



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

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CERTIFIED-RETURN RECEIPT REQUESTED

April 26, 2013

Stephen M. Rubin, Administrator
Pima County Juvenile Court
2225 E. Ajo Way
Tucson, AZ 85713-6295

Chad Campbell, Director
Juvenile Justice Services Division
Administrative Office of the Courts
Arizona Supreme Court
1501 W. Washington Street
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Re: Compliance Review Report of the Pima County Juvenile Court and the Arizona Supreme Court, Administrative Office of the Courts, Juvenile Justice Services Division (Docket No. 10-OCR-0195)

Dear Administrator Rubin and Director Campbell:

I am writing to report the findings of the compliance review of language services within the juvenile justice system of Pima County, Arizona conducted by the Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ). The OCR wishes to thank your respective staffs for assisting OCR Attorneys, [REDACTED] and Shelley Langguth, during the onsite visit dated May 3-5, 2010.

In my letters to your respective agencies dated January 29, 2010, I explained the OCR had selected your agencies for a compliance review under Title VI of the Civil Rights Act of 1964 (Title VI), the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act), and their implementing regulations. As I noted at that time, the OCR limited the scope of the

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compliance review to the provision of juvenile justice services¹ to juveniles and families² who are limited English proficient (LEP). An LEP person is an individual whose primary language is not English and who has a limited ability to read, write, speak, or understand English. Title VI, the Safe Streets Act, and their implementing regulations require that recipients of federal financial assistance ensure that LEP individuals are provided meaningful access to programs and activities.³ In June of 2002, the DOJ published guidance for its financial aid recipients on taking reasonable steps to provide meaningful access to programs and activities for LEP persons in accordance with Title VI and the Safe Streets Act.⁴ See Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (2002) (DOJ Guidance). Using the technical assistance standards in the DOJ Guidance, the OCR initiated this compliance review to determine the extent to which the Pima County Juvenile Court (PCJC), and the Arizona Supreme Court, Administrative Office of the Courts, Juvenile Justice Services Division (AOC, JJSD), provide language assistance services to LEP juveniles and LEP families of juveniles involved in the pre-adjudication phase of the juvenile justice system in Pima County.

After a thorough evaluation of the services provided by your respective agencies, including your responses to the OCR's data requests and the information the OCR gathered during conference calls with representatives from the AOC and the Arizona Attorney General's Office,⁵ and during its onsite visit, which included interviews with agency representatives, the OCR sent the PCJC and the AOC, JJSD a draft Compliance Review Report (Report) on February 13, 2012, in accordance with 28 C.F.R. §§ 42.107(d)(2) and .206(e).⁶ In our February 2012 correspondence, we requested each agency review the Report and notify us of any factual inaccuracies. Both the

¹ As explained during the OCR's onsite visit, the compliance review focused on the operations, programs, activities, and services of each agency that relate to the juvenile justice system up to, but not including, the adjudication stage, and the provision of language assistance services to LEP juveniles and their families during this period.

² Please note, the terms "family" and "families" include parents and legal guardians.

³ In addition, while the OCR did not conduct this review under the Juvenile Justice Act of 2002, we note the requirements under that Act to identify and mitigate disproportionate minority contact are also implicated by the language access for national origin minority LEP juveniles and families of juveniles having contact with the system.

⁴ The Department issued the DOJ Guidance in response to Executive Order 13166, which directed every federal agency that provides financial assistance to publish guidance addressing how their recipients can ensure meaningful access to their programs and activities by individuals who, as a result of their national origin, are LEP.

⁵ The Attorney General's Office serves as legal counsel to the AOC and the PCJC and participated in that capacity in the conference call with the OCR.

⁶ As part of the OCR's compliance review, we sent a letter to several community organizations serving LEP populations located within Pima County in an effort to solicit their perceptions of the services the PCJC provides to LEP juveniles and LEP families of juveniles. We received a response from two of the organizations and have provided an overview of their shared perceptions in Section II.C.10. of this Report.

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PCJC and the AOC, JJSD submitted a written response to our request dated April 26, 2012, providing both clarifying information and comments. In addition, the PCJC also provided information on a few actions it has taken relating to the provision of language assistance services since the time of the OCR's onsite visit. It appears most of the actions were taken following the issuance of our February 13, 2012 draft Report. The OCR has reviewed the comments and clarifying information provided by both agencies and incorporated some of the information into the draft Report to reflect practices *at the time* of our review. Any actions that either agency has taken subsequent to our onsite visit, along with the salient clarifications or concerns regarding the recommendations or statements, are discussed in footnotes to this Report.

We wish to clarify at the outset of this Report that our conclusion as to compliance is directed at the PCJC as it has sole responsibility for developing policies, programs and procedures for addressing the provision of language assistance to juveniles and their family members throughout all formal and informal proceedings at the PCJC. Additionally, unlike the AOC, JJSD, the PCJC is in direct contact with juveniles and their families during these proceedings as discussed more fully below.

Accordingly, with regard to the limited scope of our review, we conclude the PCJC is not fully compliant with the requirements of Title VI and the Safe Streets Act, although the PCJC has taken steps to provide LEP persons with meaningful access to its juvenile justice services.⁷ The PCJC should build on these steps consistent with the recommendations contained within this Report to ensure it satisfies its obligations under Title VI and the Safe Streets Act. The following Report contains observations about the language assistance provided to LEP juveniles and LEP families of juveniles having contact with the juvenile justice system in Pima County, along with recommendations based on the DOJ Guidance that the PCJC may find helpful in developing policies and procedures to improve services to LEP individuals.

Report

This Report begins by providing an overview of the roles and responsibilities of the AOC, JJSD, and the PCJC in connection with the juvenile justice system in Pima County. The Report then closely tracks the DOJ Guidance: first assessing each agency's obligation to provide LEP services and then reviewing the elements that each agency should include in a more effective plan for offering language assistance to LEP persons.

I. Overview of the AOC, JJSD and the PCJC

A. AOC & JJSD

⁷ Please note in some instances, the PCJC may be reliant on the AOC, JJSD to achieve compliance with Title VI and the Safe Streets Act with regard to the provision of language assistance services to LEP juveniles and LEP family members of juveniles who receive services from the external treatment providers that the AOC, JJSD contracts with on behalf of the PCJC. Please see Sections I.A. and II.C.5. of this Report for more details regarding this matter.

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The Arizona judicial system is a constitutionally unified court system and consists of the Arizona Supreme Court, the Court of Appeals, the Superior Court, and many county and municipal courts. The Arizona Constitution authorizes an administrative director and staff to assist the Chief Justice with administrative duties. Under the direction of the Chief Justice, the administrative director and the AOC staff provide the necessary support for the supervision and administration of all state courts.

The AOC is comprised of eight divisions, one of which is the JJSD. The JJSD is responsible for the effective administration of juvenile justice programs for delinquent and incorrigible youth in coordination with the juvenile courts. The JJSD's primary duties include allocating funding to the juvenile courts located throughout Arizona and ensuring those funds are utilized as intended. The JJSD also enters into, and maintains, contracts for treatment programs and therapeutic counseling that may be accessed by the juvenile courts for juveniles in need of such services.

With regard to the provision of language assistance services throughout the Arizona judicial system, Ariz. Rev. Stat. § 12-241 (2011) holds that a court *may* provide an interpreter when necessary.⁸ To this end, and reiterating our previous statement, all policies, procedures and protocol regarding the provision of language assistance services to LEP juveniles and their families are coordinated at the juvenile court level. As explained by the AOC, it does not establish, develop or manage any policies, protocols or procedures regarding the provision of language assistance services by employees of any of the juvenile courts to include the PCJC. The AOC also does not develop, administer or manage, on a day-to-day basis, any juvenile justice programs utilized by the PCJC, nor does it come into contact with any juveniles or their family members, LEP or otherwise, that enter the juvenile justice system through the PCJC or any other juvenile court within Arizona. Furthermore, the JJSD does not provide direct services to LEP juveniles and their family members, nor do they interface on any occasion with LEP juveniles and their family members accessing the PCJC.

The JJSD however, is responsible for allocating funding for use by the juvenile courts to include the PCJC, in order to seek services, to include specific treatments, from service providers in order to assist juveniles in need. As explained to the OCR, the JJSD does not establish, develop or manage any policies or protocols regarding what contracted providers the PCJC must use when attempting to provide services to juveniles, nor do they establish any policies, procedures or protocols for the PCJC's provision of language assistance services to LEP juveniles and their

⁸ In its April 26, 2012 response, the PCJC noted in addition to A.R.S. § 12-241, the Arizona Supreme Court held that due process of law requires continuous assistance of a competent interpreter when necessary to enable a criminal defendant to comprehend the proceeding sufficiently to exercise the defendant's rights. *State v. Rios*, 112 Ariz. 143 (1975). The PCJC stated this ruling applies to any court proceeding involving a juvenile charged with a delinquency offense thus, the PCJC stated it "does not view the provision of interpreter services in a juvenile delinquency court proceeding as discretionary," irrespective of the language of A.R.S. § 12-241. Given the clarifying information provided, the PCJC should memorialize this practice into its LEP Policy and Language Access Plan, the continued development of which is further discussed in Sections III. and IV. of this Report.

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family members during said services; however, the JJSD has taken some steps to identify external vendors that provide language assistance services. To explain, during the solicitation process the JJSD requires the applicant treatment vendor to disclose whether it utilizes bilingual staff and if so, the language spoken by its bilingual staff and if the vendor relies upon a qualified interpreter when providing language assistance. Within the Standard Terms and Conditions of the Contract between the JJSD and the treatment vendor, the following clause is found at Paragraph 55(e): “The Contractor shall not use the client’s family members or peers to translate languages to English. Only qualified interpreters and/or bi-lingual professional personnel must be utilized to provide services to monolingual clients and families.”

Thus, keeping in mind the focus of this review which includes the programs, activities, and services that relate to the juvenile justice system up to, but not including, the adjudication stage, and the language assistance services provided to LEP juveniles during this time frame, the balance of the Report, and the recommendations contained herein, will not be addressed to the AOC, JJSD *with the exception* of the OCR’s discussion of ensuring the provision of language assistance to LEP juveniles and LEP family members of juveniles who are receiving services from the external treatment providers the AOC, JJSD directly contracts with on behalf of the PCJC. A more detailed discussion on this matter is addressed in Section II.C.5. of this Report.

