey of courthouses statewide could yield some very useful information. The topic was tabled until the next meeting when more detailed information could be reviewed.</p>		

Topic: National Database	By Rosa P Oakes
<p>Ms. Oakes presented the recently developed national database of credentialed court interpreters created by the National Center for State Courts. The database is populated by courts nationwide and is accessible to language access managers and coordinators. The database will facilitate the process of locating court trained interpreters in a number of languages. Committee members discussed its potential and the need for specialized equipment. Ms. Oakes stated that various courts across the country are experimenting with equipment and the database and will report when more information is available.</p>	
Topic: DOJ Civil Rights Division Maps	By Keisa Williams
<p>Ms. Williams shared information regarding the language map app available through the LEP website established by the Civil Rights Division of the Department of Justice (DOJ) at https://www.lep.gov/maps/lma/Final/</p> <p>The app is interactive and provides the most current demographic information and in particular language usage state-wide and county-wide. Ms. Williams noted that this information can be useful in determining language needs and in supporting further budget requests.</p>	
<p>Other Business: Ms. Draper announced that the National ASL Certification Legal Certificate will not be offered in the next two or three years and perhaps not at all due to funding issues.</p>	

Michelle Draper moved to adjourn; Megan seconded the motion. Motion passed unanimously.

Next Meeting:
September 23, 2016

Tab 2

Rule 3-306.03. Interpreter credentialing.

Intent:

To outline the procedure for credentialing of interpreters for legal proceedings.

Applicability:

This rule shall apply to legal proceedings in the courts of record and not of record. This rule shall apply to interpretation for non-English speaking people and not to interpretation for persons with a hearing impairment, which is governed by Utah and federal statutes.

Statement of the Rule:

(1) Subject to the availability of funding, and in consultation with the committee, the administrative office of the courts shall establish programs to certify and approve interpreters in English and the non-English languages most frequently needed in the courts. The administrative office shall publish a roster of certified, approved, and registered interpreters. To be certified, approved or registered, an applicant shall:

(1)(A) file an application form approved by the administrative office;

(1)(B) pay a fee established by the Judicial Council;

(1)(C) pass a background check;

(1)(D) provide proof that the applicant is a Utah resident;

(1)(E) complete training as required by the administrative office;

(1)(F) obtain a passing score on the court interpreter's test(s) as required by the administrative office;

(1)(G) complete 10 hours observing a certified interpreter in a legal proceeding; and

(1)(H) take and subscribe the following oath or affirmation: "I will make a true and impartial interpretation using my best skills and judgment in accordance with the Code of Professional Responsibility."

(2) A person who is certified in good standing by the federal courts or by a state having a certification program that is equivalent to the program established under this rule may be certified without complying with paragraphs (1)(A) through (1)(H), with the exception of paragraph (1)(C), but shall pass an ethics examination and otherwise meet the requirements of this rule.

(3) A person credentialed under this rule has an ongoing obligation to immediately report to the program coordinator any criminal charges or convictions the interpreter has and any Utah State Court cases the interpreter is personally involved in as a party.

(4) When the interpreter speaks a rare language and the courts currently lack credentialed interpreters in that language, the Language Access Committee may, for good cause shown, exempt an interpreter from meeting one or both of the requirements listed in subparagraph (1)(B) and (1)(F). An interpreter seeking an exemption shall make a written request, outlining the reasons for the exemption, to the Language Access Program Coordinator. The Language Access Committee shall consider the request at its next meeting following the request, and may require the interpreter making the request to appear at the meeting or to provide more information.

(5) If an exemption is granted, the interpreter shall meet the conditions set by the committee and shall apply for an extension of the exemption annually, or as otherwise required by the committee.

(6) No later than December 31 of each even-numbered calendar year, certified, approved, and registered interpreters shall pass the background check for applicants, and certified interpreters shall complete at least 16 hours of continuing education approved by the administrative office of the courts.

(7) With the exception of staff interpreters who are employees of the courts, court interpreters, including those listed on the statewide roster, are independent contractors.

Effective May 1, 2016

Tab 3

Confidential

Tab 4

Language Access in State Courts



**U.S. Department of Justice
Civil Rights Division**

Federal Coordination and Compliance Section

September 2016



U.S. Department of Justice
Civil Rights Division

Office of the Assistant Attorney General

Washington, DC 20530

September 15, 2016

Dear State Court Stakeholders:

As head of the Civil Rights Division, I have the privilege of working alongside a dedicated team of colleagues to enforce the law in pursuit of equal justice and equal opportunity for all. A core component of our work begins with making federally funded services accessible to all people, regardless of the language they speak or their English proficiency.

Through our Federal Coordination and Compliance Section (FCS), the Civil Rights Division has prioritized protecting the rights of all people, whatever level of English proficiency they hold, to participate meaningfully, fully, and fairly in state court proceedings. Providing language services is essential to upholding the integrity of our justice system. Barriers to language access can interfere with the capacity of state courts to accurately evaluate the facts and fairly administer justice. And they can also place unfair and unconstitutional burdens on individuals – from litigants, to criminal defendants, to victims and witnesses – who participate in court proceedings or seek assistance from court programs and services.

This booklet aims to provide a brief overview of the importance of legal requirements for, and accomplishments in, providing language access services in state courts across the country. The Division has committed to a Courts Language Access Initiative to focus on the implementation of language access requirements and best practices in courts. Despite the significant progress that we have achieved, however, the challenge of providing meaningful language access in state courts demands that we continue to modernize, innovate, and keep pace with the evolving demographics of our country.

I hope you find this guide useful as you encounter these challenges in your communities in the months and years ahead. At the Department of Justice, we look forward to advancing the mission of equal access to state courts by forging dynamic partnerships with all stakeholders, by removing language access barriers, and by celebrating the diversity of our people that has always defined the resiliency and strength of our nation.

Sincerely,

Vanita Gupta
Principal Deputy Assistant Attorney General

LANGUAGE ACCESS IN STATE COURTS: A CRITICAL CIVIL RIGHT

Key Areas for Language Access in Courts:

**Court Services
& Programs**

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Proceedings**

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Part I

Language Access in State Courts: A Critical Civil Right

The Civil Rights Division (Division) of the U.S. Department of Justice (DOJ) upholds the civil and constitutional rights of all members of our society. It enforces federal laws prohibiting discrimination based on race, color, sex, disability, religion, familial status, and national origin. The Division's Federal Coordination and Compliance Section (FCS), together with the Offices for Civil Rights of the DOJ Office of Justice Programs and other agencies, work to ensure consistent and effective enforcement of Title VI of the Civil Rights Act of 1964¹ (Title VI) and other laws and executive orders that prohibit discrimination in programs and activities that receive federal funding. Through the Courts Language Access Initiative, FCS secures the rights of all people, regardless of their national origin and English language ability, to participate meaningfully in state court proceedings and programs, consistent with the nondiscrimination provisions of Title VI and its regulations.

A. Introduction

Court systems exist to deliver justice. If a state court policy or action unjustly limits or burdens the ability of certain groups to be heard, it can erode the court's legitimacy. Those who work in and through the state court system—including judges, lawyers, clerks, interpreters, and court staff—have a shared mission to maintain and uphold the legitimacy of the judicial system and to prevent miscarriages of justice. This mission includes ensuring the provision of quality language services when necessary to allow people whose English language ability is limited to participate in court proceedings and services.

Simply put, interpretation and translation are essential to providing meaningful access to the courts and to maintaining the integrity of our justice system.² Court cases are often highly structured, stressful experiences requiring specialized terminology. Without careful attention to providing effective language services, many people will face a judicial process that places unfair and unconstitutional burdens on their ability to fully participate in proceedings. At the same time, relying on un-interpreted or poorly interpreted testimony from witnesses who are not proficient in English, or from improperly translated documents, will hinder the court's ability to determine the facts and dispense justice.

