

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Elizabeth Macias, Chief of Police

SUBJECT: Response to the Grand Jury's Report of March 20, 2013 on "Can We Talk? Law Enforcement and our Multilingual County."

DATE: Meeting of June 3, 2013

City Council Goals:

To provide public service that assures the safety of property and citizens residing, working or visiting in Brisbane.

Background:

The 2012/13 Grand Jury filed a report on March 20, 2013 regarding the ability of San Mateo County law enforcement to communicate effectively with those members of our community who have difficulty communicating in English. Cities are directed to respond to both the Grand Jury's "Findings" and "Recommendations" no later than June 18, 2013.

The Grand Jury's report acknowledges that the City of Brisbane has done a good job in addressing this issue to date and indicates other jurisdictions would benefit from implementing some of the same procedures and technologies that we already have in place.

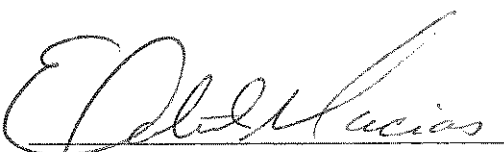
Recommendation:

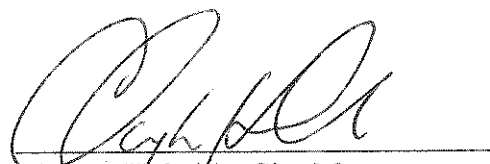
Staff recommends that the City Council approve the City of Brisbane's response to the Grand Jury's findings and recommendations.

Fiscal Impact: None

Attachments:

- A. Letter to Honorable Richard C. Livermore on the City of Brisbane's response to the Grand Jury's recommendations.
- B. Grand Jury Report of March 20, 2013 on "Can We Talk? Law Enforcement and Our Multilingual County."


Elizabeth Macias, Chief of Police


Clayton Holstine, City Manager

CITY OF BRISBANE
POLICE DEPARTMENT



ELIZABETH MACIAS
CHIEF OF POLICE

June 3, 2013

Honorable Richard C. Livermore
Judge of the Superior Court
c/o Charlene Kresevich
400 County Center, 2nd floor
Redwood City, CA 94063

Re: Response to Grand Jury Report – “Can We Talk? Law Enforcement and Our Multilingual County.”

Dear Honorable Richard Livermore:

This letter is in response to the 2012/13 Grand Jury report of March 20, 2013. The report identifies certain findings and recommendations, and requests that the City Council respond in writing to those findings no later than June 18, 2013. The City Council has approved the below recommendation at their meeting on June 3, 2013.

The City of Brisbane responds to the Grand Jury’s report as follows:

Findings:

1. The law enforcement agencies in the County are aware of the linguistic issues presented by the County’s non-English speaking population and, in general, have responded well by implementing policies for language access and instituting hiring procedures designed to recruit multilingual personnel.

Response: The City of Brisbane agrees with this finding.

2. The 911 Service does a good job for the non-English speakers in the communities serviced by the San Mateo County Sheriff’s Office.

Response: The City of Brisbane agrees with this finding. San Mateo Police Department Dispatch, who dispatches for the City of Brisbane, utilizes the same “language line” as the San Mateo County Sheriff’s as do other dispatch centers in the county.

3. Written policies and procedures, such as those adopted by, Brisbane, Belmont, Burlingame, Foster City, Menlo Park, City of San Mateo, South San Francisco, and the Sheriff's office, are useful in guiding law enforcement during encounters with non-English speakers.

Response: The City of Brisbane agrees with this finding.

4. Language Line is helpful in reducing communication difficulties between the non-English speaking population and law enforcement.

Response: The City of Brisbane agrees with this finding.

5. Alternative language translation services such as Google Translate, accessible by Smart phones in the field are useful in multilingual law enforcement situations.

Response: The City of Brisbane agrees with this finding.

6. It would be beneficial for law enforcement agencies to take advantage of low cost Spanish education available through POST.

Response: The City of Brisbane agrees with this finding.

RECOMMENDATIONS

The Grand Jury recommends to the City Council's of San Mateo County that:

1. The Cities of Atherton, Colma, Daly City, East Palo Alto, Hillsborough, Pacifica, Redwood City, and San Bruno develop a written policy/procedure for language access based on the guidelines set forth by the United States Department of Justice and customized for California Law by Lexipol in Policy 368.

Response: Not applicable to Brisbane. The Brisbane Police Department currently has Lexipol Policy 368 "Limited English Proficiency Services" in effect, and that policy was used as an example in the attached Grand Jury Report.

2. The Cities of Brisbane and Hillsborough subscribe to a telephonic translation service that provides immediate access for dispatchers and officers in the field.

Response: The Brisbane Police Department does not directly subscribe to the telephonic translation service but it is available through the San Mateo Police Department, from whom we contract our dispatch from, so our officers do have access to this service.

3. Every County policing agency examines the feasibility of providing smart phones to patrol officers so that they can access free translation services as Google Translate.

Response: Not applicable to Brisbane. We currently provide smart phones to the officers on duty and every patrol car is also outfitted with a Mobile Data Terminal (MDT) which has immediate access to the internet. So either by smart phone or the Mobile Data Terminal, the Brisbane Police Department makes it possible for officers out on the field to access the Google Translate when needed .

4. Every County policing agency encourages and financially supports participation in POST language skills classes.

Response: The City of Brisbane would certainly support POST by sending officers to language skills classes as needed.

Thank you for the opportunity to comment on the recommendations made by the Grand Jury.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Macias". The signature is written in black ink and is positioned above the printed name and title.