B. PCJC

The juvenile court is a division of the Arizona Superior Court, and there are fifteen juvenile courts in Arizona—one in each county in the state to include Pima County. The presiding judge of the Superior Court appoints a presiding judge over each juvenile court that is responsible for the administration of the juvenile court for which he or she presides. The Arizona Revised Statutes mandate the proceedings and programs conducted by the juvenile court, and the Arizona Supreme Court has established procedural rules that govern the juvenile court.

The PCJC maintains jurisdiction over all children under the age of eighteen⁹ who are referred to the Court for mental health, incorrigibility, and delinquency reasons,¹⁰ and for all families involved in dependency, severances and adoption matters. The PCJC is responsible for providing court mandated services to all juveniles falling under its jurisdiction. The PCJC is comprised of six judges who are appointed by the Governor, and six commissioners and a hearing officer who are appointed by the presiding juvenile court judge. The PCJC has approximately 600 employees divided among fifteen varying divisions and offices.¹¹

⁹ By state statute, a juvenile is defined as a minor, child or youth under the age of eighteen. See Ariz. Rev. Stat. § 8-201 (2011).

¹⁰ Per the PCAO, all misdemeanor traffic offenses involving a juvenile that do not involve allegations involving drugs or alcohol are processed in the city court located in the jurisdiction of the arresting agency.

¹¹ In its April 26, 2012 response, the PCJC provided updated figures reflecting a total of 500 employees divided among six primary divisions to include the court bench.

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The most relevant of those offices to this review is the Probation Services Division (PSD) which manages the majority of the pre-adjudication services offered by the PCJC. The PSD is responsible for the intake and evaluation of every juvenile who becomes involved with, or by whom, is referred to the PCJC. The PSD reviews each incoming referral to determine whether a particular juvenile's case is a candidate for diversion or if more serious action is necessary. If deemed appropriate, the PSD will determine the type of diversion best suited for the juvenile.

II. Assessing the Obligation to Provide LEP Services

According to the DOJ Guidance, a recipient's obligation to take reasonable steps to ensure meaningful access to its programs and activities for LEP persons requires an assessment that balances the following four factors: (1) the number or proportion of LEP persons that are the likely beneficiaries of a recipient's services; (2) the frequency with which LEP persons come into contact with the recipient's programs or activities; (3) the nature and importance of the program, activity, or service provided; and (4) the resources available to the recipient and the related costs. See 67 Fed. Reg. at 41459-61. In considering the application of these four factors to the PCJC, the OCR offers the following observations and recommendations.

A. The Number or Proportion of LEP Individuals in the Service Population

As noted above, the PCJC has jurisdiction over juvenile matters occurring in Pima County. Based on U.S Census Bureau data, Pima County had an estimated population of 925,710 residents age five and older. Of this group, approximately 667,042 only spoke English and 257,996 spoke a language other than English. See U.S. Census Bureau, American FactFinder, 2006-2008 American Community Survey, Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over, Pima County, Arizona; American FactFinder, 2005-2009 American Community Survey, Characteristics of People by Language Spoken at Home, Pima County, Arizona; <http://factfinder.census.gov>. Of those individuals age five and older who spoke a language other than English, 214,886 spoke Spanish with roughly one-third of this number, 75,587, speaking English less than "very well." Id. The DOJ has identified those people who speak English less than "very well" as LEP. Other foreign language populations located in Pima County with more than 1,000 individuals age five and older speaking a language other than English include: Russian (2,647 of which 1,294 speak English less than "very well"); Vietnamese (2,899 of which 1,916 speak English less than "very well"); and Chinese (4,840 of which 2,845 speak English less than "very well").¹² Id.

In its response to the OCR's data request, the PCJC provided the OCR with data from the U.S. Census Bureau and the Arizona Department of Education (DOE) regarding LEP juveniles in Pima County. The Census Bureau data indicated there were 236,544 children under the age of

¹² See infra Section II.B.1. for a discussion of the provision of written language assistance services to these language groups.

18 in Pima County, of which 53,876 identified their national origin as Hispanic. The data provided by the DOE for the 2008-2009 academic school year indicated there were 165,351 students enrolled in Pima County public schools,¹³ of which 18,641 indicated a need for language instruction. The DOE, however, qualified this figure by emphasizing in its response to the PCJC that the need for language instruction is not an “absolute indicator” of a student’s English proficiency; rather the figure merely represents the number of students enrolled in a language program.

B. Frequency of Contacts with LEP Persons

1. PCJC Data Collection

The PCJC has established a system to collect data relating to the language services provided throughout the PCJC. This system is able to identify to whom language assistance services were provided, in what context (e.g. detention or delinquency hearing), and the language in which assistance was provided. This data is tabulated by the PCJC, Court Interpreters Support Specialist, who is responsible for tracking and compiling data from a variety of sources that include the following: an electronic case management system entitled, JOLTS,¹⁴ that allows employees to denote the need for language assistance and in what language; daily docket calendars denoting the name of a particular court proceeding and the parties attending; any requested foreign language assistance and the assigned interpreter; and requests for interpreter assistance from PCJC employees that are forwarded to the Court Interpreters Support Specialist who is responsible for coordinating all requests for language assistance throughout the PCJC.

Based on a review of data compiled from all tracking sources, the PCJC stated in its data response that it served a total of 9,490 juveniles during the period of January 1, 2009 through December 31, 2009. The PCJC identified the specific number of juveniles represented for each race or ethnicity as follows: White, non-Hispanic (3,500), White, Hispanic (4,686), African American (738), Native American (366), and Other (202). For the time period of January 1, 2008 through December 31, 2008, the PCJC served a total of 9,857 juveniles. Of this number, the juveniles represented the following race or ethnicity: White, non-Hispanic (3,621), White, Hispanic (4,867), African American (789), and Native American (384).¹⁵

¹³ The DOE stated the term “public school” includes district and charter schools, but does not include parochial and private schools as neither are required to report to the DOE.

¹⁴ JOLTS stands for Juvenile On Line Tracking System. As noted above, JOLTS is an electronic case management system comprised of a series of “screens” where PCJC employees can enter legal or demographic data relating to a juvenile within the jurisdiction of the PCJC. For example, when a juvenile is processed at intake, the PCJC employee can denote on the JOLTS screen assigned to his office that foreign language assistance is needed by either the juvenile or a family member. Once this information is entered into JOLTS, it becomes part of the juvenile’s electronic record, following the juvenile throughout his time at the PCJC, and is viewable by court employees.

¹⁵ Please note the PCJC captures data by race and ethnicity, but not national origin. Also, the PCJC did not provide

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The PCJC also provided data for the time period of January 1, 2008 through December 31, 2009, identifying when language assistance was provided in hearings¹⁶ involving delinquency cases. This data was broken down by the total number of times language assistance was provided in a particular foreign language and to whom it was provided. The relevant data is as follows: Dinka (11) (Parents), Krahn (2) (Mother), Korean (1) (Mother), Japanese (1) (Parent), Mandarin (3) (Parents), Russian (2) (Mother), Somali (32) (Mother, Father, Minor), Spanish (4,594) (Mother, Father, Grandparents, Placement, Guardian, Witness, Victim), Swahili (19) (Victim, Minor, Mother), Thai (15) (Father, Minor), and Vietnamese (17) (Mother, Father, Minor, Grandparent).

More generally, the PCJC provided data for the time period of January 1, 2008 through December 31, 2009, which reports the provision of language assistance by foreign language and the party to whom assistance was provided. That data is as follows: Anuak (Parents), Bosnian (Parents), Croatian (Parents), Grebo (Father), French (Father), Lebanese (Mother), Marshallese (Parents), Navajo (Mother), O'dham (Placement), Portuguese (Father). For this data set, the PCJC did not track the specific setting in which language assistance was provided other than to identify it was *not* provided at delinquency hearings.

Outside of delinquency hearings, and for the same time period as noted above, the PCJC provided the following data identifying the number of times language assistance was provided at other court related events: Adjudication Hearing (218), Adjudication Day 1 Hearing (4), Adjudication Day 2 Hearing (14), Adjudication Day Hearing (3),¹⁷ Adjudication/Disposition Hearing (1), Change of Plea Hearing (24), Detention Hearing (868), Disposition Hearing (964), Disposition & Trial Review Hearing (42), Drug Court Hearing (143), Probation Officer Interviews (185), Probation Review Hearing (194), Restitution Hearing (64), Status Hearing (159), and Trial Review Hearing (1,885). For events in this data set, the PCJC did not track to whom foreign language assistance was provided or in what language assistance was provided.

Finally, in response to our request for information, the PCJC reported it provided written translation services for the time period of January 1, 2008 through December 31, 2009, as follows: Appeal of Parental/Financial Assessment Form (2), Delinquency Case Report for Victims (8), Delinquency Forms (25), Dependency Forms (18), Family Drug Court Forms (9), Letters & Pamphlets (12), Mediation Agreement (7), and Probation Forms (17). Again, for this category of data, the PCJC did not indicate what foreign languages required translation.

the total number of youth served in the category of "Other" for the time period of January 1, 2008 through December 31, 2008.

¹⁶ In its April 26, 2012 response to the OCR, the PCJC clarified that hearings in this data set included all pre- and post-adjudication proceedings and dependency hearings.

¹⁷ The OCR has copied this data from the PCJC's data response as denoted; however, we believe this category should read, "Adjudication Day 3 Hearing."

Recommendations

With regard to the identification of the number or proportion of LEP individuals serviced by the PCJC, neither set of data provided demonstrates the number of LEP juveniles by language spoken located within Pima County. We also cannot assume that a juvenile is LEP from their identified national origin. Although the DOE provided the number of juveniles within the public school who received language instruction, again, from this data we cannot assume that juveniles requesting said instruction are LEP, nor do we have any idea of the foreign language these students speak. Thus, the PCJC should review the latest data from the U.S. Census Bureau to determine more accurately the language assistance needs of the population under its jurisdiction to more precisely identify LEP populations. It is important to note the service population includes not only juveniles, but the LEP population in general, as it is often the families of juveniles who are LEP. Mindful of this, the PCJC should consult recent data from the U.S. Census Bureau, and request from the DOE, more specific data about the students who are receiving language instruction to include the language(s) other than English that these students speak at home. More detailed data of this type can assist the PCJC in numerous ways to include the allocation of its language assistance services, the need to hire bilingual staff, and the need to identify other languages in which to translate documents.