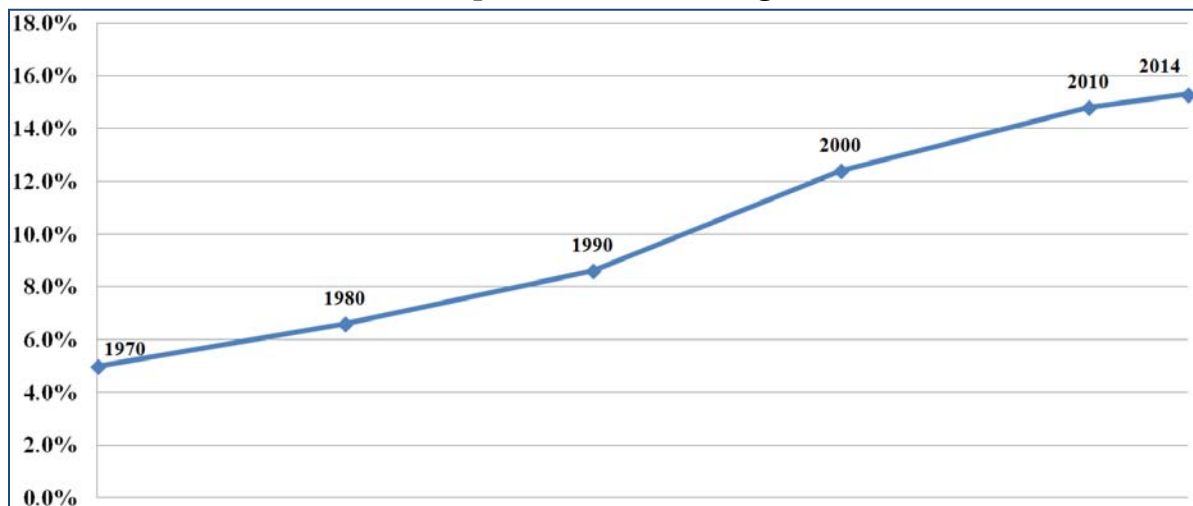
“When state courts fail to provide competent interpreters for people in civil cases who are of limited English proficiency, they can’t protect their children, they can’t protect their homes, they can’t protect their safety. Courts suffer because they lose faith in the justice system. Society suffers because its laws cannot be enforced: laws guaranteeing minimal wages, laws barring domestic violence and illegal evictions can’t be enforced.”

– Chief Judge Eric T. Washington, District of Columbia Court of Appeals³

Demographic Trends Highlight the Need for Courts to Provide Language Assistance

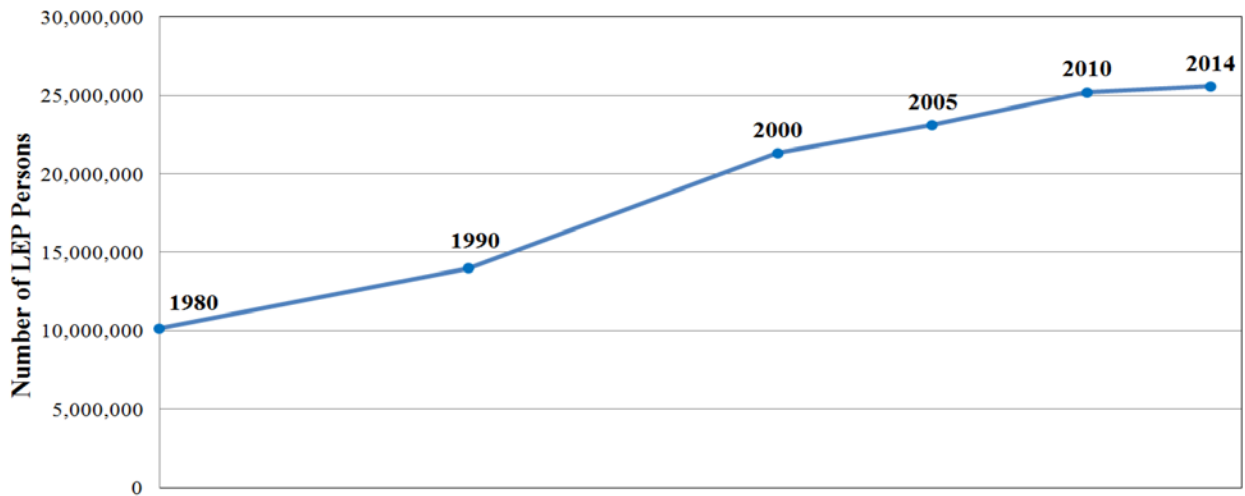
Services. There is a clear connection between national origin, primary language, and limited ability to read, write, speak, or understand English (known as limited English proficiency).⁴ The presence of limited English proficient, or “LEP”, parties and witnesses in courthouses is nothing new. Since the first Europeans arrived, immigration has been a part of the American experience. However, as the chart that follows illustrates, the foreign-born immigrant population as a proportion of U.S. residents has increased in the last 40 years from historic lows in the 1970s.⁵

Percent of the Population that is Foreign Born: 1970-2014⁶



In the last twenty-five years, the number of LEP individuals in the United States has nearly doubled to over 25 million.⁷ These demographic shifts are happening all across America. Thus, while immigrants and the next generation learn English, data from the U.S. Census Bureau reveals the widespread need for language services. In 2013, one out of every three counties was home to 1,000 or more LEP residents, and in one out of every five counties, at least 5% of residents identified as LEP.⁸

Total LEP Population in U.S. from 1980-2014⁹



For example, from 1990 to 2012, LEP populations in Alabama, Oklahoma, and Nevada more than doubled.¹⁰ Cities like Columbia, South Carolina, and the Dallas/Fort Worth/Arlington, Texas area saw more than 200% growth in their LEP communities.¹¹ In some areas the LEP population has increased even while the non-LEP population decreased. For example, in the Scranton/Wilkes-Barre/Hazleton, Pennsylvania area, the LEP population grew by 71% while the non-LEP population shrank by 12.5%.¹² These population changes call for state courts across the nation to incorporate interpretation, translation, and other language assistance services to meet the needs of the communities they serve.

In 2013, one out of every three counties was home to 1,000 or more LEP residents, and in one out of every five counties, at least 5% of residents identified as LEP.

The Law Requires Language Assistance Services. Finding ways to effectively bridge language barriers is necessary to preserve the integrity of our legal system. Federal law also requires it. There is widespread agreement among federal and state courts that in criminal proceedings, LEP defendants are entitled to the assistance of an interpreter under the U.S. Constitution.¹³ In addition, for state courts that receive federal financial assistance, Title VI and its implementing regulations prohibit discrimination on the basis of race, color, or national origin in all court programs and services, whether criminal, civil, or administrative.¹⁴ The Supreme Court has affirmed that the Title VI prohibition against national origin discrimination includes discrimination against LEP individuals on the basis of language.¹⁵ This means that courts that receive federal assistance must take reasonable steps to ensure that limited English ability does not get in the way of a person's ability to appear and communicate effectively in court.

In August 2000, the President issued Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency. This Order requires federal agencies to ensure that their

grantees comply with Title VI and provide meaningful access to federally funded programs and services for LEP individuals.¹⁶ In 2002, DOJ issued guidance to recipients of federal funds that offered further detail on what it means to provide meaningful access, including in state courts.¹⁷ Since then, DOJ has provided technical assistance planning tools and additional guidance to courts, and has conducted investigations and worked collaboratively to bring about improved language assistance services for LEP court users.

“[W]e hold that one who cannot communicate effectively in English may be effectively incompetent to proceed in a criminal matter and rendered effectively absent at trial if no interpreter is provided.

** * **

We also remind the bench that, as a recipient of federal funding, the court system in this State is obligated to provide persons who are ‘limited English proficient’ with meaningful access to the courts in order to comply with Title VI of the Civil Rights Act of 1964 [V]igilance in protecting the rights of non-English speakers is required in all of our courts.”

– Ling v. State, Georgia Supreme Court, 2010¹⁸

In 2010, the Civil Rights Division launched its Courts Language Access Initiative, issuing a letter to state court chief justices and administrators to provide greater clarity about the long-standing requirement to provide meaningful access for LEP individuals in courts receiving federal financial assistance.¹⁹ Since then, the Division and the Office for Civil Rights in the DOJ Office of Justice Programs have worked with state courts in a variety of ways to ensure that LEP individuals can meaningfully participate in court proceedings, maneuver through the court system, and access court services. As a result, state court systems around the country have created policies and plans that have significantly improved the provision of language assistance services in their courts.²⁰

Sixteen years after the issuance of Executive Order 13166, DOJ reaffirms its commitment to ensuring that LEP individuals can participate meaningfully in federally funded programs and activities. Comprehensive language assistance services in state courts are critical for LEP court users and a priority for the Civil Rights Division. DOJ has worked with state courts to improve their programs, including through collaborative cooperation, investigations and voluntary compliance and, where negotiations for voluntary compliance are not fruitful, through the issuance of letters of finding and engagement in enforcement efforts. Through this work, and together with state court leaders, the bar, and stakeholders, changes are occurring: a consensus has emerged about the importance of language services, state courts across the country are making commendable progress, and a number of tools and resources have become available to state courts working to strengthen their language access programs.