Elizabeth Macias
Chief of Police

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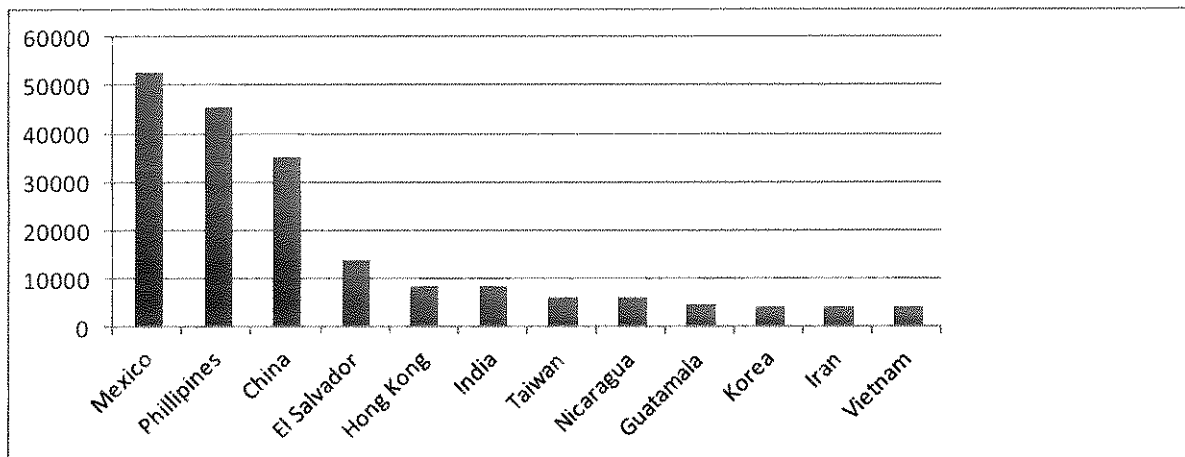


CAN WE TALK? LAW ENFORCEMENT AND OUR MULTILINGUAL COUNTY

SUMMARY

The law enforcement agencies for the 20 cities and towns located in San Mateo County (County), together with the County Sheriff's Office, have a mandate to safeguard the County's citizens. This mandate has become more difficult to fulfill as demographic changes over the past 20 years have brought into the County an increasing number of people who speak English either poorly or not at all.

The population of the County is linguistically diverse. The 2010 census lists the County's population at 718,451,¹ with 239,225 people indicating a birthplace other than the United States.² Immigrants comprise 33% of the County's total population, which does not include the children of immigrants or undocumented immigrants. Over the past decade, San Mateo County has seen an increase in the Asian population (25%), the Hispanic population (18%) and a decrease in the white population (14%).³ Hispanics represent the largest population (22.1%), followed by Asians (18.3%) and Pacific Islanders (1.4%). The chart below shows the most common country of origin of immigrants to the County, as measured by the number of permanent visas provided.⁴



¹ <http://www.bayareacensus.ca.gov/counties/SanMateoCounty.htm> (11/28/2012).

² Ibid.

³ Preliminary Findings from the Assessment of Immigrant Needs in San Mateo County. http://svcgii.sjsu.edu/content/20120126_SMC_Key_Findings.pdf pg. 4 (1/28/2013).

⁴ Ibid.

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As part of only the 2000⁵ census, the U.S. Census Bureau gathered English fluency data by asking respondents to rate their ability to speak English on a scale from “very well” to “not at all.” The results indicated that 55% of the County’s residents speak English “very well,” 22% “well,” 16% “not well,” and 7% “not at all.”⁶ This indicates that a minimum of 23% of the County’s residents, or 165,000 people, have some level of difficulty communicating in English.

In light of this problem, the 2012-2013 San Mateo County Civil Grand Jury (Grand Jury) sought to determine how the law enforcement officers of the 20 cities and towns in the County and the County Sheriff’s Office deal with communication obstacles that might prevent them from effectively discharging their duties. The Grand Jury found that both the County’s police departments⁷ and the Sheriff’s Office⁸ are making credible efforts at recruiting, hiring, training, and retaining multilingual officers and support personnel.

The Grand Jury recommends that every policing agency in the County develop a written policy/procedure for language access, subscribe to effective translation services, and actively encourage language training for its personnel.

BACKGROUND

Whether it is a routine vehicle stop or a high-profile homicide investigation, law enforcement officers need to be able to communicate effectively to do their job. The size of the non-English speaking population in the County presents a serious challenge for law enforcement to provide effective policing programs while developing trust and cooperation in the communities they serve. As the number of non-English speakers increases, so does the number of non-English speaking residents who become witnesses to crime and even targets of crime. Because of language difficulties, these crimes may go unreported. Improved communications between officers and citizens can improve upon this situation.

Several laws mandate that law enforcement agencies find ways to overcome language barriers. Under Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.),⁹ police agencies receiving federal assistance must take reasonable steps to ensure that their services are meaningfully accessible to those who do not speak English well.¹⁰ Additionally, California’s Dymally-Alatorre Bilingual Services Act (Cal. Gov. Code §7290) requires state and local

⁵ 2000 data is the most recent as the question was not asked in the 2010 census.

⁶ U.S. Department of Health and Human Services, <http://www.ahrq.gov/research/ionracereport/reldata4a.htm> (11/29/2012).

⁷ Atherton, Belmont, Brisbane, Burlingame, Colma, Daly City, East Palo Alto, Foster City, Hillsborough, Menlo Park, Pacifica, Redwood City, San Bruno, San Mateo, and South San Francisco.

⁸ Includes Half Moon Bay, Millbrae, Portola Valley, San Carlos, and Woodside.

⁹ No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

¹⁰ Overcoming Language Barriers, Solutions For Law Enforcement, pg. 5, www.cops.usdoj.gov (11/28/2012).