As for the frequency of contacts with LEP individuals, the PCJC has done a good job of tracking and tabulating the language assistance services it provides during varying court services and the many judicial proceedings and hearings occurring at the PCJC. In an effort to enhance its current tracking system, the OCR recommends the PCJC provide a breakdown of the data it collects to specifically denote the foreign language in which assistance is provided, and to whom it was provided, in *all* of the proceedings conducted at the PCJC akin to the breakdown provided for delinquency hearings.

C. Important Public Services to LEP Juveniles and LEP Family Members

This Section of the Report discusses a variety of important public services the PCJC offers to juveniles and family members of juveniles that access the juvenile justice system at the PCJC. We have provided a summary of the important public services afforded to juveniles and their families during the pre-adjudication stage, and include recommendations, if any, for the PCJC's consideration immediately following the service described.

1. PCJC's Staff Interpreter Program

The PCJC provides language assistance services at no cost to individuals in need during any of the judicial proceedings, hearings and court mandated services occurring throughout the juvenile court. The PCJC draws upon three different sources to provide language assistance to include staff interpreters, contract interpreters and bilingual employees. The circumstance in which each source is relied upon is dependent on the information conveyed. Specifically, in all formal court

proceedings, hearings, and probation interviews, language assistance is primarily provided by PCJC staff interpreters. When staff interpreters are unable to assist, the PCJC relies upon contract interpreters and, if necessary, a telephonic interpreter service. When language assistance is required to communicate informal information such as providing directions, where to pay a fine or hours of operation, in addition to relying upon staff interpreters, language assistance is also provided by bilingual employees. Regardless of the method in which language assistance is provided, the PCJC offers assistance from the moment an LEP juvenile or LEP family member enters the juvenile court through all stages of the pre- and post-adjudication process. However, consistent with the focus of our review, the important services discussed in this Section address only pre-adjudication services.

The PCJC has three Spanish-speaking staff interpreters, two full- and one part-time,¹⁸ who are primarily responsible for providing interpretation in all PCJC judicial hearings, interviews and proceedings. Although the PCJC does not certify the language proficiency skills of its staff interpreters, nor is there any state statutory requirement to do so, the PCJC does require applicants for the position of staff interpreter to possess three years of professional interpreting experience.¹⁹ Furthermore, the PCJC stated that prior to employment with the PCJC, the language skills of staff interpreters were certified by what it considers a qualified external source to include the foreign language lab at the University of Arizona and the Federal Court Interpreters program. Although the PCJC does not independently certify the language skills of its staff interpreters, it has tested the foreign language skills of applicants in the past.²⁰ Specifically, in its data response, the PCJC provided some information about past testing practices relied upon to include a description of successful characteristics of an interpreter and the language skills tested, such as sight and written translation.

While onsite, the OCR requested additional details about the former testing process and the exam itself. In response, the PCJC Deputy Director explained that he, along with a long-term staff interpreter, is revamping the previous exam, and once revamped the new exam will utilize juvenile court transcripts from various proceedings to test the applicant's simultaneous,

¹⁸ During the OCR's onsite visit, PCJC officials informed the OCR that an additional full-time staff interpreter position remains vacant and is unfunded due to budgetary constraints. The PCJC updated this information in its April 26, 2012 response stating that the noted full-time staff interpreter vacancy was filled and the PCJC was in the process of also filling a new supervisory position.

¹⁹ The PCJC provided the OCR with a copy of a job announcement for the position of court interpreter. In the announcement, the minimum requirements for the position included, among other things, three years of continuous professional experience interpreting, with at least one year of experience in legal interpreting, and some translation from Spanish to English and English to Spanish. Alternately, the minimum requirements for the position could be satisfied by any equivalent combination of experience, training and/or education that demonstrated the ability to perform the essential functions of the position.

²⁰ While onsite, the OCR spoke with two of the PCJC staff interpreters of which only one stated their language skills were tested by the PCJC prior to hire.

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consecutive, and sight translation skills. The Deputy Director went on to explain the newly developed assessment exam will be administered by the Human Resources Department with oversight from the Deputy Director and current staff interpreters.²¹

When an LEP individual needs language assistance, a PCJC employee may submit a request for assistance to the PCJC, Court Calendar Support Office, Court Interpreters Support Specialist, who is responsible for coordinating and scheduling all requests for language assistance.²² The Court Interpreters Support Specialist receives requests for assistance from employees by way of e-mail, telephone and in writing, and prepares a daily calendar for all court proceedings, hearings and interviews. The daily calendar is disseminated to all scheduled interpreters one day prior to the proceeding in which language assistance is required and denotes the following for each proceeding: the interpreter assigned to provide language assistance and in what language, and the parties requiring assistance. To ensure adequate interpreter coverage, the Court Interpreters Support Specialist schedules a daily “on-call” interpreter in the event a particular matter runs longer than expected and to ensure the provision of language assistance in last-minute requests.

Recommendations

For recommendations regarding the PCJC’s language assistance measures, please see Section III. A. and Section IV. of this Report.

2. Contract Interpreters, Bilingual Employees and Language Connection

As noted above, the PCJC also relies upon contract interpreters to assist in the provision of language assistance services to LEP juveniles and LEP family members of juveniles. Contract interpreters are relied upon in the same circumstances as staff interpreters to include all judicial hearings, interviews and proceedings, and are called upon when staff interpreters are booked or a language other than Spanish is required. The Court Interpreters Support Specialist is responsible for requesting and coordinating assistance from contract interpreters on a rotating basis and maintains a register of contract interpreters to call upon when in need. The register is comprised of two separate lists of interpreters and as it was explained to the OCR while onsite, the qualifications of the interpreters on the “preferred” list are heavily screened by the PCJC Deputy Director, and represent those interpreters most frequently relied upon. The interpreters on the second list are relied upon when, and if, those on the first list are unavailable.

²¹ In its April 26, 2012 response, the PCJC stated that subsequent to the OCR’s May 2010 review, the PCJC completed revisions and improvements to its staff interpreter exam and testing process. The PCJC did not elaborate, however, on what revisions or improvements were made or in what way they enhanced the program.

²² This practice was memorialized in a Memorandum dated April 5, 2007, from the PCJC Deputy Director to all PCJC employees. The Memorandum states the practice of requesting language assistance was implemented after a review was conducted by the Human Resources Department and an external consultant on how to improve the operation of the staff interpreters.

In its data response, the PCJC provided a list of contract interpreters which contained 177 interpreters representing dozens of foreign languages.²³ The PCJC Human Resource Division conducts background checks on all contract interpreters and assists in recruiting and interviewing the prospective contractor. Prior to hire, contract interpreters must attend an orientation and are provided an eighteen-page manual entitled, "Interpreter Per Diem Packet," which must be reviewed and signed signifying receipt and acknowledging its content. The manual discusses in detail the following topics: the expectations of an interpreter, hours of interpretation, dress code, PCJC procedures, interpreter protocol, available resources to include references to legal dictionaries and basic legal terminology specific to each type of juvenile proceeding or hearing, a sample diagram of a courtroom, flow charts outlining the juvenile justice process for delinquency and dependency hearings, and the Code of Professional Responsibility for Interpreters. As with staff interpreters, contract interpreters are not required by PCJC or state statute to be certified. However, while onsite, the PCJC stated the language skills of most, if not all, contract interpreters relied upon were certified by an external source.

As noted above, the PCJC may also seek language assistance from bilingual employees who self-identify both their language skill and capability. The PCJC explained that bilingual employees are *never* relied upon to provide language assistance in any formal judicial hearing, proceeding or interview, and are only relied upon to convey informal or basic information such as court hours, directions, and where to pay a fine or file a report. When asked to provide a list of all bilingual employees by language spoken, the PCJC stated it was unable to do so given the large number of resources required to manually identify all bilingual employees represented within the more than 600 total employees. However, while onsite, the PCJC was able to provide a list of PSD employees to include probation officers located within the Intake, Evaluation, Diversion and Investigation Units who self-identified speaking a language other than English. Based on that list, there are a total of 204 PSD employees, of which 27 self-identified speaking the following languages: Spanish (23), Swahili (1), Polish (1), Vietnamese (1), and one employee speaks five languages to include Hindi, Marathi, Konkani, Portuguese, and French. Of the 27 employees who speak a language other than English, (11) are probation officers and (4) serve in supervisory roles within the PSD.

Finally, and as a last resort, the PCJC stated it may use a telephonic interpreter service entitled, Language Connection, to provide language assistance if no other resources are available. However, while onsite, the PCJC Deputy Director stated he could not recall a time when the juvenile court needed to rely upon Language Connection and estimated the court, rarely, if ever,

²³ The contract interpreters spoke the following foreign languages: Amharic, Anyuak, Oromo, Triginia, Arabic, French, Russian, ASL, Bosnia, Serbian, German, Bulgarian, Cambodian, Cantonese, Mandarin, Chinese, CART, Creole, Krahn, Croatian, Czech, Dinak, Swahili, Farsi, Filipino, Tagalog, Dioula, Bafang, Vietnamese, Hungarian, Greek, Hindi, Punjabi, Urdu, Bengali, Italian, Japanese, Kanjobal, Kiche, Krahn, Korean, Loatian, Thai, Latvian, Lithuanian, Marshallese, MayMay, Mixtec, Navajo, Papti', Jakalteco, Philippine, Tagalog, Polish, Portuguese, Spanish, Tamil, Laos, Tohono O'Odham, Tongo Is, Triginia, Turkish, Tzotil, and Vietnamese.

utilizes this service given the variety of in-person interpreters available for the PCJC to draw upon. In its data response, the PCJC stated it does not maintain a contract for services with any telephonic interpreter, but does have an account with Language Connection. The PCJC did not provide the OCR any records or billing reports that would identify any instance in which the PCJC relied upon Language Connection.