B. Language Services Make a Difference

State courts can provide language access in many forms, including interpretation, translation, and bilingual services. Interpretation involves hearing information spoken in one language and orally relaying it into another in a manner that preserves its meaning. Depending on the nature of the interaction, interpretation services may be rendered using in-person interpreters, or through video-remote or telephonic interpretation. Additionally, bilingual staff members may provide language services during certain interactions, such as communications at a clerk's desk or with security personnel. In these cases, the bilingual staff member speaks directly with the LEP person in the LEP person's language. Translation consists of taking information which has been written in one language and conveying it in writing into another language while preserving its meaning. Translations are often necessary for signs inside and outside the courtroom, for letters sent by the court to LEP individuals, and for forms and other court documents that an LEP person may need to complete in order to participate in court proceedings. Below, we provide examples illustrating the need for effective language services in state courts and the harm that results when courts fail to provide those services.

1. Court Services and Programs

Providing language services inside the courtroom is essential, but courts do much more than hold hearings and trials. There are clerks' offices, self-help centers, signs, websites, forms, and a variety of other court services. Sometimes, courts appoint counsel, psychologists, mediators, and other professionals who need language services to assist them in their interactions with LEP individuals. Providing language services in these settings is essential.

Without appropriate language assistance services and clear procedures for court staff to follow outside the courtroom, LEP persons may not be able to take the steps necessary to initiate or participate in state court proceedings as parties or witnesses. An LEP person may not be able to read or understand the signs and notices necessary to navigate through the courthouse and appear for a proceeding. An LEP person may not be able to speak with staff in the clerk's office or with court-appointed counsel, obtain and complete necessary paperwork, participate in mediation, or engage in court-mandated treatment, visitation, or evaluation programs.

Situations like these are far from theoretical. In a survey conducted by the National Center for State Courts, two-thirds of community-based service and treatment providers had received LEP individuals who had been ordered by the courts to participate in their programs, but 41% often or sometimes turned them away.²¹ In the absence of appropriate language services, courts have reported instructing LEP individuals to wait in the court lobby until another person who speaks their language comes in, or have expected the LEP person to come to the courthouse with an English-speaking friend or family member.²² One county judge described the results of not providing language services in court operations: "Many people don't even make it through the courtroom door. They don't understand the papers, they don't file an answer and they default."²³

“The right to an interpreter rests fundamentally, however, on the notion that no defendant should face the Kafkaesque specter of an incomprehensible ritual which may terminate in punishment.”

– *United States v. Carrion*, 1st Circuit Court of Appeals, 1973²⁴

2. Criminal Court Proceedings

A court-provided, qualified interpreter is essential for an LEP criminal defendant to effectively appear and participate in proceedings against him.²⁵ Denying a defendant timely interpretation and translation services could jeopardize that individual’s life, liberty, and property. In addition, failure to provide appropriate interpretation and translation services to a defendant both in the courtroom and during related communications may result in overturned convictions or sentences.



For example, an LEP defendant appeared with an interpreter at his arraignment and stated that he could not read or write English. The court knew that he had signed several untranslated waivers of his rights as a defendant, but nevertheless accepted his guilty plea. The defendant later moved to withdraw his plea, arguing in part that he had not knowingly and intelligently entered it. Based in part on the fact that the written waivers were never translated, the court granted his motion.²⁶

3. Civil Court Proceedings

Civil proceedings resolve a diverse array of disputes that can affect critical aspects of an individual’s life and property. DOJ investigations have uncovered many cases in which the absence of language assistance services in civil proceedings devastated individuals and families. In one instance, an LEP woman attempted to obtain a protective order after her husband allegedly attacked her. During the hearing, the court denied her an interpreter. As a result, the judge did not understand her and ultimately dismissed the case.²⁷ In another case, an LEP woman appeared in court for an eviction proceeding. Because the court did not provide her with an interpreter, she could not communicate with the court or understand the proceedings. The LEP individual was evicted during the

proceeding without understanding what was taking place.²⁸ Even in child welfare hearings, interpreters are still not always being provided when needed. In one example, the court did not provide an interpreter for an LEP mother who had difficulty communicating with the court and understanding opposing counsel’s argument during child custody proceedings. The mother did not know that she had lost custody of her children until she spoke with a child services employee after the hearing had ended.²⁹

4. LEP Witnesses, Victims, and Others

LEP individuals appear in court, not just as litigants or criminal defendants, but also witnesses. Failure to provide appropriate language services to LEP individuals can have serious effects on cases even when an LEP person’s interests are not directly at stake. For instance, the testimony of an LEP witness may affect the outcome of litigation between two English-speaking parties. If a court fails to provide effective language access services, that decision may taint evidence and skew results in favor of one party over the other. In criminal proceedings, inadequate interpretation may result in miscarriages of justice and put the community at risk. In a 2013 case, an LEP rape survivor testifying against her alleged attacker informed the court that she did not fully understand English and requested an interpreter. Instead of providing an interpreter, the judge asked counsel to rephrase the question and continued with the proceeding. As a result, the survivor provided insufficient testimony, and the judge dismissed the charge against her alleged attacker. Six months later, the defendant was arrested for the brutal sexual assault of a fifteen-year-old girl.³⁰ Courts also need to provide interpreters for other LEP persons with a substantial interest in the case, including LEP parents and guardians of minor victims, witnesses, or parties.

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“We are aware that the loss of resources may impose an additional burden on local court jurisdictions. However, the opportunity for persons to effectively and meaningfully communicate in court proceedings and to participate in court services is a fundamental principle of justice that must be preserved despite the financial challenge it may create for local governments.”

— *Washington Administrative Office of the Courts, 2015*³¹

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5. The Importance of No-Cost Language Services

It is important for courts not to burden parties by charging them when court interpreters are needed, an approach that is fraught with problems. Providing qualified interpreter assistance at no cost to the parties serves the interests of all involved. An LEP person who must pay for an interpreter to participate in proceedings bears a greater financial burden to pursue a case than individuals who are not LEP.³² Charging for language access services may also discourage LEP individuals from using interpreters, and encourage them to try to struggle through their court appearances without understanding or being able to communicate with the court. This, in turn,

inhibits not only the LEP person’s ability to participate in the proceedings, but also the ability of the judge, jurors, and other participants to understand and communicate with the LEP person. Thus, imposing interpreter fees is contrary to the court’s interest in protecting the integrity and fairness of the proceeding.

Rather than charging for language assistance services, state courts may address interpreter costs through a variety of other means. Courts may raise fees across the board, seek additional external funding, or treat interpreter costs as general operating costs; none of these options require courts to treat people differently based on a protected characteristic – national origin.

An LEP criminal defendant required an interpreter. Although as a defendant he had no choice but to appear in court, and although the criminal charges against him were ultimately dropped, the court charged him nearly \$500 for an interpreter. *People v. Santillan*, 138 Ill.2d 176, 561 N.E.2d 655 (Ill. 1990).

6. Qualification and Training of Court Interpreters

Whether spoken or written, words lost or miscommunicated due to inadequate interpretation or translation may interfere with the court’s ability to determine the facts and administer justice. For LEP individuals, accurate interpretation is the only way that they will be able to communicate their side of the story, preserve their evidence for the record, and challenge the testimony of adverse witnesses. Interpretation requires a high level of fluency in two languages, and skill in conveying—sometimes simultaneously—what is being said. Interpreters who have not been properly trained or assessed may have trouble understanding or accurately conveying important information, including difficult legal terminology.

“[S]imply providing ‘any’ interpreter upon request is insufficient....it is imperative to ensure accurate interpretation throughout the proceedings lest we run the risk of diminishing our system of justice by infringing upon the defendant’s rights of due process.”

– Ponce v. State, Indiana Supreme Court, 2014³³

Interpreters must also follow ethical standards to avoid providing advice, expressing bias, or otherwise engaging in inappropriate side conversations with LEP persons. In one case, an LEP defendant accepted a plea agreement during a hearing in which the interpreter inaccurately interpreted his rights. Later, he petitioned for post-conviction relief. The Supreme Court of Indiana reversed and remanded the case, concluding that because the advisement of rights was inaccurately interpreted, the defendant did not knowingly and voluntarily enter his guilty plea.³⁴

Part II

Department of Justice Enforcement and Technical Assistance

DOJ often receives complaints that court systems have failed to provide interpreter or other language assistance services in state court operations or proceedings, in possible violation of Title VI. The Division works with courts to investigate, and, if necessary, obtain voluntary compliance. In addition, the Office for Civil Rights in the DOJ Office of Justice Programs investigates and resolves complaints and conducts Title VI compliance reviews of recipients, including court system components.³⁵ This section highlights a few examples of state courts with which the Division became involved after receiving complaints of discrimination against LEP individuals. Further information about each of these cases can be found at lep.gov. It also highlights some of the Division's technical assistance materials.