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agencies serving a “substantial number of non-English speaking people” to employ a “sufficient number of qualified bilingual staff in public contact positions” and to translate documents explaining available services to their clients’ languages. (See, Appendix A).

Law enforcement agencies operate within a culture of written policies and procedures. Accordingly, written policies and procedures regarding language access would be useful in guiding officers and support personnel on how and when to use language resource services. The Department of Justice Civil Rights Division has created a number of planning tools for law enforcement agencies to assist with formulating such policies and procedures.¹¹ Further, the development and implementation of such policies and procedures can demonstrate a department’s commitment to ensuring access for residents with limited English skills and combating national origin discrimination.¹²

METHODOLOGY

The Grand Jury collected information from all the law enforcement agencies in the cities and towns in the County, and from the County Sheriff’s Office, regarding the level and efficiency of their interactions with non-English speakers in their jurisdictions. The Grand Jury requested these agencies’ assessments of the difficulties that language barriers create for both police officers and the public. Additionally, the Grand Jury asked these agencies to supply data regarding multilingual law enforcement officers and support personnel within their jurisdictions, information regarding programs to recruit, hire, train, and retain multilingual personnel, and current written policies/procedures addressing language access.

Interviews

The Grand Jury interviewed patrol officers from several police agencies to determine the actions they take when confronted with a language barrier. The Grand Jury also interviewed personnel from the County’s Office of Public Safety Communications (911).

Site Tours

In an emergency, the public often calls 911 as its first choice for obtaining police and medical services. As this is often the public’s initial contact point with law enforcement, the Grand Jury sought to determine the linguistic effectiveness of the 911 control center in the County’s Office of Public Safety Communications.

¹¹ Executive Order 13166 Limited English Proficiency Resource Document: Tips and Tools from the Field, Washington, D.C: U.S. Department of Justice, Civil Rights Division, 2004: <http://www.justice.gov/crt/about/cor/lep/Final%20Tips%20and%20Tools%20Document.%209%2021%2004.pdf> (1/24/2013).

¹² Ibid.

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Documents

The Grand Jury reviewed the following documents:

- Civil Rights Act of 1964
- Summary of Language Access Laws in California (Appendix A)
- California Government Code Sections 7290-7299.8 (Appendix B)
- Overcoming Language Barriers, Solutions for Law Enforcement ¹³
- Enhancing Community Policing with Immigrant Populations ¹⁴
- Dymally-Alatorre Bilingual Services Act
- Lexipol Policy 368 (Appendix E)

The Grand Jury gathered statistical information from the 2000 and 2010 U.S. Censuses,¹⁵ from various websites dedicated to employment opportunities in law enforcement, and from the websites maintained by the various law enforcement departments in the County.

DISCUSSION

The Grand Jury's investigation revealed widespread awareness among the County's law enforcement agencies regarding the need for more multilingual law enforcement and emergency personnel, particularly those fluent in Spanish. While several communities have as many as 22% of their officers fluent in a second language,¹⁶ two cities (Belmont and Hillsborough) reported no multilingual officers. The departments in these communities must depend on neighboring agencies or non-police employees for their translation needs. Fifteen communities of the 20 surveyed stated their agencies could benefit from additional multilingual officers. (Appendix C) Atherton, Brisbane, Burlingame, Foster City, and Hillsborough stated no additional multilingual officers are currently needed.

The primary concern among the policing agencies is how difficult basic communication is with non-English speakers during an initial contact, which is often during an emergency. When non-English speaking residents are involved, the departments reported that delays were common in obtaining information critical to the resolution of an incident or the investigation of a crime.

911 Calls

As part of the Emergency Telephone Users Surcharge Law,¹⁷ the State of California has mandated that language translation services be available to limited or non-English speakers. A general tax on telephone usage funds the cost for this service.

¹³ www.cops.usdoj.gov/Publications/vera_translating_justice_final.pdf (1/9/2013).

¹⁴ www.cops.usdoj.gov/Publications/e04106266-Enhancing-CP-Immigrant-Populations_b.pdf (1/9/2013).

¹⁵ <http://quickfacts.census.gov/qfd/states/06/06081.html> (1/30/2013).

¹⁶ See Appendix C.

¹⁷ California State Board of Equalization www.boe.ca.gov/pdf/pub39a.pdf (1/28/2013).

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Under the County Manager's direction the County's 911 center processes emergency calls for the Sheriff's Office, which services the cities of Half Moon Bay, Millbrae, Portola Valley, San Carlos, and Woodside, together with the unincorporated areas of the County. 911 also processes calls for all the fire departments in the County and ambulance dispatch, transit police (BART), Caltrain, and occasional direct calls from the public.¹⁸ As this is generally the first interface the public has with potential assistance, the Grand Jury reviewed the Public Safety Communications departmental policies and procedures when encountering a non-English speaking caller. This review revealed that when necessary, 911 operators can provide translation services for limited or non-English speakers through a service called "Language Line."

Language Line

Language Line is a telephonic service operated by AT&T that enables users to speak through a translator in 98.6% of the world's 6,809 languages, and includes sign language, when a video feed is available, and TTY (text telephone) users.¹⁹ A transfer button at all 911 operator workstations accomplishes this quickly. County administrators track the calls to determine the usage of Language Line. 911 Service's internal policies dictate a 30-second processing time for incoming 911 calls. The transfer to Language Line for non-English speakers is occasionally longer than the 30-second goal. However, 911 Service reports a favorable experience with this service.

All, except two (Brisbane and Hillsborough) of the cities' police departments, use Language Line for translation services.²⁰ The patrol officers interviewed indicated that use of Language Line in the field is cumbersome, as officers have to pass a telephone back and forth between the officer and the non-English speaker. The patrol officers preferred using Language Line for follow up investigations when a second telephone line is available.