Recommendations

For recommendations regarding the PCJC's language assistance measures, please see Section III. A. and Section IV. of this Report.

3. PCJC Intake and Evaluation Units

a. Intake Unit

The PCJC, PSD, Intake Unit is responsible for the initial screening of all referred charges alleging a juvenile engaged in a delinquent or incorrigible act.²⁴ Through the screening process, the Intake Unit officers review the allegations for completeness and forward the allegations to the Pima County Attorney's Office (PCAO) who determines if probable cause exists in the referred matter. The PCAO then determines whether to file a petition, deny the referral, divert the referral from formal court processing to informal processing, or whether to detain a juvenile. A juvenile is only referred to the PCJC by a local law enforcement agency,²⁵ probation officer or court order. Parents and school officials may not refer a juvenile to PCJC for review, but may contact the Intake Unit for guidance regarding a particular matter and the PCJC will provide information about possible community resources that may be available to assist. Juveniles are referred to the PCJC by way of either a physical or paper referral. The processing and path down which each referral may lead within the PCJC is discussed immediately below.

i. Paper Referral

²⁴ The PCJC does not have jurisdiction to review status offenses which include the following offenses: runaway, truancy, incorrigibility, health/welfare/morals, and curfew. The PCJC also cannot review the following charges filed against a juvenile aged 15-17: 1st and 2nd degree murder, forcible sexual assault, armed robbery, aggravated assault with a deadly weapon (gun or knife) or with serious physical injury, drive-by shooting; and discharge of a firearm at a structure. See Ariz. Rev. Stat. § 13-501 (A), (G) (2011). Finally, the PCJC only receives for review charges filed against a juvenile involving the following traffic offenses: driving under the influence, felony traffic, and reckless driving when the juvenile is also charged with another criminal offense. As noted earlier in this Report, all civil traffic matters and those traffic offenses not noted here are referred to the Justice of the Peace Courts or the appropriate city court. See PCJC, Physical Referral Process Manual.

²⁵ The local law enforcement agencies the PCJC may receive juvenile referrals from include but is not limited to: Tucson Police Department, Oro Valley Police Department, Pima County Sheriff's Office, City of South Tucson Police Department, City of Sahaurita Police Department, and the Arizona Department of Public Safety.

A juvenile may be referred to the PCJC by way of a paper referral from the local law enforcement agencies identified in footnote 25 of this Report and PCJC probation officers. With a paper referral, the juvenile is typically released to the parent or legal guardian on the promise that either party will present the juvenile at any future PCJC court proceeding or hearing. When the PCJC initially receives the paper referral denoting the delinquent or incorrigible act alleged against the juvenile, it is processed by a probation support staff employee who forwards the referral to a probation officer assigned to the geographical area in which the juvenile resides. Upon receipt, the Intake Unit probation officer reviews the file, ascertains the status of any existing or previous complaints, and updates the JOLTS system to reflect the newly received referral. At this point, the referral is forwarded to a probation officer within the Evaluation Unit who is assigned to the geographical area in which the juvenile resides. The duties and responsibilities of the Evaluation Unit are discussed below in Section II.C.3.b. of this Report.

ii. Physical Referral

In a physical referral, a juvenile is physically transported to the PCJC, Detention Facility by the arresting local law enforcement agency. Upon arrival, Intake Unit staff review the charging documents provided by the arresting officer to confirm the alleged charges against the juvenile fall within the immediate review of the PCJC. If the PCJC has jurisdiction, the juvenile enters the Detention Facility to begin the initial review and screening process. At this time, the juvenile's parents or guardian are notified that their child is at the PCJC Detention Facility. If the parent or guardian cannot be reached, probation staff will request the arresting agency attempt to contact or locate the parent or guardian to notify them of the juvenile's whereabouts and explain why the juvenile is in custody. If the juvenile is to be released, the parent or guardian is instructed to pick-up the juvenile from the Detention Facility.²⁶ If, however, it is determined the juvenile will be detained, the parent or guardian is then informed of the pending detention hearing which is discussed below in Section II.C.6.

Next, the juvenile is asked to relinquish all personal property, a physical pat down is conducted and a photograph of the juvenile is taken for identification purposes. The juvenile is initially screened by contracted medical staff²⁷ to determine if any medical or mental health services are needed. If the juvenile does require services of this nature that are not offered at the PCJC Detention Facility, the arresting agency must then transport the juvenile to a facility that can provide these services. If, however, the juvenile does not require mental or medical services beyond what the PCJC can provide, a more in-depth mental health screening tool entitled,

²⁶ In its data response, the PCJC stated if the PCJC or the arresting agency is unable to locate the juvenile's parent or guardian in order to pick-up the juvenile upon release, the juvenile is released to the custody of Child Protective Services, Department of Economic Security.

²⁷ In its April 26, 2012 response, the PCJC clarified that detention staff may also conduct the initial screening.

“MAYSI-2,” is presented to the juvenile to personally complete. The MAYSI-2 consists of a series of questions directed to youths ages 12-17 in which the responses assist in identifying youth who may have special mental health needs to include suicidal ideations. The assessment is translated into Spanish.

Following the MAYSI-2 screening, the juvenile meets with an Intake Unit probation officer who reviews the MAYSI-2 results and also assesses the juvenile utilizing an objective, validated assessment tool entitled, “Risk Assessment Instrument,” (RAI).²⁸ Unlike the MAYSI-2, the RAI is *not* completed by the juvenile, but is instead completed by the probation officer. The RAI is used to determine whether the juvenile will be detained or released by considering such factors as community safety and jurisdictional and custodial protection issues. The RAI is based on a point system which assists the probation officer in determining whether the juvenile can be safely released back into the community or if the juvenile should be detained.

If the juvenile’s RAI score is below 12, the officer may release the juvenile to the parent or guardian without any conditions of release. With supervisory approval, the officer may detain a juvenile who receives a score under 12; however, the PCJC stated that an override of this nature is only requested in circumstances when the probation officer perceives the juvenile is a threat to the community.²⁹ If the juvenile is released, the parent or guardian is advised of any future court proceedings at the time they pick-up the juvenile. If the juvenile receives a RAI score above 12 thus, rendering the juvenile detained, the juvenile will remain at the PCJC Detention Facility, pending the detention hearing. At this point, a formal petition alleging the juvenile engaged in incorrigible or delinquent conduct must be filed by the Pima County Attorney’s Office (PCAO) within twenty-four hours from admission to detention. See 17B A.R.S. Juv.Ct.Rules of Proc., Rule 23 (2011). The detention hearing must also be held within twenty-four hours of the filing of the petition. Id. The detention hearing is discussed more fully below in Section II. C. 6. As with the paper referral process, the matter is now forwarded to the Evaluation Unit and is matched with a probation officer assigned to the geographic area in which the juvenile resides. The duties and responsibilities of the Evaluation Unit are discussed immediately below in Section II.C.3.b. of this Report.

Regarding the identification and provision of language assistance during the intake process to include both the paper and physical referral process, the PCJC stated in its data response it first becomes aware that a juvenile or his or her family member(s) may be LEP as follows: if the arresting officer indicated such on the paper referral; upon meeting the juvenile when physically referred; or when staff initially contact the parent or guardian to either schedule an interview or inform them the juvenile is at the PCJC Detention Facility. The PCJC went on to explain that

²⁸ Per the PCJC, the RAI was developed using best practices and with professional consultation from the Anne E. Casey Foundation Juvenile Detention Alternatives Initiatives.

²⁹ During our onsite interviews, Intake supervisory staff explained to the OCR that juveniles scoring a RAI under 12 and that are detained are usually those juveniles not in school or currently on probation.

regardless of when they become aware the juvenile or the juvenile's family member is LEP, intake staff immediately denote the need for language assistance in the JOLTS system. If the LEP juvenile or his or her family speak Spanish, and the information conveyed is informal in nature such as providing directions, hours of operation or requesting that a parent pick-up their child, language assistance is immediately provided by a bilingual Intake or Detention employee. If the information is more serious in nature, then language assistance is provided by either a Spanish-speaking staff interpreter within normal business hours, and if after-hours, the Intake Unit staff will contact a contract interpreter contained on the list provided by the Court Interpreters Support Specialist. If a language other than Spanish is required, Intake staff will request language assistance from the Court Interpreters Support Specialist during normal business hours, and if after hours, will again consult the list of contract interpreters assembled by the Court Interpreters Support Specialist. Lastly, the Intake and Detention staff may rely upon Language Connection, a telephonic interpreter service if no other means of rendering language assistance are available.

During onsite discussions, Intake and Detention staff explained to the OCR that Spanish is the most commonly encountered foreign language spoken by juveniles and their family members and more often than not, the parent or guardian is LEP, and not the referred juvenile. When asked to estimate the number of encounters with LEP individuals, Intake staff approximated they had contact with an LEP juvenile about once a week, but daily contact with an LEP family member of a referred juvenile. Furthermore, the Intake Unit staff we spoke with stated it is uncommon to encounter a language other than Spanish, but if encountered, they would rely upon the contract interpreters for language assistance. None of the Intake or Detention staff that we spoke with while onsite could recall an instance in which they were unable to communicate or needed to rely upon Language Connection for the provision of language assistance.

b. Evaluation Unit

The Evaluation Unit is responsible for reviewing assigned referrals and then interviewing juveniles and their parent or guardian to determine if the juvenile may be accepted into the PCJC's Evaluation or Diversion Programs. If accepted into either program, a juvenile is then effectively diverted from formal court proceedings. Specifically, as explained by the PCJC, because the majority of the referrals received at Intake consist of infractions that do not appear to require a petition or adjudication and formal court disposition,³⁰ the PCJC has attempted to employ a more efficient, less invasive and more economical manner to handle these matters. Thus, the Evaluation Unit's purpose in reviewing incoming referrals³¹ is to determine which

³⁰ Such infractions include misdemeanors and certain felonies such as shoplifting, trespassing and disorderly conduct.