A. Focus on Achieving Compliance

When state courts recognize that they need to improve access for LEP individuals to their courts and court systems, DOJ works collaboratively with them to ensure that meaningful access is achieved. For example, the Mohave County, Arizona Superior Court actively worked with the Division to improve the court's language access program in a number of ways, including:

- Clarifying that all LEP parties, witnesses, and anyone with a substantial interest in a matter will be provided interpreter services in all court proceedings free of charge regardless of case type, court user income, or language spoken;
- Enhancing communication with community stakeholders;
- Expanding the availability of telephonic or video interpreter services;
- Training all court staff on the importance of providing language services; and
- Creating and implementing a language services complaint system.³⁶

The Division has engaged in similar efforts in response to complaints in places such as Hawai'i, Kentucky,³⁷ New Jersey,³⁸ and King County, Washington.³⁹ In Kentucky, for example, the Division worked with the Kentucky Administrative Office of the Courts to develop and finalize a complaint form and process through which an LEP individual can file a grievance regarding provision or quality of language assistance services in the Kentucky State Court system. This document will be available both in hard copy and online, and will be available in over 10 non-English languages with additional languages available upon request.

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“The court is grateful for the leadership, support and guidance from the Department of Justice and will continue to work on providing the best services we can for court users who do not speak English as their first language.”

— *Mohave County Superior Court*⁴⁰

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In August 2012, FCS received a complaint from an LEP Spanish-speaking mother who alleged she was not provided an interpreter during a custody hearing in the Lake County, Ohio Juvenile Court where she lost custody of her child. Between 2013 and 2016, pursuant to an agreement with FCS to resolve the issues raised in the complaint, the Supreme Court of Ohio (SCO) worked collaboratively with FCS and took steps to ensure the mother had access to a court-appointed interpreter and to improve its language services program. SCO improved its language services program by establishing a statewide complaint system; conducting outreach to LEP users and their counsel; educating judges, court personnel, and people who access the courts about Title VI; and continuing to translate vital court documents. SCO also changed its Supreme Court rules so that the appointment of a foreign language interpreter applies to court activities outside of a courtroom proceeding. SCO committed to continuing to strive to ensure all people, no matter what language they speak, have equal access to its courts.

Investigations often precede voluntary compliance in Title VI cases. For instance, after receiving a complaint alleging the Los Angeles County Superior Court (LASC) failed to provide LEP litigants with meaningful access to state court civil proceedings and court operations, the Civil Rights Division initiated an investigation. The Division uncovered compliance concerns in LASC and with California Judicial Council policies and practices, including a state statute that was interpreted to require charging litigants for interpreters in civil matters.

In May 2013, the Division—joined by the United States Attorney’s Office for the Central District of California—issued a letter to LASC and the state Judicial Council that identified Title VI compliance concerns, made recommendations to improve compliance, and offered to work collaboratively to ensure compliance.⁴¹ Since then, the California Judicial Branch, including LASC, has taken steps on the path toward compliance with Title VI in response to DOJ’s concerns and recommendations. More work remains for both entities, and the Division continues to work with them to resolve the complaint and achieve voluntary compliance.

The Division has engaged in a similar manner with other state court systems, such as Colorado and Maine, to ensure compliance with their language access obligations under Title VI.⁴² In Rhode Island, the Division negotiated the provisions of an executive order issued by the Rhode Island Chief Justice in 2012, which mandated comprehensive and free language assistance to LEP persons in all court proceedings and operations.⁴³ The Division approved the Rhode Island Courts’ Language Access Plan, which outlines the judiciary’s planned efforts to ensure comprehensive

language assistance throughout the court system, and signed a voluntary settlement agreement with the Rhode Island court system in 2014.⁴⁴ In 2016, DOJ closed the Rhode Island case following completion of planned improvements and a monitoring period.⁴⁵

“Through extensive work with the Federal Coordination and Compliance Section of the Civil Rights Division of the U.S. Department of Justice, the Colorado Judicial Department has significantly revised Chief Justice Directive 06-03, which now not only provides language interpreters for all case types, but also ensures language access in all court operations.”

– Michael L. Bender, Former Chief Justice, Supreme Court of Colorado⁴⁶

In Colorado, the Division investigated a Title VI complaint claiming that Colorado state courts do not provide interpreters for LEP parties in civil cases. The Division negotiated a settlement with the Chief Justice in 2011,⁴⁷ who issued a directive mandating that court interpreters and other language assistance be provided at no cost to LEP parties in all cases and in court services and programs. In 2012, the court issued a Division-approved strategic plan that outlined 35 specific improvements in court policies, standards, infrastructure, and training to be undertaken in order to support the court system’s ability to deliver timely and appropriate language assistance statewide. Following the successful and collaborative completion of the work and a period of monitoring, DOJ closed the case in 2016.⁴⁸

Case Highlight: Hawai’i:

In 2012, the Division received complaints about problems with the Hawai’i State Judiciary’s provision of language access services, including (1) the absence of a clear court policy on the provision of high quality, timely, language assistance services free of charge to LEP individuals in court proceedings and operations; (2) inconsistent procedures for accessing court language services; (3) a complaint system that did not include any notification targeted at LEP populations and those who work with them; (4) a court interpreter assignment system that did not adequately ensure that the most highly qualified interpreters were utilized before lesser qualified interpreters; and (5) a lack of accountability measures to ensure the court interpreter program was implemented in compliance with Title VI.

From the beginning, the Hawai’i Judiciary committed to address these concerns and, over the course of about a year, staff from the Hawai’i State Judiciary Office on Equality and Access to the Courts worked cooperatively with the Division to make a number of improvements to interpreter and translation services provided in the courts. In 2013, the Division issued

recommendations to address remaining barriers, and worked with court representatives to establish appropriate time frames to meet these goals. Among other actions, the Hawai'i State Judiciary has:

- *Issued a clear policy stating that the courts will provide all LEP individuals with free, competent court interpretation in all court proceedings, and that language assistance services will be provided in court operations free of charge;*
- *Revised its court interpreter assignment system and improved training on the interpreter assignment process for interpreters and judges;*
- *Committed to creating a language assistance complaint system; and*
- *Tightened its oversight of language assistance delivery.⁴⁹*

In March 2015, when the Division closed its review of the Hawai'i state courts,⁵⁰ Chief Justice Recktenwald stated: "We are committed to providing the best services we can for court users who do not speak English as their first language. The Hawai'i State Judiciary provides services to persons with limited English proficiency in all case types at no charge. I am proud of the progress we have made." The Court Program Director noted: "We are thankful for the leadership, support and guidance from the Department of Justice. We look forward to continuing to work with the DOJ as we move forward to ensure meaningful access to court operations."⁵¹

B. Division Enforcement

When recipients are found in violation of Title VI, DOJ can take a number of steps in order to secure compliance, beginning with issuing a violation finding. For instance, in March 2012, after attempts to achieve voluntary resolution failed, DOJ issued its [letter finding](#) that the North Carolina Judicial Department's Administrative Office of the Courts (NCAOC) had engaged in systemic national origin discrimination because of its failure to provide meaningful access to court proceedings and operations for LEP individuals.⁵² The letter stated that if NCAOC did not agree to correct the violations, DOJ would take legal action to compel compliance.⁵³ Since the issuance of the letter, the NCAOC has been working to resolve the complaints and ensure meaningful access to its courts for LEP persons. Federal agencies can seek to terminate federal financial assistance or pursue other means of enforcing the law when efforts to achieve voluntary compliance have failed.⁵⁴

The following links lead to agreements and resolutions the Division has entered into with several state courts in order to resolve complaints about the availability of language access services.

- Colorado Judicial Department, memorandum of agreement (June 28, 2011) - go.usa.gov/cRSRw.