Patrol Officers in the Field

Patrol officers in the field are resourceful when dealing with language barriers. They initially rely on their dispatchers to identify the language needs of the parties involved. This allows the officer to secure necessary translators while in route to the scene. At the scene, their first resource frequently is family members and neighbors. If additional translation is necessary, the officer can contact multilingual members of their department or neighboring departments for assistance. Officers also report having used web-based smart phone translation applications such as Google Translate on their personal phones.

¹⁸ Cities not serviced by the Sheriff's Office have their own 911 operations that, for whatever reason, seldom receive direct calls from the public.

¹⁹ http://language.com/main/files/Language_List.pdf (1/30/2013).

²⁰ See Appendix C.

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All law enforcement agencies in the County stated that they actively recruit multilingual officers. Additionally, all responding departments except Brisbane and Colma provide additional compensation to their multilingual officers according to their language proficiency.

Written Language Access Policies

The cities of Belmont, Brisbane, Burlingame, Foster City, Menlo Park, City of San Mateo, South San Francisco²¹, and the Sheriff's Office (which services the cities of Half Moon Bay, Millbrae, Portola Valley, San Carlos, Woodside, and the unincorporated areas of the County) provided the Grand Jury with written policies and procedures addressing language access. The Sheriff's Office also recognizes the need for additional efforts, such as including the salary premium information in job postings and assigning multilingual officers to duty areas aligned with their language skills. The cities of Atherton, Colma, Daly City, East Palo Alto, Hillsborough, Pacifica, Redwood City, and San Bruno did not provide any written policies or procedures addressing language access to the Grand Jury and the Grand Jury is not aware that any such policies or procedures exist for those jurisdictions.

POST

The State of California provides continuing education through its Commission on Peace Officers Standards and Training (POST) program. POST offers language classes in Spanish (five proficiency levels) including courses to develop the basic skills needed for an initial interaction with Spanish speakers. The cost for the courses ranges from \$20 to \$350. The skills thus obtained have the potential to minimize language barriers during emergencies with a large percentage of the immigrant population, thereby allowing law enforcement officers to render better service to their communities.

FINDINGS

- F1. The law enforcement agencies in the County are aware of the linguistic issues presented by the County's non-English speaking population and, in general, have responded well by implementing written policies for language access and instituting hiring procedures designed to recruit multilingual personnel.
- F2. The 911 Service does a good job for the non-English speakers in the communities serviced by the San Mateo Sheriff
- F3. Written policies and procedures, such as those adopted by Belmont, Brisbane, Burlingame, Foster City, Menlo Park, City of San Mateo, South San Francisco, and the Sheriff's Office, are useful in guiding law enforcement during encounters with non-English speakers.

²¹ Appendix E www.Lexipol.com (1/24/2013).

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- F4. Language Line is helpful in reducing communication difficulties between the immigrant population and law enforcement.
- F5. Alternative language translation services such as Google Translate, accessible by smart phones in the field, are useful in multilingual law enforcement situations.
- F6. It would be beneficial for law enforcement agencies to take advantage of low cost Spanish education available through the POST program.

RECOMMENDATIONS

The Grand Jury recommends that:

- R1. The cities of Atherton, Colma, Daly City, East Palo Alto, Hillsborough, Pacifica, Redwood City, and San Bruno develop a written policy/procedure for language access based on the guidelines set forth by the United States Department of Justice²² and customized for California Law by Lexipol in Policy 368 (See, e.g., Appendix E)
- R2. The cities of Brisbane and Hillsborough subscribe to a telephonic translation service that provides immediate access for dispatchers and officers in the field.
- R3. Every County policing agency examine the feasibility of providing smart phones to patrol officers so that they can access free translation services such as Google Translate²³.
- R4. Every County policing agency encourage and financially support participation in POST²⁴ language skills classes.

REQUEST FOR RESPONSES

Pursuant to Penal code section 933.05, the Grand Jury requests the following, as applicable, to respond to the foregoing Findings and Recommendations, referring in such responses to the numerical reference thereof:

- San Mateo County Sheriff
- The Town/City Councils of Atherton, Belmont, Brisbane, Burlingame, Colma, Daly City, East Palo Alto, Foster City, Hillsborough, Menlo Park, Pacifica, Redwood City, San Bruno, City of San Mateo, and South San Francisco.

²² Overcoming Language Barriers, Solutions For Law Enforcement, Community Oriented Policing Services, U.S. Department of Justice, www.cops.usdoj.gov/Publications/vera_translating_justice_final.pdf (1/9/2013).

²³ <https://play.google.com/store/apps/details?id=com.google.android.apps.translate> (1/24/2013).

²⁴ Ca. Gov. Post. www.post.ca.gov (12/17/2012).

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The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

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APPENDIX A

SUMMARY OF LANGUAGE ACCESS LAWS IN CALIFORNIA

There are a number of federal, state, and local laws that govern language access for limited-English proficient (LEP) individuals. The following is an overview of the federal, state, and local laws governing language access.