³¹ The Evaluation Unit officer may receive referrals for offenses that do not qualify for the Evaluation program due to the nature of the offense such as felonies. In this instance, these referrals are sent to the PCAO for review and determination of another course of action such as filing a petition or referring the matter to the Diversion Program.

juveniles are least likely to reoffend and those who may possess the highest rates of recidivism. The priorities of the Evaluation Unit officers are to assess the risk the minor may pose to the community and identify the needs to be addressed to prevent the juvenile from repeating the delinquent act. The Evaluation Program provides the juvenile the opportunity to complete required conditions,³² referred to by the PCJS as assigned consequences, with less supervision; whereas, the Diversion Program is most suited for juveniles who qualify for pre-adjudication services, but the Evaluation officer believes the juvenile requires a more structured, supervised environment to complete assigned consequences.

As noted above, after a referral is initially screened and processed by the Intake Unit, it is referred to a probation officer located within the Evaluation Unit. Upon receipt of the referral, the probation officers within the Evaluation Unit contact the juvenile's parent or guardian in order to schedule an in-person interview with the juvenile and the juvenile's family, if one is required.³³ The purpose of the interview is to gather additional information about the juvenile to include his or her stability, overall well-being, behaviors and tendencies, school history, and the juvenile's family situation and dynamics as well as the stability of the home environment. If, upon contact, the officer identifies the parent or guardian is LEP and speaks Spanish, the officer will communicate in Spanish if the officer is able and comfortable in so doing. If the officer is unable or unwilling to communicate with the parent or guardian, language assistance is requested from a Spanish-speaking probation officer located within the Intake or Detention Units. If no Spanish-speaking staff is available to assist, or a language other than Spanish is needed, the probation officer will request language assistance from the Court Interpreters Support Specialist in order to schedule the interview. In addition to attempting to directly contact the juvenile's parent or guardian, the officer also sends what is entitled an "Appointment Letter," to the parent or guardian of the juvenile. The letter, which is translated into Spanish, notifies the parent or guardian and juvenile of the scheduled interview with a probation officer. The letter also provides the parent or guardian notice of the availability of language assistance, instructing the parent to contact the PCJC if they require an interpreter so that one may be scheduled for the upcoming interview. A follow-up letter is mailed to the juvenile and their family as a reminder of the interview, and a "Final Appointment" letter is mailed if either the juvenile or their family do not attend the interview. All three letters are translated into Spanish. Finally, if the juvenile or the parent or guardian is LEP, the officer will contact the Court Interpreters Support Specialist to arrange for the provision of language assistance during the interview. If language assistance is

³² A few examples of the required conditions assigned by the Evaluation Unit are as follows: community service and periodic drug and alcohol testing.

³³ The following exceptions apply to the in-person interview of a newly received paper referral: if the juvenile is a current parolee, if the juvenile was previously on probation and is now referred on a felony, the juvenile was released from evaluation, probation or diversion within one year from the new referral date, the referral date is within 90-days of his or her 18th birthday, if the juvenile resides outside Arizona, the juvenile was physically referred for the pending criminal complaint, or the juvenile reoffended after an initial interview with an Evaluation Officer. See PCJC Evaluation Procedures Manual (1/4/10).

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needed in Spanish, staff interpreters will assist, and if they are unable or another foreign language is required, assistance during the interview is provided by a contract interpreter.

At the outset of the interview, the officer will Mirandize the juvenile before discussing the pending charges. The officer next explains the following to the juvenile and their parent or guardian: the court process; implications of admitting or denying the pending charges; the difference between pre-adjudication conditions and Court-ordered conditions; and the difference between successfully satisfying any pre-adjudication conditions offered through the Evaluation or Diversion Programs versus being adjudicated delinquent. The juvenile is then offered the opportunity to provide a statement, explain the circumstances surrounding the event in question, and address any differences between their version of events and the description provided by the police officer in the charging document. Upon considering all the information presented, the Evaluation Unit officer decides whether to divert the juvenile from formal court proceedings.

Recommendations

For general recommendations about the PCJC's provision of language assistance measures please see Section III. and IV. of this Report.

5. Diversion Opportunities: Evaluation Program & Diversion Program
 - a. Evaluation Program

As noted above, the Evaluation Program provides juveniles an opportunity to complete assigned consequences with less supervision. To be diverted from formal court proceedings and accepted into the Evaluation Program, a juvenile must admit to the pending charges. If the juvenile admits to the charges, the Evaluation Unit officer may accept the case into the Evaluation Program and assign consequences that the juvenile must complete in order to avoid formal court proceedings. The consequences are memorialized in a formal contract, entitled, "Evaluation Contract," and must be signed by both the juvenile and the juvenile's parent or guardian. The Evaluation Contract is translated into Spanish. The PCJC stated language assistance in a language other than Spanish is coordinated through the Court Interpreters Support Specialist who arranges for a contract vendor to translate the document. Examples of the types of consequences that may be assigned to a juvenile accepted into the Evaluation Program include restitution to the victim, community service, and periodic drug and alcohol testing. The juvenile generally has thirty days to satisfy the terms of the Evaluation Contract, however, an extension may be granted depending on the circumstances of a particular case.

- b. Diversion Program

The PCJC Diversion Program is the only supervised diversion program in Arizona for juveniles and like the Evaluation Program, was created to afford juveniles an additional opportunity to

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avoid formal court proceedings. The Diversion Unit's goal is to provide to juveniles, supervision and services when appropriate and authorized community-based services and restorative justice opportunities at the pre-adjudication level in an effort to prevent further delinquent behavior.

As noted above, one way in which a juvenile is referred to the Diversion Program is when the juvenile qualifies for the Evaluation Program, but the Evaluation officer believes the juvenile needs more structured services. The nature of the offense committed by the juvenile, gang involvement, substance abuse, familial issues, and school problems are a few reasons why an Evaluation officer may also refer a juvenile to the Diversion Program. Additionally, those matters that do not automatically qualify for the Evaluation Program due to the nature of the offense and require review by the PCAO such as felony crimes, may also be funneled to the Diversion Program for review and acceptance. Finally, referrals in which the PCAO has filed a petition may be assigned to the Diversion Unit. This course of action is generally a result of negotiations between the PCAO and the juvenile's attorney.

Regardless of how the juvenile is referred to the Diversion Unit, the Diversion officers are responsible for conducting an interview of the juvenile and the juvenile's family within two weeks of receiving the assigned referral. Contacting the juvenile and the juvenile's family and the provision of any needed language assistance during this initial contact and subsequent interview is provided in the same fashion as is done by the Evaluation Unit and described in Section II.C.3.b. of this Report (e.g., if officer unable to communicate then language assistance is requested from another probation officer or through the Court Interpreters Specialist). The interview with a Diversion Unit officer also follows the same process as the interview conducted by the Evaluation Unit and the information gathered during the interview assists the officer in determining whether to accept the juvenile into the Diversion Program.

Akin to the Evaluation Program, the juvenile must admit to the pending charges in order to be admitted into the Diversion program. Assuming the juvenile admits to the charges and is accepted into the program, the officer assigns specific consequences that must be completed by the juvenile and are memorialized in a "Diversion Contract." The contract must be signed by both the juvenile and the juvenile's parent or guardian, and is translated into Spanish. If the contract requires translation into another foreign language, such assistance is coordinated with the Court Interpreters Support Specialist who arranges the translation. The types of conditions the Diversion officer may assign could include fines, restitution, drug and alcohol testing, supervised community service, and treatment services such as family counseling, cognitive skills classes and parenting classes. All conditions within the Diversion Contract must be completed between 90 and 120 days during which time the Diversion officer frequently meets with the juvenile and the juvenile's parents or guardian, and others to include school administrators to ensure the conditions are followed, and the juvenile is on target for satisfying the terms of the contract. If the juvenile does not successfully satisfy the conditions of the contract, the matter is returned to the PCAO for review and consideration as to whether to file a petition.

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As for the provision of language assistance within the Evaluation and Diversion Programs, PCJC administrators stated that either a staff or contract interpreter will provide language assistance for all interviews. For communication in all other matters, if the juvenile or the juvenile's family speaks Spanish, a Spanish-speaking staff member within either Unit may provide language assistance. For all other foreign languages, language assistance is coordinated by the Court Interpreters Support Specialist and provided by a contract interpreter.

As for ensuring language assistance to LEP juveniles and their family members who are assigned consequences that require them to seek treatment from external providers, the PCJC administrators explained to the OCR that the providers they rely upon have bilingual Spanish-speaking staff. The PCJC administrators went on to state that if a juvenile or the juvenile's family member is Spanish-speaking the officers ensure the treatment provider is able to communicate in Spanish prior to start of services. However, the PCJC Deputy Director did recall of one past instance in which an external vendor did not provide language assistance in Spanish. The Deputy Director went on state that the PCJC immediately contacted the AOC to advise them of the situation, and in response the AOC contacted the vendor to inform them they must provide language assistance services. As for the provision of language assistance to LEP juveniles or LEP family members who speak a language other than Spanish, PCJC administrators stated they have never encountered this situation, but if they did, assistance would be provided by the treatment provider pursuant to the clause contained in Paragraph 55(e) within the contractual agreement between the JJSD and the vendor which was discussed in Section I.A. of this Report, and reads as follows: "The Contractor shall not use the client's family members or peers to translate languages to English. Only qualified interpreters and/or bi-lingual professional personnel must be utilized to provide services to monolingual clients and families."

While onsite, the OCR spoke with officers within the Evaluation and Intake Units who stated the most common foreign language they encounter is Spanish, and it is usually the parent or guardian that speaks Spanish and who may be LEP and not the juvenile. None of the officers we spoke with recalled an assignment involving a juvenile or parent or guardian that spoke a language other than Spanish or English, nor did they recall an instance in which an external treatment provider did not provide language assistance when necessary. Additionally, all officers we spoke with were well versed on the steps they should take if, and when, they encounter an LEP juvenile or LEP family member that requires language assistance.

Recommendations

The bulk of the services provided to juveniles who are diverted from formal court proceedings are rendered by external service providers. In terms of the provision of language assistance, although the AOC, JJSD service contracts with the external providers include a clause requiring the provision of language assistance by a professional interpreter or bilingual employee, it was not clear whether *all* treatment providers afford the same level of language assistance in either Spanish or any other foreign language. To explain, the probation officers we spoke with stated

they were aware of those treatment providers with Spanish-speaking staff, however, they did not know, nor was it clear, whether all available treatment providers provided language assistance. Thus, the PCJC should take steps to ensure that every available external treatment provider is equipped to provide language assistance when required by LEP juveniles and their family members. The PCJC, and the AOC, JJSD, should identify a plan to monitor all service providers to ensure that language assistance is available to all LEP juveniles and LEP family members seeking treatment. In order to ensure all employees are aware of what treatment vendors have identified language assistance services, the PCJC, and the AOC, JJSD should also conduct an inventory of the language assistance services available at each treatment provider and maintain a list of said services, ensuring the list is readily available and accessible to staff involved in diverting juveniles and their families to the external providers. Please also see Section III.A. of this Report for further recommendations.