- Hawai'i Judiciary, closure letter and acceptance (March 24, 2015) - go.usa.gov/cRSX4.
- Kentucky Court of Justice, settlement agreement (June 22, 2016) - go.usa.gov/xcyBW.
- King County Superior Court, WA, closure letter and acknowledgement (December 1, 2015) - go.usa.gov/xcyBF.
- Maine Judicial Branch, memorandum of understanding (September 29, 2008) - go.usa.gov/cRSP3.
- Mohave County Superior Court, AZ, closure letter and acknowledgement (May 11, 2015) - go.usa.gov/cn3Uw.
- New Jersey Judiciary, closure letter (April 7, 2014) - go.usa.gov/cRSRB.
- Rhode Island Judiciary, settlement agreement (April 9, 2014) - go.usa.gov/cRSN9.

C. Division Technical Assistance

The links below provide Division tools and guidance documents that clarify recipients' language access obligations under Title VI and assist courts seeking to improve their language services.

- Language Access Planning and Technical Assistance Tool for Courts (February 2014) - go.usa.gov/xDMDR.
- Language Access Guidance Letter to State Courts from Assistant Attorney General for Civil Rights (August 16, 2010) - go.usa.gov/x3tV4.
- DOJ Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (June 18, 2002) - go.usa.gov/cRSBG.

For additional language access resources for state courts, visit LEP.gov, a web-based clearinghouse on LEP and language services for federal agencies, recipients of federal funds, users of federal and federally assisted programs, and other stakeholders.

Part III

The New National Consensus



“For individuals to be afforded equal justice, and for courts to achieve their mission of providing equal justice accessible to all, court systems must develop viable systems to provide competent interpretation services to limited and non-English speakers. Our promise of justice for all must be supported by a commitment to provide all individuals accessing our court systems with a means for true communication and understanding, and not through a mere babble of unintelligible voices.”

– Conference of State Court Administrators⁵⁵

In the past several years, a national consensus has formed around the vital importance of providing language assistance services in state court proceedings and operations. Consistent with the principles of DOJ’s Courts Language Access Initiative, bar and court organizations have agreed on the importance of comprehensive court language access. In 2012, the American Bar Association (ABA) formally recognized that access to justice is impossible for LEP individuals unless courts provide qualified language services to allow them to understand what takes place in courts and to be understood in turn.⁵⁶

To address this issue, the ABA, with the assistance of DOJ and an array of stakeholders, promulgated Standards for Language Access in Courts to help courts design and implement comprehensive language access systems that are responsive to the needs of their communities.⁵⁷ The ABA also urged all courts and adjudicatory tribunals to adopt plans to implement the standards.⁵⁸ The Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) provided significant input into the standards, and both organizations adopted resolutions supporting them.⁵⁹

In 2012, under the leadership of the National Center for State Courts (NCSC), about three hundred judicial leaders from forty-nine states, the District of Columbia, and three territories gathered for the National Summit on Language Access in the Courts to show their support for implementing language services in their jurisdictions, to identify challenges to providing meaningful access to LEP individuals, and to develop solutions to identified challenges.⁶⁰ In 2013, the NCSC issued a National Call to Action, which built upon the work of the Summit by setting forth steps that states may use to guide the implementation and improvement of their language access services.⁶¹

— *“Inability to communicate due to language differences also has an impact on the functioning of the courts and the effect of judgments, as proceedings may be delayed, the court record insufficient to meet legal standards, and court orders rendered unenforceable or convictions overturned, if a defendant or other party has not been able to understand or be understood during the proceedings.”*

— *American Bar Association Standards for Language Access in Courts*⁶²

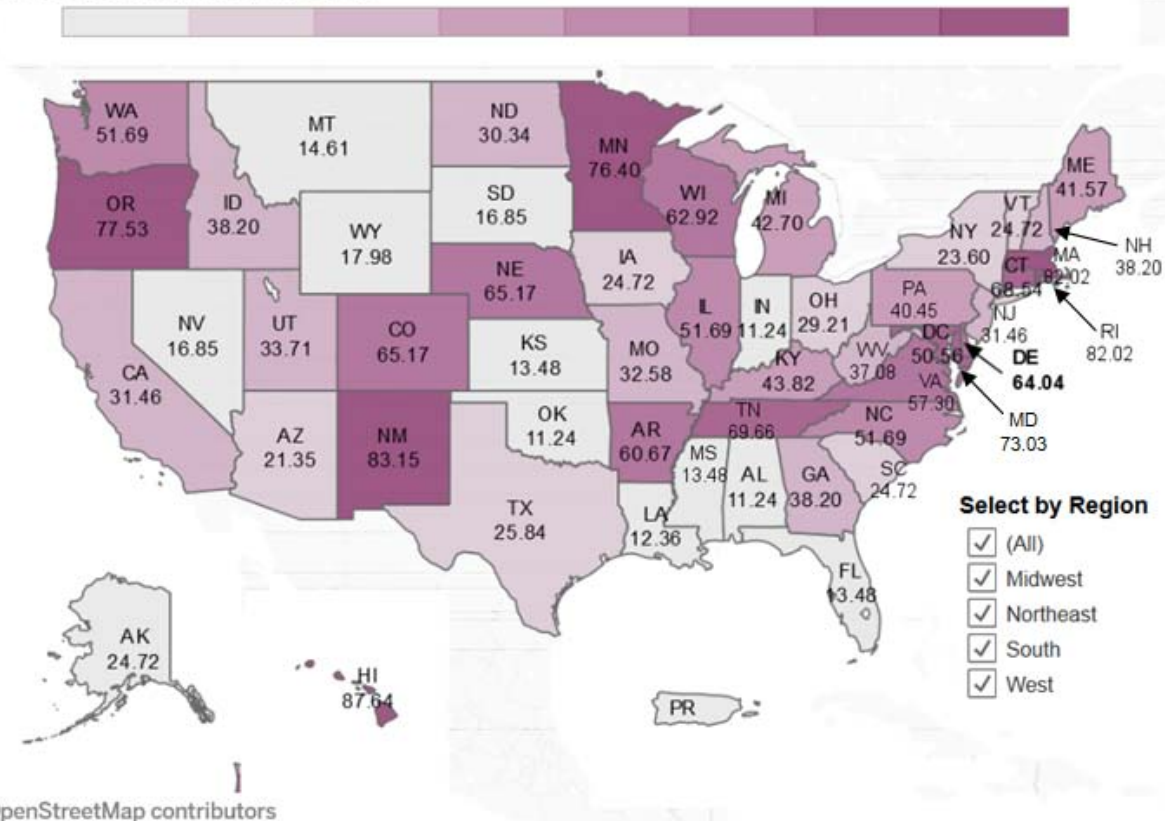
Increasingly, state policies and practices reflect this new norm. Since 2010, several states have improved access to justice for LEP individuals. For example, Nebraska passed legislation making clear that LEP individuals would not be charged for court interpretation.⁶³ New Mexico has asked each of its courts to implement a language access plan, have a bilingual language access specialist who can provide meaningful language assistance outside the courtroom, and develop standards for ensuring that quality language services are provided to court-ordered programs.⁶⁴ In 2013, the New Hampshire Supreme Court issued an order adopting the New Hampshire Judicial Branch Language Services Plan.⁶⁵ In 2014, the Superior Court of the District of Columbia issued an order articulating its policy that it would “provide interpreting services to all hearing-impaired and non-English and limited English proficient persons participating in court proceedings involving all case types in all divisions of the Superior Court, and to pay the cost for such services, unless such services are waived by the participant.”⁶⁶

The National Center for Access to Justice (NCAJ) identified language access as one of four key measures in a survey of access policies and practices in state court systems.⁶⁷ The NCAJ created the Justice Index, which ranks state performance with regard to each of these key measures based on the extent to which each state’s laws, rules, policies, and practices facilitate access to justice.⁶⁸ The data collected was used by NCAJ to give each state a score indicative of its performance on a 100 point scale; higher scores indicate better access to justice. The map below provides a visual representation of each state’s performance with regard to language access.

Through data gathered during 2015 as part of this initiative, the NCAJ found that:

- In the past twelve months, more than half of all state courts trained their court staff who interact with the public on how to communicate with LEP individuals;
- 78% of state courts had a statute, rule, or other policy in place that requires courts to provide interpreters for all criminal and civil court proceedings; and
- Over 80% of states had a process in place to certify their court interpreters.⁶⁹

Performance Map: Access for People with Limited English Proficiency
Scores are on a 100-point scale



For more information about the National Center for Access to Justice at Cardozo Law School's Justice Index, visit justiceindex.org/2016-findings/language-access/

State courts across the country have made significant progress toward providing LEP individuals meaningful access to their programs and services. Further progress will result from continued efforts from court leaders, legislators, judicial and bar organizations, professional interpreters and translators, advocates, and DOJ. Such efforts are important, for the work is not complete. Some courts have not yet seriously considered how best to ensure that LEP individuals can participate fully in court matters. A shrinking minority of courts remain comfortable with policies imposing special financial burdens on parties because of their limited English proficiency.