Title VI of the 1964 Civil Rights Act

“No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin by any recipient of federal funding. This obligation applies to all recipients, including government agencies, public educational institutions, nonprofit organizations, private corporations, and other entities. Title VI also applies without regard to the amount of funds received by an entity. Although the law does not define national origin discrimination, courts and regulations have consistently interpreted the provision as requiring linguistically assessable services. This means that agencies that receive federal funds and fail to provide meaningful access for limited English speaking individuals to services can violate Title VI. Title VI also covers private for-profit and nonprofit entities that receive federal funds, including those re-allocated by state or local governments. In the past several years, policies have been put in place at the federal level to provide direction that is more specific to federal recipients regarding their legal duty to provide language-accessible services. In August 2000, President Clinton issued Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” requiring federal agencies to develop guidance for federal funding recipients on how to comply with Title VI. The Bush administration has reaffirmed Executive Order 13166, and the U.S. Department of Justice has led a multi-agency effort to issue guidance outlining four factors that a recipient of federal funding should apply in determining its level of obligation to provide access to services for people who are LEP:

1. Number or proportion of LEP persons served. While programs that serve fewer LEP individuals are still required to take reasonable steps to provide meaningful access, the number of LEP individuals expected to be encountered will determine the reasonableness of the efforts.
2. Frequency of contact with LEP persons. The more frequent the need by LEP individuals to access the services, the greater the responsibility to provide meaningful access.
3. Nature and importance of the program. The greater the importance of the program to beneficiaries, the greater the duty to provide access.
4. Resources available and costs. Cost is a legitimate consideration in assessing the reasonableness of particular language access measures, and a smaller recipient of federal funding with limited resources may not have to take the same steps as a larger one.

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In balancing these four factors, recipients of federal funding must provide an appropriate level of both oral interpretation and translation of important written documents. More information about Title VI's language access requirements can be found at the federal government's web site, www.lep.gov. This web site contains:

- Background information about Title VI;
- Executive Order 13166 (requesting federal agencies to develop detailed guidance on enforcing Title VI);
- Guidance for implementing Title VI for over 30 federal agencies;
- Federal implementation and enforcement policies;
- "Know Your Rights" materials;
- "I Speak" Flashcards (flashcard written in 38 languages that can be used to identify the language spoken by individuals who attempt to access services); and
- General resources for providing multilingual services.

Dymally-Alatorre Bilingual Services Act

California's Dymally-Alatorre Bilingual Services Act requires state and local agencies serving a "substantial number of non-English speaking people," to employ a "sufficient number of qualified bilingual staff in public contact positions" and to translate documents explaining available services into their clients' languages. In enacting the law over 30 years ago, the California Legislature recognized that "the effective maintenance and development of a free and democratic society depends on the right and ability of its citizens and residents to communicate with their government and the right and ability of the government to communicate with them." Gov. Code § 7291. Because a substantial number of limited English proficient ("LEP") Californians were unable to effectively utilize government services to which they were entitled, in 1973, the Legislature passed the Dymally-Alatorre Bilingual Services Act (the "Act"). See Gov. Code §§ 7290 et seq. The Bilingual Services Program of the State Personnel Board monitors agency compliance with Dymally-Alatorre and provides guidance to agencies seeking to meet their legal obligations to serve LEP individuals. For more information see, <http://www.spb.ca.gov/bilingual/>

Equal Access to Services Ordinance

San Francisco's Equal Access to Services (EAS) Ordinance, Chapter 91 of the SF Adm. Code, requires covered city departments to make its services accessible in any language spoken by limited English proficient persons who make up either 1) five percent of the population served by the Department, or 2) 10,000 residents citywide. The EAS Ordinance applies to all city departments that provide services to the public and have at least 30 full-time employees. The EAS delineates a range of obligations including, but not limited to: conducting annual language needs assessments, utilizing written and oral language services to ensure individuals have equal access to services regardless of language ability. Written Translation. The Ordinance requires City

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departments that provide extensive public services (enumerated in the Ordinance as “Tier 1” departments), to translate vital governmental documents into the languages spoken by at least 10,000 LEP residents or 5 percent of the clients served by the department.

[Section 91.4.]

At this time, the languages that fall under the broad, citywide 10,000 persons categories are Spanish and Chinese. The seven categories of “vital” documents designated for translation by Tier 1 departments include:

- (1) applications or forms to participate in a Department’s program or activity or to receive its benefits or services;
- (2) written notices of rights to, determination of eligibility of, award of, denial of, loss of, or decreases in benefits or services, including the right to appeal any Department’s decision;
- (3) written tests that do not assess English language competency, but test competency for a particular license or skill for which knowledge of written English is not required;
- (4) notices advising limited English-proficient persons of free language assistance;
- (5) materials explaining a Department’s services or programs;
- (6) complaint forms; and
- (7) any other written documents that have the potential for important consequences for an individual seeking services from or participating in a program of a city department.

Oral Language Services

The ordinance requires each City department with at least 30 full-time employees to provide information and services to the public not only in English, but also in the languages spoken by at least 10,000 LEP residents or 5 percent of the clients served by the department.

[Section 91.3.]

Again, the languages that fall under the citywide threshold are Spanish and Chinese (specifically Cantonese). Also, a local office of a City department that provides direct services to the public and serves as the workplace for 5 or more full-time City employees must additionally provide information and services to the public in the languages spoken by at least 5 percent of the population of the supervisorial district in which the facility is located or at least 5 percent of the clients served by the local office, when either of those constituencies is LEP and shares a primary language other than English.

[Section 91.3.]

In order to comply with the spoken language component of the Ordinance, departments must utilize sufficient numbers of bilingual staff in public contact positions (made vacant by retirement or attrition – no existing employee would be dismissed to implement this ordinance). A public contact position is defined in the ordinance as “a position in which a primary job responsibility consists of

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meeting, contacting, and dealing with the public in the performance of the duties of that position.”

[Section 91.2(i).]

The standard for determining whether departments comply with this "Tier 1 Departments" include the following:

Adult Probation Department, Department of Consumer Assurance, Department of Elections, Department of Human Services, Department of Parking and Traffic, Department of Public Health, Department of Public Transportation, District Attorney's Office, Emergency Communications Department, Fire Department, Juvenile Probation Department, Police Department, Public Defender's Office, Department of Aging and Adult Services, Rent Stabilization and Arbitration Board, and Sheriff's Office requirement of the Ordinance is whether they “provide the same level of service to Limited English Speaking Persons as they provide English speakers.”