5. Legal Clinic

As explained above, if a juvenile is referred to the Evaluation or Diversion Programs but does not admit to the pending charges, the juvenile may not participate in either program. In this circumstance, the juvenile is then referred to the PCJC's Legal Clinic. The purpose of the Legal Clinic is to provide the juvenile with one free consultation with an attorney who can advise the juvenile on the legalities of the situation and the implications of formal adjudication. The underlying premise of the consultation being the juvenile may change their mind about denying the charges after consulting with an attorney. At the time of our visit, there was one attorney assigned to the Legal Clinic who spoke both Spanish and English. When language assistance is needed in another language, the PCJC stated it is coordinated through the Court Interpreters Support Specialist who would schedule a contract interpreter to provide the requisite assistance.

Recommendations

For general recommendations about the PCJC's provision of language assistance measures please see Section III. and IV. of this Report.

6. Detention Hearing

The purpose of the detention hearing is to determine whether a detained juvenile shall be released from, or remain detained at, the PCJC Detention Facility. As explained in Section II. C.3., the PCAO must file a petition with all involved-parties to include the PCJC and any noted counsel for the juvenile within twenty-four hours of the juvenile's admission to the Detention Facility, and the detention hearing must be held within twenty-four hours from the petition's filing. See 17B A.R.S. Juv.Ct.Rules of Proc., Rule 23 (2011). Detention hearings are held at the PCJC Monday through Friday at 3:00 p.m. and at 10:30 a.m. on weekends and holidays. The presiding judge will assign a public defender, contract attorney or advise the juvenile's parents to

obtain legal counsel for their child.³⁴ Probation officers are required to attend the detention hearing and provide a statement as to the existence of probable cause that the offense occurred. The officer must also provide a recommendation to the judge as to whether the juvenile should be detained or released. The probation officer's recommendation is based on the following: the nature of the pending charges, information gathered from the arresting agency, victim, juvenile's parents, school administrators and staff, and the juvenile's prior history with the PCJC. The officer's key concern in setting forth a recommendation is community safety with the following four reasons justifying a recommendation to detain: the juvenile is a flight risk, threat to the community or self, is detained for another jurisdiction, or it is in the best interest of the juvenile or the public for the juvenile to be held in custodial protection.

After all information is presented, the presiding judge decides whether the juvenile will remain detained or released to the community. If the juvenile is released, the judge may set terms and conditions of the release. Typical mandatory conditions imposed on the juvenile may include: school attendance, avoid the victim, establish curfew hours, impose driving restrictions, and no drug or alcohol consumption. In certain circumstances, the judge may also order electronic monitoring. All conditions of release are set forth in a formal court order entitled, "Conditions of Release," which must be signed by the juvenile and the juvenile's parent or guardian. The court order is translated into Spanish. While onsite, PCJC officials stated the order may also be translated into any other language by a contract interpreter who is scheduled by the Court Interpreters Support Specialist.

Because Detention Hearings are scheduled twenty-four hours in advance and the need for language assistance is identified when the juvenile enters the PCJC Detention Facility and requested during the Intake staffs' initial contact with the juvenile and his or her family, all language assistance is pre-arranged prior to the Detention Hearing by the Court Interpreters Support Specialist. As noted in Section II.C.1. of this Report, the PCJC Spanish-speaking staff interpreters provide the bulk of interpretation required; however, when the staff interpreters are overbooked or a language other than Spanish is needed, the Court Interpreters Support Specialist arranges for a contract interpreter to attend the Detention Hearing, or any other hearing for that matter, in order to provide language assistance. As previously explained, both staff and contract interpreters receive a copy of the daily hearing schedule one day prior to the scheduled hearing. The schedule contains the date, time, and location of the hearing as well as the type of hearing (e.g., Detention, Adjudication, etc.), the assigned interpreter, the parties involved to include the identification of LEP parties attending and the language spoken by said parties. At the beginning of each business day, the Court Interpreters Support Specialist will identify any needed additions or modifications regarding the provision of language assistance during any of the scheduled

³⁴ The presiding judge makes this determination based on information the family provides in the Financial Affidavit that is mailed to the parent or guardian when it is determined the juvenile will be detained at the PCJC. This document is translated into Spanish.

proceedings and manually update the calendar to reflect any noted changes. The Court Interpreters Support Specialist will also inform each assigned staff interpreter of any changes.

Any documentation that must be reviewed and signed by a juvenile or a juvenile's family during a detention hearing, or any other court proceeding, is currently available in English and Spanish. During the OCR's onsite visit, PCJC staff explained all documents provided in court proceedings in which the juvenile or the juvenile's family speaks a language other than Spanish or English, are sight-translated by a contract interpreter. Finally, if the juvenile or the juvenile's family member is Spanish-speaking and the juvenile's release contains conditions for compliance, the probation officer will provide language assistance as previously described (e.g., if officer unable to communicate than language assistance is requested from another probation officer or through the Court Interpreters Specialist).

Recommendations

For general recommendations about the PCJC's provision of language assistance measures please see Section III. and IV. of this Report.

7. Advisory Hearing

The Advisory Hearing is set after a petition is filed alleging a juvenile engaged in a delinquent or incorrigible act. See 17B A.R.S. Juv.Ct.Rules of Proc., Rule 28 (2011). If the juvenile is detained, the advisory hearing must occur within twenty-four hours from the time the petition was filed. Id. If the juvenile is not detained, the hearing must occur within thirty days from the filing of the petition. Id. The purpose of the hearing is to advise the juvenile, parent, guardian or custodian of the allegations against the juvenile, and to provide a forum in which the juvenile denies or admits the charges or announces he or she is entering into a plea agreement. If the juvenile denies the pending charges, the court shall set an adjudication hearing. Alternately, the juvenile may admit to the charges or enter into a plea agreement to the pending charge(s) or a portion thereof. If the statement of admission is accepted, a Disposition Hearing is set within forty-five days for a juvenile not in custody and within thirty days for a detained juvenile. If denied, the judge then sets an adjudication hearing.³⁵

As with all other formal court proceedings and hearings occurring at the PCJC, language assistance is provided in the matter outlined in Section II.C. of this Report.

8. Complaints

At the time of the OCR's visit, the PCJC did not have any formal written procedures in place governing the receipt of complaints about services provided by PCJC employees, nor did the

³⁵ In its April 26, 2012 response, the PCJC clarified it is the practice of the PCJC to hold the disposition hearing within fifteen days if the youth is in custody and thirty days if the youth is not detained.

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PCJC have any complaint forms for members of the public to complete if necessary. In its data response, the PCJC stated it encourages the public to discuss concerns with the PCJC Director or Deputy Director. Depending on the nature the complaint, the PCJC went on to state that both formal and informal methods may be used to resolve the matter to include having the employee's supervisor address the concern or contacting local law enforcement if the allegations were criminal in nature. The PCJC also stated in its data response that citizens may inform the PCJC of concerns by accessing the "Contact Us" tab on its website. According to PCJC officials, through the time of the OCR's visit, the PCJC has never received a complaint alleging the denial of language assistance services.

Recommendations

The OCR recommends the PCJC develop written complaint procedures which address receiving, investigating, and resolving complaints against all PCJC personnel and specifying how language assistance will be provided to LEP complainants. The OCR also recommends the PCJC develop a written complaint form for use by complaints if, and when, they wish to file a complaint. Development of a complaint form will provide better documentation of allegations and enhance the collection of information from complainants about their concerns. The PCJC should ensure the complaint procedures and forms are translated into Spanish and address ahead of time how the complaint form will be translated into any other foreign language when necessary. The PCJC must also ensure the complaint form and information on how to file a complaint is readily accessible to juveniles and their families.

9. Community Outreach

In its data response, the PCJC stated it has conducted extensive outreach to the Hispanic community within its service area. The PCJC explained that past outreach primarily focused on the reduction of disproportionate minority contact and the Juvenile Detention Alternative Initiative. During those outreach events, the PCJC stated it provided staff interpreters to ensure communication with the Spanish-speaking community members in attendance.

Subsequent to our onsite visit, the OCR contacted a number of community groups within Pima County in order to solicit feedback about the PCJC's provision of language assistance services to LEP juveniles and their family members. The OCR received a response to our request for information from community leaders representing two different LEP language groups within Pima County. The OCR spoke with each representative independently.

During our conversations, both representatives stated that overall, the PCJC does a good job in terms of providing language assistance during court proceedings and hearings. However, both parties did express some concern with regard to the provision of language assistance from probation officers to LEP parents and guardians during those situations in which a probation officer is either communicating conditions of release or following-up with the juvenile and the juvenile's parent or guardian to ensure compliance with the conditions. In either scenario, both

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community representatives explained that in several different circumstances it was conveyed to them by either the juvenile or the juvenile's LEP parent or guardian that the probation officer did not provide appropriate language assistance thus, the parent or guardian was unable to understand either the conditions of release or what must be done to comply with the conditions. To the PCJC's credit, both community representatives stated that more often than not, an interpreter is provided and the LEP parent or guardian is able to understand what is happening. On a separate note, one of the community representatives stated she frequently attends court proceedings at the PCJC and has witnessed several interpreters not providing verbatim interpretation. The representative did not know whether the interpreters were PCJC staff interpreters or contract interpreters. Finally, both representatives stated the PCJC does a good job with translated materials. However, one of the representatives stated the LEP parents and guardians she represents possess a high level of illiteracy and the PCJC should be mindful that translated documents do not always suffice in this situation thus, an interpreter may be more appropriate in these circumstances.