Others recognize the need to provide language assistance services but face implementation challenges.

● ●
“The Department applauds courts that are promoting equal access to the judicial system for limited English proficient individuals through concerted efforts to remove language barriers.”

– Tony West, Associate Attorney General, February 2014

● ●

As the linguistic diversity of the country grows and more state courts recognize the critical role that language services play in ensuring access to justice for all, we look forward to continued progress and highlighting more resources on LEP.gov. DOJ recognizes the steps taken by state courts toward providing meaningful access for LEP individuals, and welcomes the opportunity to work collaboratively with courts in this area.

The Division remains committed to the Courts Language Access Initiative to promote language access in the state courts through enforcement of Title VI, technical assistance, and collaborative work with others. We offer in the Appendix a variety of tools and resources from non-DOJ sources that can assist courts to comply with the law. In addition, DOJ is available to provide technical assistance to courts interested in improving their language assistance services.

Appendix

Additional Resources



These links to non-DOJ⁷⁰ tools, resources, and examples of language access plans and policies, developed by state courts and other organizations, may provide additional assistance in ensuring meaningful access for LEP individuals in courts.

- [**American Bar Association Standards for Language Access in Courts \(February 2012\)**](#) - American Bar Association's comprehensive guide to ensuring language access in state and federal courts and administrative agencies - americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_scl_aid_standards_for_language_access_proposal.authcheckdam.pdf.
- [**National Center for State Courts Language Access Resource Guide**](#) - National Center for State Courts portal of tools and resources for ensuring language access in state courts - ncsc.org/Topics/Access-and-Fairness/Language-Access/Resource-Guide.aspx.
- [**National Center for State Courts, A National Call to Action: Access to Justice for Limited English Proficient Litigants: Creating Solutions to Language Barriers in State Courts \(July 2013\)**](#) - Suggests steps for states to implement and improve language access services - ncsc.org/services-and-experts/areas-of-expertise/language-access/~//media/files/pdf/services%20and%20experts/areas%20of%20expertise/language%20access/call-to-action.ashx.
- [**National Center for State Courts Language Access Services Section**](#) - Offers resources for state courts to assist in overcoming language barriers and ensuring meaningful access to LEP individuals - ncsc.org/languageaccess.
- [**Rhode Island Supreme Court Executive Order on Language Services in the Courts: Supreme Court No. 2012-05 \(June 13, 2012\)**](#) - The Chief Justice of Rhode Island's comprehensive language access policy - go.usa.gov/xDsFH.
- [**Strategic Plan for Language Access in the California Courts \(January 22, 2015\)**](#) - The Judicial Council of California's strategic plan sets goals for ensuring compliance - courts.ca.gov/documents/jc-20150122-itemK.pdf.
- [**Strategic Plan for Implementing Enhanced Language Access in the Colorado State Courts \(March 15, 2012\)**](#) - Colorado Judicial Department's strategic plan assigns responsibility and timelines for completion of specific tasks to implement the language access directive issued by the Chief Justice - go.usa.gov/xDsGz.
- [**Standards for Language Services in the North Carolina Court System \(April 29, 2015\)**](#) - The North Carolina Administrative Office of the Courts court language access policy articulates comprehensive policies and procedures for provision of language

access services in courts and court operations -
[nccourts.org/LanguageAccess/Documents/NC Standards for Language Access.pdf](http://nccourts.org/LanguageAccess/Documents/NC_Standards_for_Language_Access.pdf).

- **Vagenas, Konstantina et al. [Wisconsin Remote Interpreting: Needs Assessment for Developing a Pilot](#) (July 2014)** - The National Center for State Courts action plan for a Wisconsin State Courts' remote interpretation pilot - ncsc.contentdm.oclc.org/cdm/ref/collection/accessfair/id/350.

Endnotes

¹ 42 U.S.C. § 2000d.

² See Am. Bar Ass'n, Standing Comm. on Legal Aid and Indigent Defendants, *Standards for Language Access in Courts*, 1 (2012), at americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_standards_for_language_access_proposal.authcheckdam.pdf [hereinafter *ABA Standards*].

³ State Courts, Experts Speak on Language Access, vimeo.com (2013), at vimeo.com/66249113.

⁴ Though not all foreign-born individuals are limited English proficient, or “LEP,” and not all LEP individuals are foreign-born, census data demonstrates that foreign-born individuals are far more likely to be LEP than those born in the U.S. Using U.S. Census 2009-2013 American Community Survey (ACS) data, we found that foreign-born residents are significantly more likely than native-born residents to be LEP ($p < .001$).

⁵ Gibson, C. & Jung, K. (2006), *Historical Census Statistics on the Foreign-Born Population of the United States: 1850 to 2000* (Working Paper 81), Population Division, U.S. Census Bureau: Washington, D.C. (time period in graph shortened from original); U.S. Census Bureau, 2014, *Am. Cmty. Survey 1-Year Estimates*, Table S0501, at go.usa.gov/x3zgh (visited July 8, 2016).

⁶ See Gibson, C. & Jung, K., *supra* note 5; U.S. Census Bureau, 2010, 2014, *Am. Cmty Survey 1-Year Estimates*, Table S0501. Note there has been variation from year to year in the phrasing of census questions concerning country of birth. Compare 2000 U.S. Census, Form D-2 at go.usa.gov/x3t8m with 1980 U.S. Census Long Form, at go.usa.gov/x3t5z and 1990 U.S. Census, Form D-2, at go.usa.gov/x3tNR.

⁷ In 1990, there were 13,982,502 LEP individuals and by 2013, this number had climbed to 25,125,132 LEP individuals. Compare U.S. Census Bureau, 2014, *Am. Cmty. Survey 1-Year Estimates*, Table B06007, at go.usa.gov/cn3bm (visited July 8, 2016) with U.S. Census Bureau, *1990 Decennial Census*, at go.usa.gov/x3tR9 (visited July 8, 2016) [hereinafter 1990 Census].

⁸ U.S. Census Bureau, *2009-2013 5-Year Am. Cmty. Survey*. Table: B16001 5-Year Estimate Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over, at go.usa.gov/cn3jY (visited July 8, 2016).

⁹ U.S. Bureau of the Census, *1980 Census of the Population*, vol 1, Characteristics of the Population, Table 99: Nativity and Language; U.S. Bureau of the Census, *1990 Census of Population*, CPHL-96; U.S. Census Bureau 2000 Summary File 3; and U.S. Census Bureau, 2005, 2010, 2014, *Am. Cmty. Survey 1-Year Estimates*, Table B06007. The LEP numbers presented in this graph measure English speaking ability in the population 5 years and older. Note that until the year 2000, the U.S. Census Bureau collected data only in ten-year intervals. Thus, data for 1985 and 1995 is not available. At the time of this writing, data for 2015 had not yet been released.

¹⁰ LEP populations grew substantially from 1990 to 2013 in Alabama (36,018 to 99,606), Oklahoma (51,885 to 142,859), and Nevada (62,168 to 303,815). Compare Place of Birth by Language Spoken at Home and Ability to Speak English in the United States, U.S. Census Bureau, 2008-2012 Am. Cmty. Survey 5-Year Estimates, at go.usa.gov/cn3jQ (visited July 8, 2016) [hereinafter 2008-2012 ACS Survey], with 1990 Census, *supra* note 7.

¹¹ 2008-2012 ACS Survey, *supra* note 10; 1990 Census, *supra* note 7. Note that the geographic areas discussed in the text refer to Metropolitan Statistical Areas as defined in the 2008-2012 ACS survey and the 1990 Census.

¹² Compare 2008-2012 ACS Survey, *supra* note 10, with 1990 Census, *supra* note 7, at Table 5.