[Section 91.3(a).]

The Ordinance may require the use of other means (such as language translation telephone lines) to communicate with the public in non-English languages in order to supplement bilingual staffing.

Monitoring

Individual departments and the city's Immigrant Rights Commission are charged with monitoring compliance with the EAS. Departments must submit annual compliance plans by February 1. Amongst other items, the plans must include

- The number and percentage of LEP individuals who actually use the Department's services citywide, listed by language.
- The number and percentage of LEP residents of each district in which a covered departmental facility is located and persons who use the services provided by such facility.
- The number of public contact positions in the Department.
- The number of bilingual employees in public contact positions, their titles, office locations, the languages other than English that the person speaks.
- A description of any telephone based interpretation services offered, including the number of times such services were used and that languages for which they were used.
- A narrative assessment of the procedures used to facilitate communications with LEP individuals.
- A numerical assessment of the number of bilingual employees in public contact positions needed to meet the requirements of the EAS.
- A list of the Department's written materials required to be translated under the EAS.
- A description of procedures for accepting and resolving complaints of an alleged violation of the EAS.

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APPENDIX B

GOVERNMENT CODE SECTION 7290-7299.8

7290. This chapter may be known and cited as the Dymally-Alatorre Bilingual Services Act.

7291. The Legislature hereby finds and declares that the effective maintenance and development of a free and democratic society depends on the right and ability of its citizens and residents to communicate with their government and the right and ability of the government to communicate with them.

The Legislature further finds and declares that substantial numbers of persons who live, work and pay taxes in this state are unable, either because they do not speak or write English at all, or because their primary language is other than English, effectively to communicate with their government. The Legislature further finds and declares that state and local agency employees frequently are unable to communicate with persons requiring their services because of this language barrier. Therefore, substantial numbers of persons presently are being denied rights and benefits to which they would otherwise, be entitled.

It is the intention of the Legislature in enacting this chapter to provide for effective communication between all levels of government in this state and the people of this state who are precluded from utilizing public services because of language barriers.

7292. (a) Every state agency, as defined in Section 11000, except the State Compensation Insurance Fund, directly involved in the furnishing of information or the rendering of services to the public whereby contact is made with a substantial number of non-English-speaking people, shall employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services to the public, in the language of the non-English-speaking person.

(b) For the purposes of this chapter, the furnishing of information or rendering of services includes, but is not limited to, providing public safety, protection, or prevention, administering state benefits, implementing public programs, managing public resources or facilities, holding public hearings, and engaging in any other state program or activity that involves public contact.

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7293. Every local public agency, as defined in Section 54951, serving a substantial number of non-English-speaking people, shall employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to assist those in such positions, to ensure provision of information and services in the language of the non-English-speaking person. The determination of what constitutes a substantial number of non-English-speaking people and a sufficient number of qualified bilingual persons shall be made by the local agency.

7294. An employee of a state or local agency, as defined by Sections 11000 and 54951, may not be dismissed to carry out the purposes of this chapter. A state or local public agency need only implement this chapter by filling employee public contact positions made vacant by retirement or normal attrition.

7295. Any materials explaining services available to the public shall be translated into any non-English language spoken by a substantial number of the public served by the agency. Whenever notice of the availability of materials explaining services available is given, orally or in writing, it shall be given in English and in the non-English language into which any materials have been translated. The determination of when these materials are necessary when dealing with local agencies shall be left to the discretion of the local agency.

7295.2. Every state agency that serves a substantial number of non-English-speaking people, and which provides materials in English explaining services, shall also provide the same type of materials in any non-English language spoken by a substantial number of the public served by the agency. Whenever notice of the availability of materials explaining services available is given, orally or in writing, it shall be given in English and in the non-English language into which any materials have been translated. This section shall not be interpreted to require verbatim translations of any materials provided in English by a state agency.

7295.4. Whenever a state agency finds that the factors listed in both subdivisions (a) and (c) or (b) and (c) exist, it shall distribute the applicable written materials in the appropriate non-English language through its local offices or facilities to non-English-speaking persons, or, as an alternative, the state agency

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may instead elect to furnish translation aids, translation guides, or provide assistance, through use of a qualified bilingual person, at its local offices or facilities in completing English forms or questionnaires and in understanding English forms, letters, or notices:

(a) The written materials, whether forms, applications, questionnaires, letters, or notices solicit or require the furnishing of information from an individual or provide that individual with information.

(b) The information solicited, required, or furnished affects or may affect the individual's rights, duties, or privileges with regard to that agency's services or benefits.

(c) The local office or facility of the agency with which the individual is dealing, serves a substantial number of non-English-speaking persons.

7296. (a) As used in this chapter, a "qualified bilingual person," "qualified bilingual employee," or "qualified interpreter" is a person who is proficient in both the English language and the non-English language to be used. For any state agency, "qualified" means one of the following:

(1) A bilingual person or employee who the State Personnel Board has tested and certified as proficient in the ability to understand and convey in English and a non-English language commonly used terms and ideas, including terms and ideas regularly used in state government.

(2) A bilingual employee who was tested and certified by a state agency or other testing authority approved by the State Personnel Board as proficient in the ability to understand and convey in English and a non-English language commonly used terms and ideas, including terms and ideas regularly used in state government.

(3) An interpreter who has met the testing or certification standards established by the State Personnel Board for outside or contract interpreters, as proficient in the ability to communicate commonly used terms and ideas between the English language and the non-English language to be used and has knowledge of basic interpreter practices, including, but not limited to, confidentiality, neutrality, accuracy, completeness, and transparency.

(b) The determination of what constitutes "qualified" for local agencies, shall be left to the discretion of the local agency.