Recommendations

While we do not know for certain whether the concerns cited by the community leaders are in fact a reality or representative of the day-to-day operations at the PCJC regarding the provision of language assistance services during formal court proceedings in the administration of diversion programs. However, what we do know is a perception exists within the community that language assistance services may not be provided to LEP parents or guardians, particularly during their interactions with probation officers who are either explaining conditions of release or ensuring compliance thereof. Thus, we recommend the PCJC take steps to educate the LEP communities in Pima County about the available language resources and how language assistance may be requested. Additionally, we encourage the PCJC to remind all PSD staff about the available language assistance services and to take steps to ensure language assistance is provided when communicating with LEP juveniles and their families during the course of their job duties. The PCJC should also develop a mechanism for gathering community feedback about its provision of services to LEP juveniles and LEP families of juveniles. For example, the PCJC may want to develop a written survey of community groups serving LEP populations in Pima County or convene a focus group of LEP individuals. The PCJC may also consider holding separate meetings with each LEP community, perhaps in collaboration with community, business, and religious leaders representing the LEP population, in order to hear the LEP community's unique needs regarding outreach.

D. Available Resources

The PCJC's fiscal year is July 1 to June 30. In its data response, the PCJC stated its total budget for fiscal year 2008 was \$37,045,056, \$25,099,178 in fiscal year 2009, and \$31,860,874 in fiscal year 2010. The PCJC does not budget a set amount of money for language assistance services. However, in its data response the PCJC stated it expended \$210,013 for language assistance

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expenses in fiscal year 2008, \$217,970 in fiscal year 2009, and \$195,816 in fiscal year 2010. While onsite, PCJC administrators explained the expenditures for language assistance services identified in its data response represented the salaries of staff interpreters and payment to contract interpreters.

Recommendations

The PCJC should undertake a review of its human and capital resources to assess how well it is responding to the needs of the LEP populations in Pima County. One part of this review should include gathering feedback from the local LEP service population in Pima County, along with local organizations and associations representing LEP juveniles and families of juveniles regarding how the PCJC can provide more effective language assistance services. For example, the PCJC may wish to develop a written survey of community groups serving LEP juveniles and LEP families of juveniles in Pima County or convene a focus group of LEP juveniles and LEP families of juveniles. In analyzing any feedback, the PCJC should assess whether it has a sufficient number of staff and contract interpreters stationed at the PCJC. The PCJC should also work with local community organizations to determine what additional steps it can take to attract more individuals who may serve as certified or qualified interpreters at the PCJC. The PCJC should also take steps to educate the LEP community within its service area about available language assistance services. The PCJC may consider hosting roundtable discussions with LEP community representatives and members of LEP community groups in collaboration with other players in the LEP community to include businesses and religious leaders in an effort to hear the LEP community's ideas and needs about outreach and the provision of language assistance.

III. General Language Services

To provide the foregoing services to LEP juveniles and LEP families of juveniles, the PCJC offers both oral and written language assistance, both of which are provided at no cost to LEP juveniles or LEP family members of juveniles.

A. Oral Language Services

As discussed in Section II.C.1. of this Report, the PCJC communicates with LEP juveniles and LEP families of juveniles during court proceedings through the following means: (1) staff and contract interpreters who speak Spanish; (2) contract interpreters who speak languages other than Spanish; (3) employees who have self-identified they speak a language other than English; and (4) telephonic interpreters. The PCJC staff with whom the OCR spoke reported that Spanish is the most frequently-encountered foreign language spoken by a juvenile or a juvenile's family, and rarely, if ever, do staff encounter a foreign language other than Spanish. Thus, in addition to ensuring language assistance to LEP persons through the four primary methods listed above, the PCJC has also strategically stationed Spanish-speaking employees at the PCJC's main points of entry to include the reception/welcome desk, the Finance and Collections Office, and the Court

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Administration Office to facilitate communication with Spanish-speaking visitors to the PCJC. Also, when Spanish-speaking callers dial the PCJC main telephone number they hear a greeting recorded in Spanish instructing them to “press 1” if they wish to hear the instructions in Spanish.

Section II.C. of this Report thoroughly explained the process that PCJC employees follow when requesting language assistance and who provides the requested language assistance is dependent on the circumstance in which assistance is needed. Section II.C. also outlined the number of staff interpreters, contract interpreters and bilingual employees within the PSD and the language spoken by each. To recap, at the time of our visit the PCJC had three staff interpreters and one vacant staff interpreter position, and a list of 177 contract interpreters speaking a variety of languages. Also, the PCJC stated it rarely, if ever, relies upon a telephonic interpreter, but does maintain an account with a service entitled Language Connection in case the need arises. The PCJC did not respond to the OCR’s inquiry as to whether it relies upon family members or friends of an LEP individual to provide language assistance.³⁶

At the time of our visit, the language skills of the staff and contract interpreters relied upon to provide language assistance were not tested by the PCJC. However, as previously explained, the PCJC Deputy Director stated the PCJC is in the process of developing a new foreign language assessment exam that will test the proficiency skills of future applicants for the staff interpreter position.³⁷ Also, at the time of our visit, the language skills of current staff and contract interpreters were not certified by the PCJC, but were certified by an external provider. To this end, the PCJC stated in its data response, the Human Resources Division verifies all external certifications, degrees and diplomas identified as obtained by the interpreter and confirms employment references relating to the skills and qualifications of its interpreters prior to employment. Finally, with regard to those bilingual employees that the PCJC relies upon to provide language assistance in informal matters, their language skills are self-identified and not assessed by the PCJC.

At the time of our visit, the PCJC did not have a formal written policy addressing the provision of language assistance services to LEP juveniles and LEP family members of juveniles throughout the PCJC. However, as previously noted, the PCJC did issue a Memorandum in April of 2007, which instructed how, and to whom, employees should request language assistance, and further advised that the coordination of the provision of all language assistance throughout the PCJC would be centralized within the Court Calendar Office and managed by the Court Interpreters Support Specialist. Furthermore, the PCJC stated in its data response that it complies with the statutory requirement holding that a court *may* appoint interpreters when necessary. See Ariz. Rev. Stat. § 12-241 (2011). The PCJC went on to explain in its data

³⁶ In its April 26, 2012 response, the PCJC responded to our January 29, 2010 Data Request by stating, “it does not rely upon family members or friends of an LEP individual to provide language assistance, either in court proceedings or by contract providers.”

³⁷ See supra note 21.

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response that it assigns an interpreter anytime a juvenile or a juvenile's family member requests language assistance. If, at any time, the juvenile or a family member indicate they are uncomfortable with the assigned interpreter, the PCJC stated it will provide another interpreter, if one is available. If, at any time, during a court proceeding, hearing or interview, court personnel believe the juvenile or the juvenile's family does not understand the events at hand due to a language barrier, the PCJC stated it will immediately request the services of an interpreter.

In terms of operating guidelines, the PCJC provides a manual to all staff interpreters that covers the following topics: duties and work schedule, how requests for language assistance are made, how to process requests for translation, the record keeping requirements associated with the provision of interpreter services, and best practices for the act of interpreting. As for the latter topic, the manual states that best efforts are made to rotate staff interpreters every sixty minutes and to assign two interpreters to matters scheduled to last more than two hours. The manual also addresses expected trainings that staff interpreters must attend to include basic conversational Spanish classes and a course entitled, "Misinterpreted Cultural Nuances." As for contract interpreters, the PCJC provides similar information in a manual entitled, "Interpreter Per Diem Packet, which was discussed in Section II.C.2. of this Report.

The PCJC stated in its data response that it does not provide routine training to its employees regarding encounters with LEP juveniles or LEP family members of juveniles seeking services from the PCJC. However, officials did state the PCJC does explain the availability of staff interpreters and how to request language assistance at new employee orientation. Outside of the manuals the PCJC provides to its staff and contract interpreters, it does not provide any formal training to interpreters on how to serve as an interpreter. The PCJC also does not explain to any of its employees the requirements regarding the provision of language assistance to LEP persons pursuant to federal law.

While onsite, the OCR spoke with two PCJC staff interpreters who explained the majority of the interpretation they provide is in-person during formal court proceedings and hearings and interviews conducted by probation officers of juveniles and their families. Both staff interpreters informed the OCR that nearly all of the individuals requiring language assistance are the parents or guardians of juveniles and *not* the juveniles before the PCJC. Both interpreters also conveyed that advance notice of when they are scheduled to interpret is provided as they receive an advance copy of the daily calendar. However, on occasion, the interpreters stated they provide interpretation without notice due to last-minute requests that occur during court proceedings.

The OCR also had the opportunity while onsite to speak with one of the PCJC's presiding judges who is bilingual, speaking both Spanish and English. During our discussion, the Judge stated the most oft-encountered language during PCJC judicial proceedings is Spanish, and estimated that about 10% of the juveniles and 15% to 20% of the parents or guardians he has encountered are LEP. The Judge went on to state that because any foreign language need of referred juveniles and their parent or guardian is identified at Intake and Evaluation, he always has

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advance notice of language assistance needs which, of course, is pre-arranged by the Court Interpreters Support Specialist and denoted on the daily docket calendar which he receives both electronically and in hard copy. The Judge did note that on one occasion, a Mandarin-speaking individual arrived at a proceeding unannounced and was unable to communicate. The Judge explained he did not request language assistance as the individual was not a noted party to the matter at hand and he did not want to delay the liberty interests of the involved-juvenile thus, he proceeded with the matter. However, the Judge stated that if ever an involved-party to include the juvenile, parent or guardian or witness requires language assistance, it is provided. During those instances in which language assistance was not requested or deemed unneeded by the juvenile or the juvenile's parent or guardian, and it appears the juvenile or the juvenile's parent or guardian does not understand what is being communicated during the proceeding, the Judge stated he will begin to confer with the parties as well any counsel to determine if language assistance should be provided before proceeding.