¹³ Federal courts have found the constitutional right to language access services in criminal proceedings under the Fifth, Sixth, and Fourteenth Amendments. See, e.g., *United States v. Cirrincione*, 780 F.2d 620, 634 (7th Cir. 1985) (“We hold that a defendant in a criminal proceeding is denied due process when: (1) what is told him is incomprehensible; (2) the accuracy and scope of a translation at a hearing or trial is subject to grave doubt; (3) the nature of the proceeding is not explained to him in a manner designed to insure his full comprehension; or (4) a credible claim of incapacity to understand due to language difficulty is made and the district court fails to review the evidence and make appropriate findings of fact.”); *United States v. Lim*, 794 F.2d 469, 470 (9th Cir. 1986). Several circuits have held that a defendant whose fluency in English is so impaired that it interferes with his right to confrontation or his capacity, as a witness, to understand or respond to questions has a constitutional right to an interpreter. *United States ex rel. Negron v. New York*, 434 F.2d 386, 389 (2d Cir. 1970); see *United States v.*

Martinez, 616 F.2d 185, 188 (5th Cir. 1980) (per curiam), *cert. denied*, 450 U.S. 994, 101 S.Ct. 1694, 68 L.Ed.2d 193 (1981); *United States v. Carrion*, 488 F.2d 12, 14 (1st Cir. 1973) (per curiam), *cert. denied*, 416 U.S. 907, 94 S.Ct. 1613, 40 L.Ed.2d 112 (1974); *United States v. Mayans*, 17 F.3d 1174, 1181 (9th Cir. 1994) (“While these cases have often been concerned with the role of interpreters in helping a defendant to understand those who testify against him, and hence have focused on the Sixth Amendment right to confront witnesses, the withdrawal of an interpreter whose assistance has been enlisted in order that the defendant may deliver his own testimony clearly implicates the defendant’s Fifth Amendment right to testify on his own behalf.”). *See also*, *Ling v. State*, 702 S.E.2d 881, 884 (Ga. 2010).

¹⁴ 42 U.S.C. § 2000d.

¹⁵ *Lau v. Nichols*, 414 U.S. 563 (1974).

¹⁶ Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 65 Fed. Reg. 50,121 (Aug. 16, 2000), at go.usa.gov/x3tUz.

¹⁷ DOJ Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (June 18, 2002), at go.usa.gov/x3tyh [hereinafter DOJ LEP Guidance].

¹⁸ *Ling v. State*, 702 S.E.2d 881, 884 (Ga. 2010) (citations omitted).

¹⁹ Letter from Thomas E. Perez, Assistant Attorney General, Civil Rights Division, Department of Justice, to Chief Justices and State Court Administrators (Aug. 16, 2010), at go.usa.gov/x3tV4 [hereinafter 2010 State Courts Language Access Letter].

²⁰ *See, e.g.*, Language Access Plan, R.I. Judiciary Admin. Office of State Courts (Apr. 1, 2014) at go.usa.gov/x3tpd; *Strategic Plan for Implementing Enhanced Language Access in the Colorado State Courts, Blueprint for Providing Full Access to Justice for Colorado’s Limited English Proficient Court Users*, Colorado Judicial Dep’t Office for Language Access (Mar. 2012) at go.usa.gov/cRSJh.

²¹ Nat’l Ctr. for State Courts, Ctr. for Court Innovation, *Effective Court Communication: Assessing the Need for Language Access Services for Limited English Proficient Litigants in Domestic Violence, Sexual Assault, Dating Violence, and Stalking Cases*, 6 (2015) at ncsc.contentdm.oclc.org/cdm/ref/collection/accessfair/id/373.

²² Stephen and Sandra Sheller Ctr. for Social Justice, Temple Univ. Beasley School of Law, *Barriers to Justice, Limited English Proficient Individuals and Pennsylvania’s Minor Courts*, 8-9, (Jan. 2015).

²³ *State Courts’ Interpreters to Help Poor in Civil Cases*, SFGate, Jan. 24, 2014, at sfgate.com/news/article/State-courts-interpreters-to-help-poor-in-civil-5173458.php.

²⁴ 488 F.2d 12, 14 (1st Cir. 1973) (discussing the trial court’s refusal to appoint an interpreter).

²⁵ *Supra*, note 13.

²⁶ *People v. Padilla*, 42 Misc. 3d 1221(A), 986 N.Y.S.2d 867, No. 2012-204S (Co. Ct. 2014) (Finding “nowhere in the plea minutes does it indicate that the interpreter translated those English-written documents into Spanish. Nor was any evidence adduced at the hearing to establish that Padilla read these documents...”).

²⁷ DOJ Letter and Report of Findings to the North Carolina Administrative Office of the Courts, Complaint No. 171-54M-8, 12 (Mar. 8, 2012), at go.usa.gov/cn3X3 [hereinafter North Carolina Letter].

²⁸ *Id.*

²⁹ *Id.* at 11.

³⁰ *Belmont-Cragin Sex Assault Suspect Faced Similar, Dropped Charges*, ABC7 Eyewitness News, Jan. 7, 2014, at abc7chicago.com/archive/9384441/; *Without an Interpreter to Help Rape Victim Testify, Alleged Rapist Walks Free and Finds Another Victim*, Salon, Jan. 7, 2014, at salon.com/2014/01/07/without_a_translator_to_help_rape_victim_testify_alleged_rapist_walks_free_and_finds_another_victim/ (cached copy).

³¹ Memorandum Regarding Provision of Language Services Under Title VI of the Civil Rights Act (of 1964) and the

Americans with Disabilities Act, Wash. State Admin. Office of the Courts (May 22, 2015) (on file with DOJ).

³² *E.g.*, 2010 State Courts Language Access Letter, *supra* note 17; Executive Order 13166 Limited English Proficiency Resource Document: Tips and Tools From the Field at 51 (Sept. 21, 2004) at go.usa.gov/cmshjm; Letter from Coordination and Review Section, Civil Rights Division, U.S. Department of Justice to National Center for State Courts at 4 (February 21, 2008), at go.usa.gov/xDHCG.

³³ *Ponce v. State*, 9 N.E.3d 1265, 1269 (Ind. 2014).

³⁴ *Id.* at 1272-74.

³⁵ *E.g.*, U.S. Dep't of Justice, Office of Justice Programs, "Title VI Enforcement," at go.usa.gov/xDxY3.

³⁶ Press Release, DOJ, Department of Justice and Mohave County, Arizona, Superior Court Work to Ensure Equal Access for Non-English Speakers (May 14, 2015), at go.usa.gov/xDH4V.

³⁷ Press Release, Justice Department Reaches Agreement with Kentucky Courts to Ensure Equal Access for Non-English Speakers (June 27, 2016), at go.usa.gov/x3tAY.

³⁸ *See* Press Release, DOJ, Department of Justice and New Jersey Judiciary Collaborate to Ensure Provision of Language Assistance Services in Courts (Apr. 9, 2014), at go.usa.gov/cncBW.

³⁹ DOJ Closure Letter, Review of Interpretive Services in King County Superior Court: DOJ No. 171-82-22 (Jan. 9, 2014) (on file with DOJ).

⁴⁰ Press Release, Superior Court in Mohave County, Department of Justice Commends Mohave County Courts for Efforts to Ensure Access to Justice for Those with Limited English Proficiency (May 18, 2015), at mohavecourts.com/news/Press%20Release%20DOJ%20Language%20Access.pdf.

⁴¹ Letter from Deena Jang, Chief, Federal Coordination and Compliance Section, Civil Rights Division, Dep't of Justice, to Hon. Tani G. Cantil-Sakauye, Chief Justice, California Supreme Court, et. al. (May 22, 2013), at go.usa.gov/x3tsh.

⁴² Press Release, DOJ, Department Reaches Agreement with Maine Courts to Reduce Language Barriers (Sept. 30, 2008), at go.usa.gov/xDH24. The Colorado case was closed in June 2016. *See* Press Release, Justice Department Closes Case Following Colorado Judiciary Reforms Removing Language Barriers (June 21, 2016), at go.usa.gov/x3t6d.

⁴³ R.I. Supreme Court, Exec. Order No. 2012-5 (June 13, 2012), at go.usa.gov/x3tFm.

⁴⁴ R.I. Judiciary Admin. Office of State Courts, Language Access Plan (Apr. 1, 2014), at go.usa.gov/x3tMY; Voluntary Resolution Agreement between the United States of America and the Rhode Island Judiciary, DOJ No. 171-66-2, ¶5 (Mar. 28, 2014), at go.usa.gov/cRSN9; Press Release, DOJ, Department of Justice and Rhode Island Judiciary Enter into Agreement for Provision of Language Assistance Services in Rhode Island Courts (Apr. 10, 2014), at go.usa.gov/x3tej.

⁴⁵ *See* Press Release, Justice Department Closes Case after Rhode Island Judiciary Reforms Provide Equal Access for Individuals with Limited English Proficiency (April 21, 2016), at go.usa.gov/x3tHG.