7296.2. As used in Sections 7292 and 7295.2, a "substantial number

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of non-English-speaking people" are members of a group who either do not speak English, or who are unable to effectively communicate in English because it is not their native language, and who comprise 5 percent or more of the people served by any local office or facility of a state agency.

7296.4. As used in Section 7292, "a sufficient number of qualified bilingual persons in public contact positions" is the number required to provide the same level of services to non-English-speaking persons as is available to English-speaking persons seeking these services. However, where the local office or facility of the state employs the equivalent of 25 or fewer regular, full-time employees, it shall constitute compliance with the requirements of this chapter if a sufficient number of qualified bilingual persons are employed in public contact positions, or as qualified interpreters to assist those in those positions, to provide the same level of services to non-English-speaking persons as is available to English-speaking persons seeking the services from the office or facility.

7297. As used in this chapter, a "public contact position" is a position determined by the agency to be one which emphasizes the ability to meet, contact and deal with the public in the performance of the agency's functions.

7298. The provisions of this chapter are not applicable to school districts, county boards of education, or the office of a county superintendent of schools.

7299. The provisions of this act shall be implemented to the extent that local, state or federal funds are available, and to the extent permissible under federal law and the provisions of civil service law governing the state and local agencies.

7299.1. State agencies may, utilizing existing funds, contract for telephone-based interpretation services in addition to employing qualified bilingual persons in public contact positions.

7299.2. The State Personnel Board shall be responsible for informing state agencies of their responsibilities under this chapter and providing state agencies with technical assistance, upon request on a reimbursable basis.

7299.4. (a) Notwithstanding any other provision in this chapter,

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each state agency shall conduct an assessment, develop, and update an implementation plan that complies with the requirements of this chapter.

(b) Each agency shall conduct a survey of each of its local offices every two years to determine all of the following:

(1) The number of public contact positions in each local office.

(2) The number of qualified bilingual employees in public contact positions in each local office, and the languages they speak, other than English.

(3) The number and percentage of non-English-speaking people served by each local office, broken down by native language.

(4) The number of anticipated vacancies in public contact positions.

(5) Whether the use of other available options, including contracted telephone-based interpretation services, in addition to qualified bilingual persons in public contact positions, is serving the language needs of the people served by the agency.

(6) A list of all written materials that are required to be translated or otherwise made accessible to non- or limited-English-speaking individuals by Sections 7295.2 and 7295.4.

(7) A list of materials identified in paragraph (6) that have been translated and languages into which they have been translated.

(8) The number of additional qualified bilingual public contact staff, if any, needed at each local office to comply with this chapter.

(9) Any other relevant information requested by the State Personnel Board.

(c) Each agency shall calculate the percentage of non-English-speaking people served by each local office by rounding the percentage arrived at to the nearest whole percentage point.

The survey results shall be reported on forms provided by the State Personnel Board, and delivered to the board not later than October 1 of every even-numbered year beginning with 2008.

(d) Beginning in 2009 and in every odd-numbered year thereafter, each state agency shall develop an implementation plan that, at a minimum, addresses all of the following:

(1) The name, position, and contact information of the employee designated by the agency to be responsible for overseeing implementation of the plan.

(2) A description of the agency's procedures for identifying written materials that need to be translated.

(3) A description of the agency's procedures for identifying language needs at local offices and assigning qualified bilingual

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staff.

(4) A description of how the agency recruits qualified bilingual staff.

(5) A description of any training the agency provides to its staff on the provision of services to non- or limited-English-speaking individuals.

(6) A detailed description of how the agency plans to address any deficiencies in meeting the requirements of this chapter, including, but not limited to, the failure to translate written materials or employ sufficient numbers of qualified bilingual employees in public contact positions at local offices, the proposed actions to be taken to address the deficiencies, and the proposed dates by when the deficiencies can be remedied.

(7) A description of the agency's procedures for accepting and resolving complaints of an alleged violation of this chapter.

(8) A description of how the agency complies with any federal or other state laws that require the provision of linguistically accessible services to the public.

(9) Any other relevant information requested by the State Personnel Board.

(e) In developing its implementation plan in 2003, each state agency may rely upon data gathered from its 2002 survey.

(f) Each state agency shall submit its implementation plan to the State Personnel Board no later than October 1 of each applicable year. The board shall review each plan, and, if it determines that the plan fails to address the identified deficiencies, the board shall order the agency to supplement or make changes to its plan. A state agency that has been determined to be deficient shall report to the State Personnel Board every six months on its progress in addressing the identified deficiencies.

(g) If the board determines that a state agency has not made reasonable progress toward complying with this chapter, the board may issue orders that it deems appropriate to effectuate the purposes of this chapter.

7299.5. The State Personnel Board may exempt state agencies from the requirements of Section 7299.4, where the State Personnel Board determines that any of the following conditions apply:

(a) The agency's primary mission does not include responsibility for furnishing information or rendering services to the public.

(b) The agency has consistently received such limited public contact with the non-English-speaking public that it has not been required to employ bilingual staff under Section 7292 and the agency

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employs fewer than the equivalent of 25 full-time employees in public contact positions.

In order to receive an exemption, each state agency shall annually petition the State Personnel Board for the exemption and receive approval in writing by the date established by the board. An agency may receive an exemption for up to five consecutive surveys or implementation plans, if it demonstrates that it meets the requirements of subdivision (a) or (b), and provides all required documentation to the State Personnel Board.

7299.6. The State Personnel Board shall review the results of the surveys and implementation plans required to be made by Section 7299.4, compile this data, and provide a report to the Legislature every two years. The report shall identify significant problems or deficiencies and propose solutions where warranted.