⁴⁶ Letter from Michael L. Bender, Chief Justice, Colorado Supreme Court, to COSCA and CCJ Members, 3 (June 28, 2011), at go.usa.gov/xDH2G.

⁴⁷ Press Release, DOJ, Justice Department Reaches Agreement with Colorado State Courts to Remove Language Barriers (June 28, 2011), at go.usa.gov/cnx3x.

⁴⁸ *See* Press Release, Justice Department Closes Case Following Colorado Judiciary Reforms Removing Language Barriers (June 21, 2016), at go.usa.gov/x3t6d.

⁴⁹ Press Release, DOJ, Following Justice Department's Review, Hawai'i State Court Commits to Equal Access for Non-English Speakers (Mar. 24, 2015), at go.usa.gov/cnctA.

⁵⁰ *Id.*

⁵¹ Hawai'i State Judiciary. Press Releases. Department of Justice Applauds Hawaii State Judiciary for Continued

Commitment in Expanding Language Assistance Services (March 24, 2015) at go.usa.gov/xDvSh.

⁵² North Carolina Letter, *supra* note 27.

⁵³ *Id.* at 4.

⁵⁴ 42 U.S.C. 2000d-1.

⁵⁵ Conference of State Court Administrators, *White Paper on Court Interpretation: Fundamental to Access to Justice*, 3-4 (Nov. 2007), at cosca.ncsc.org/~media/Microsites/Files/COSCA/Policy%20Papers/CourtInterpretation-FundamentalToAccessToJustice.ashx.

⁵⁶ See *ABA Standards*, at *Foreword*, *supra* note 2.

⁵⁷ *ABA Standards*, *supra* note 2.

⁵⁸ Am. Bar Ass'n House of Delegates, Resolution 12M113 (Feb. 6, 2012) in *ABA Standards*, at *Resolution Adopted by the ABA House of Delegates*, *supra* note 2.

⁵⁹ Conference of Chief Justices, Conference of State Court Adm'rs, Resolution in Support of Passage of Standards for Language Access in the Courts per Am. Bar Ass'n Resolution 113 (Dec. 8, 2011), at ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/12082011-Access-Justice-Passage-Standards-for-Language-Access.ashx.

⁶⁰ Nat'l Ctr. for State Courts, and State Justice Inst., "A National Call to Action: Access to Justice for Limited English Proficient Litigants, Creating Solutions to Language Barriers in State Courts," 12 (July 2013), at ncsc.org/services-and-experts/areas-of-expertise/language-access/~media/files/pdf/services%20and%20experts/areas%20of%20expertise/language%20access/call-to-action.ashx.

⁶¹ *Id.* at 18.

⁶² *ABA Standards*, at 2, *supra* note 2.

⁶³ See Neb. Rev. Stat. 25-2406; 2011 NE L.B. 669, 102nd Legis., 1st Sess. LB669 § 18 (Neb. 2011), at nebraskalegislature.gov/FloorDocs/102/PDF/Slip/LB669.pdf.

⁶⁴ See, e.g., N.M. Judiciary, Admin. Office of the Courts, *New Mexico Language Access Report and Plan*, 4, 8-10, 21 (July 1, 2011-June 30, 2013), at migrationpolicy.org/sites/default/files/language_portal/NM%20Judiciary%20LAP_0.pdf ("[t]his plan identifies the efforts of the New Mexico Administrative Office of the Courts (AOC), the New Mexico Supreme Court, and the New Mexico Court of Appeals to ensure Title VI compliance across New Mexico State Courts through an ongoing, collaborative planning and assessment process. The majority of New Mexico Magistrate, District, and Metropolitan Courts will have fully developed Language Access Plans in place by December 31, 2012 and all state courts will have Language Access Plans in place by July 1, 2013.").

⁶⁵ Order, N.H. Sup. Ct., Dec. 24, 2013, at go.usa.gov/xDHTF; New Hampshire Judicial Branch Language Services Plan, Appendix A, Dec. 24, 2013, at *id.*

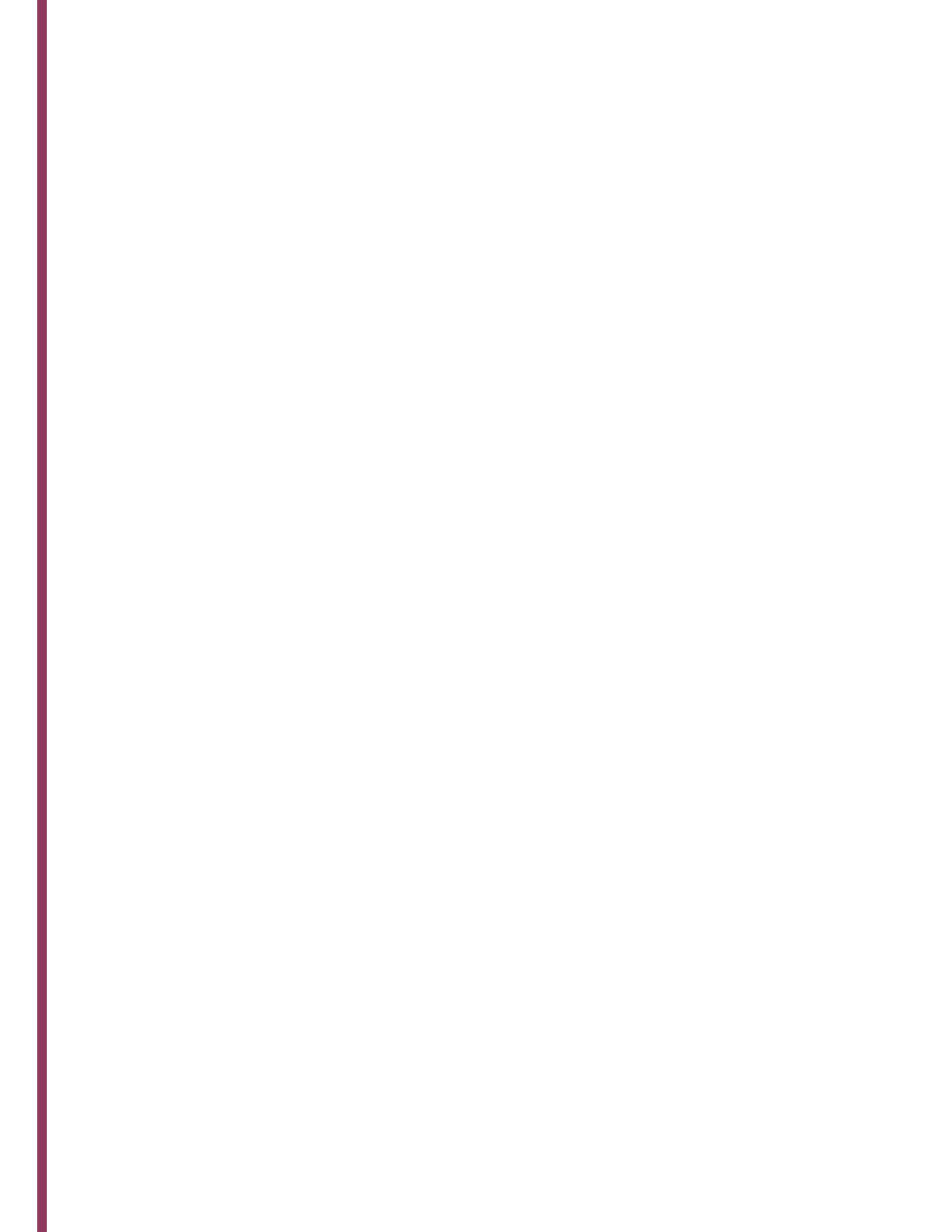
⁶⁶ Admin. Order 14-15, Super. Ct. D.C., Sept. 19, 2014, at go.usa.gov/xcVtd.

⁶⁷ *Research Methodology*, The Justice Index, Nat'l Ctr. for Access to Justice at Cardozo Law School, at justiceindex.org/methodology/ (visited July 8, 2016).

⁶⁸ *Id.*

⁶⁹ *Performance Map: Access for People with Limited English Proficiency*, The Justice Index, Nat'l Ctr. for Access to Justice at Cardozo Law School, at justiceindex.org/2016-findings/language-access/ (visited July 8, 2016).

⁷⁰ DOJ does not endorse referenced non-federal resources, linked websites, the views they express, or the products/services they offer.





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