7299.8. It is not the intent of the Legislature in enacting this chapter to prohibit the establishment of bilingual positions, or printing of materials, or use of qualified interpreters, where less than 5 percent of the people served do not speak English or are unable to communicate effectively, as determined appropriate by the state or local agency. It is not the intent of the Legislature in enacting this chapter to require that all public contact positions be filled with qualified bilingual persons.

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Appendix C

Survey Results

Does your law enforcement department have a significant number of interactions with non-English speakers?

Yes	No
Atherton	Brisbane
Belmont	Burlingame
Colma	Hillsborough
Daly City	Pacifica
East Palo Alto	
Foster City	
Menlo Park	
San Bruno	
City of San Mateo	
San Mateo Sheriff*	
South San Francisco	

What language(s) in addition to English is spoken by a significant number of people with whom your department has interaction?

Spanish – 19
None – 1(Hillsborough)

What number and percentage of your law enforcement officers are fluent in each of the languages listed?

Atherton = 1 officer, 2 dispatchers
Belmont = 0%
Brisbane = 18%
Burlingame = 8%
Colma = 20%
Daly City = 10%
East Palo Alto = 12%
Foster City = 16%
Hillsborough = 0%
Menlo Park = 8%
Pacifica = 15%
Redwood City = 16%
San Bruno = 22%
City of San Mateo = 10%
San Mateo Sheriff = 14%
South San Francisco = 10%

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*Includes Half Moon Bay, Millbrae, Portola Valley, San Carlos, Woodside, and the unincorporated areas of the County.

Do you consider that you have a sufficient number of multilingual officers?

Yes	No
Atherton	Belmont
Brisbane	Colma
Burlingame	Daly City
Foster City	East Palo Alto
Hillsborough	Menlo Park
	Pacifica
	Redwood City
	City of San Mateo
	San Bruno
	San Mateo Sheriff*
	South San Francisco

What issues do non-English speakers present to your department?

Communication and accurate reporting = 16
None = 4

Does your department have a stated policy and/or an active program addressing the recruiting, hiring and retention of multilingual officers and does your department have written policy/procedures when encountering a non-English speaker?

Yes	No
Belmont	Atherton
Brisbane	Colma
Burlingame	Daly City
Foster City	East Palo Alto
Menlo Park	Hillsborough
San Mateo	Pacifica
San Mateo Sheriff*	San Bruno
South San Francisco	Redwood City

Are multilingual police officers paid a premium?

Yes	No
Atherton = 5%	Brisbane
Belmont = 5%	Colma
Burlingame = 5%	
Daly City = \$30 per pay period	
East Palo Alto = \$100 per month	
Foster City = \$75 per month	

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Hillsborough = 5%
 Menlo Park = \$75 per pay period
 Pacifica = \$373 per month
 Redwood City = 2.5%-5% relative to proficiency
 San Bruno = 2.5% relative to proficiency
 City of San Mateo = \$181.96 bi-weekly
 San Mateo Sheriff* = \$42.50 bi-weekly
 South San Francisco = 5% relative to proficiency

Does your jurisdiction have in-house translators for police business?

Yes	No
Atherton	Belmont
Burlingame	Brisbane
Daly City	Colma
East Palo Alto	Foster City
Hillsborough	Pacifica
Menlo Park	
Redwood City	
San Bruno	
City of San Mateo	
San Mateo Sheriff*	
South San Francisco	

Does your city use outside vendors for translating? Who are those vendors?

Yes	No
<i>Language Line</i>	
Atherton	Brisbane
Belmont	Hillsborough
Burlingame	
Colma	
Daly City	
East Palo Alto	
Foster City	
Menlo Park	
Pacifica	
Redwood City	
San Bruno	
City of San Mateo	
San Mateo Sheriff*	
South San Francisco	

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Appendix D - Example



Menlo Park Police Department
Policy Manual

Limited English Proficiency Services

368.1 PURPOSE AND SCOPE

Language barriers can sometimes inhibit or even prohibit individuals with limited English proficiency (LEP) from gaining meaningful access to, or an understanding of important rights, obligations and services. It is therefore the policy of this department to take all reasonable steps to ensure timely and equal access to all individuals, regardless of national origin or primary language (Title VI of the Civil Rights Act of 1964, § 601, 42 USC 2000d).

368.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized Interpreter - Any employee who is bilingual and has successfully completed department-prescribed interpreter training and is authorized to act as an interpreter or translator.

Bilingual - The ability to communicate in two languages fluently, including the ability to communicate technical and law enforcement terminology. Bilingual includes a variety of skill levels. For example, some bilingual individuals may be fluent enough to engage in direct communications in a non-English language but insufficiently fluent to interpret or translate from one language into another. For example, a bilingual individual, depending on his/her skill level, could be utilized to communicate fluently in a non-English language but not to interpret between two languages if he/she does not possess the specialized skills necessary to interpret between two languages effectively. In order to be utilized to interpret or translate from one language into another, an individual must possess the skill, training and demonstrated competence to do so. For purposes of this policy, employees, in order to be identified as bilingual, must initially and periodically demonstrate, through a procedure to be established by the Department, their level of skill and competence such that the Department is able to determine the purposes for which an employee's language skills may be used.

Interpretation - The act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.

Limited English Proficient (LEP) - Designates individuals whose primary language is not English and who have a limited ability to read, write, speak 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.

Translation - The replacement of written text from one language (source language) into an equivalent written text (target language).

368.2 FOUR FACTOR ANALYSIS

Since there are potentially hundreds of languages department personnel could encounter, the Department will utilize the four-factor analysis outlined in the Department of Justice *LEP Guidance to Federal Financial Assistance Recipients* available at the DOJ website in determining which measures will provide reasonable and meaningful access to

Limited English Proficiency Services - 183

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