When asked if there was ever a situation in which an interpreter was not competent, the Judge replied that about once a year he experiences an interpreter who is not rendering verbatim interpretation. In those circumstances, the Judge informs the PCJC Deputy Director, who is responsible for managing interpreters, of the situation. As for relying on PCJC employees who have self-identified a language skill, the Judge stated he *never* relies on bilingual employees, nor does he ever rely upon family or friends of the juvenile to provide language assistance. As for reliance on a telephonic interpreter, the Judge stated he has not done so but is aware of other PCJC judges that have. The Judge informed the OCR that overall, he was pleased with the interpretation provided by the staff interpreters and contract interpreters who speak Spanish. As for translation of court documents, the Judge stated he generally requests a sight-translation of the document, and subsequently requests the Court Interpreter arrange for a translated version of the document to be provided to the juvenile or the juvenile's parent or guardian. When asked whether he had any recommendations for how the PCJC may improve its communication with LEP individuals, the Judge stated the PCJC needs additional full-time staff interpreters. The Judge also believes that although there is no existing requirement by the Arizona Supreme Court for interpreters to be certified, the PCJC must develop their own certification program, as well as a comprehensive policy addressing the provision of language assistance services throughout the PCJC, to ensure equal justice to all court participants.

Recommendations

The PCJC is currently taking steps to provide services to LEP juveniles and LEP families of juveniles falling within its jurisdiction to include providing language assistance by way of staff and contract interpreters. The PCJC should build on these steps to provide more effective language assistance to LEP juveniles and LEP families of juveniles to ensure it satisfies its obligations as a recipient of federal funding under Title VI and the Safe Streets Act.

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With regard to the provision of language assistance services, the PCJC provided very helpful information regarding the types of language assistance services it has available to communicate with LEP individuals and how court employees can access and request these services. However, the PCJC does not have a formal, written policy memorializing its existing practices and the protocol to be followed for rendering language assistance. Thus, we *strongly* recommend the PCJC's first order of business entail developing a formal written LEP Policy which addresses the provision of language assistance services to LEP juveniles and LEP families of juveniles in a variety of settings to include intake and evaluation services, probation officer interviews and field visits, and the delivery of services to juveniles and their families who are participating in diversion programs, just to name a few.³⁸ Additionally, the LEP Policy should explicitly state that employee reliance on family members, friends, or bystanders to provide language assistance should *only* occur in unforeseen, emergency circumstances and be limited to obtaining general information while awaiting language assistance from a qualified interpreter. Also, the development of a comprehensive LEP Policy should be in addition to the development of a Language Assistance Plan (LAP) which is more fully discussed in Section IV. of this Report.

Subsequent to developing a formal LEP Policy and LAP consistent with the recommendations in this Report, the PCJC should then begin training all PCJC employees to include judges, staff interpreters and probation officers on the newly developed LEP Policy and LAP to ensure all employees are aware of the proper procedures for providing language assistance services. Following the initial training, the PCJC should continue to provide periodic training sessions for PCJC personnel focused specifically on providing language assistance services to LEP individuals consistent with applicable federal laws and guidelines. To this end, the OCR has enclosed a training DVD entitled, *Breaking Down the Language Barrier: Translating Limited English Proficiency into Practice*. The video, which was produced by the DOJ and other federal agencies, explains the language access requirements of Title VI and Executive Order 13166 through scenarios that expose the problems resulting from the absence of language assistance. The video goes on to show how these same situations can be handled more appropriately when the service provider takes reasonable steps to provide language assistance.

At the time of our review, the PCJC did not independently assess the language proficiency skills of its staff interpreters through any testing process, although it did verify, prior to hire, any

³⁸ In its April 26, 2012 response, the PCJC stated that subsequent to the OCR's onsite visit and issuance of the OCR's draft Report, the Arizona Supreme Court issued Administrative Order 2011-96 entitled, "Language Access Planning." The Order required every court in Arizona to "develop a language access plan that documents how the court currently makes court proceedings and operations available to non-English speaking parties and witnesses and how it plans to cover those proceedings and operations not currently provided for." The PCJC went on to state it had complied with the Arizona Supreme Court Order and developed a Language Assistance Plan (LAP) effective January 1, 2012. The PCJC provided a copy of the LAP for the OCR's review. The PCJC should note that irrespective of any approval provided by the Arizona Supreme Court, the compliance review of language access services of the PCJC by the OCR remains open until the OCR approves the PCJC's LAP and LEP Policy. Accordingly, the PCJC should review and red-draft accordingly for review and approval by the OCR, the submitted LAP to ensure it conforms to the DOJ Guidance as discussed in Sections III. and IV. of this Report.

certifications and training the interpreters received by external providers. While onsite, PCJC officials informed the OCR that it was revamping the exam previously relied upon to test the language proficiency skills of past applicants and which it intends to use in the future when budgetary constraints are lifted and the PCJC is able to hire additional interpreters. At this time, we recommend that the PCJC assess the language skills of all future staff interpreters for hire utilizing an objective testing process. The assessment should test both the applicant's skill of communicating in a foreign language and the particular skill of interpreting, which requires listening to something in one language and orally conveying its meaning into another language. A bilingual individual may possess the skills to converse in a foreign language, but lack the skills to provide competent interpretation in the same language. Thus, it is essential that agencies ensure that the individuals relied upon to provide language assistance are competent in the specific skill of interpretation. Similarly, the PCJC should ensure it also assesses the written translation skills of all interpreters relied upon to translate important court documents such as Conditions of Release and Court Orders.

B. Written Language Services

1. PCJC

The majority of the PCJC's clients are Spanish-speaking thus, the PCJC has translated numerous documents into Spanish in order to serve its LEP clientele. Specifically, as of April 30, 2010, the PCJC had translated in excess of thirty different documents, forms, letters and pamphlets into Spanish and entitled as follows: Electronic Monitoring Contract, Victim Notification Letter, Identifying Information Letter, Evaluation Contract, Parent(s)/Guardian(s) Questionnaire, Release of Information, Affidavit of Financial Status, Financial Obligation Information Brochure, Diversion Contract, Victim Offender Mediation Program, Victims' Right Brochure, Victim Services Unit Letter Regarding Restitution, Victim Services Unit-Affidavit of Loss, Victims' Rights Satisfaction Survey, Final Appointment Letter (Diversion Program), Repeat Felony Juvenile Offender Notice, Notice of Hearing, Drug Court Brochure, Drug Court Parent/Guardian Agreement, Drug Court Contract, Consent to Participate, Consent for Release of Confidential Information, Confidentiality Agreement, Notice to Parents Regarding Case to County Attorney, First Felony Adjudication Notice, CREW Participant Information, Appointment Letter to Parent, Final Notice to Parents for Appointment, MAC Program Brochure, JIPS Rules and Expectations, Notice of Parental Medial Financial Responsibility and Consent to Treat, and Letter of Referral to Legal Clinic. As previously noted, all PCJC letters advising clients of upcoming appointments inform the recipient that language assistance is available and provide instructions, in English and Spanish, on how to request language assistance in advance.

The PCJC relies upon both staff and contract interpreters to translate documents into foreign languages and stated in its data response that all translated documents undergo two levels of review. In the first level, the assigned interpreter translates the document which is then reviewed by a second interpreter to ensure accuracy and identify any necessary revisions. The PCJC stated

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it generally takes twenty-four hours from the time of request to complete a document translation. The PCJC staff disseminate translated documents to LEP juveniles or LEP families of juveniles as needed, and several forms, such as the PCJC informational brochures are available at the PCJC. While onsite, the OCR spoke with two PCJC staff interpreters who stated the bulk of translation they perform is during court proceedings and hearings in which a sight-translation of a document is required. Both staff interpreters stated they do provide sight-translation of documents when requested, and if able to do so. To explain, one of the staff interpreter's specifically stated that if upon review, the document appears complex, the interpreter will advise the judge that additional time for review is needed prior to rendering a sight-translation. Alternately, the staff interpreter stated that translation of a complex document is arranged by the Court Interpreters Support Specialist. Examples of the documents translated by staff interpreters include Conditions of Release or Conditions of Probation. For any documents presented in a court proceeding that are in English, both staff interpreters stated they will render sight-translation of the document, and subsequently, a court employee will submit a request for written translation of the document to the Court Interpreters Support Specialist. When asked if they had any suggestions on how the PCJC may improve its services to LEP persons, the following was recommended: update frequently used form letters as they contain grammatical and formatting errors, provide continuing education training to staff interpreters and refresher training to PCJC employees on the role of staff interpreters and how to request language assistance.

As for signage used to communicate with Spanish-speaking juveniles and their families, the PCJC has posted in the receiving and waiting areas at Intake, several informational flyers regarding health and hygiene issues and a list, with contact information, of local government health and social service providers. Within the public lobby of its facility, the PCJC has posted the following: signage instructing viewers what number to call if an interpreter is needed; a list of services the PCJC can and cannot provide; instruction as to where victims and witnesses must report and sign in; and a sign advising all visitors to be quiet due to active court proceedings. The PCJC's website, www.pcjcc.pima.gov, is almost entirely in English. However, the PCJC acknowledged in its data response that the website needs improvement and prior to the OCR's onsite visit, began placing more information in Spanish on its website to include informing the public of available language assistance services. The PCJC also added a tab on its website labeled, "En Espanol," and one of the first items of information included under this tab was detailed information about available language assistance services, how the services are provided and appropriate contact information to request language assistance services.

Recommendations

The PCJC has done a good job of translating documents into Spanish. However, in order to ensure juveniles and their families have meaningful access to important court services under Title VI and the Safe Streets Act, vital written materials should be translated into the language of each oft-encountered LEP group. To this end, the DOJ encourages recipients to satisfy the "safe harbor" provision outlined in the DOJ Guidance when deciding what documents to translate.

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See DOJ Guidance, 67 Fed. Reg. at 41464. This provision states recipients should translate “vital” documents for LEP groups that comprise five percent or 1,000 persons, whichever is less, of the eligible service population. *Id.* Whether a document is considered vital depends on the “importance of the program, information, encounter, or service involved, and consequence to the LEP person if the information in question is not provided accurately or in a timely manner.” *Id.* at 41463. Examples of “vital” documents may include consent and complaint forms, notices of rights, notices of denial or decrease of benefits, applications to participate in a program or activity or to receive a benefit or service.

In accordance with the DOJ Guidance, the PCJC should perform an inventory of all written materials it currently disseminates to juveniles and their families, identify the documents it considers “vital,” and then begin to translate any documents identified as vital, but not already translated into languages that satisfy the safe harbor provision. As noted in Section II.A. of this Report, recent Census Bureau data indicates that several language groups satisfy the safe harbor provision and include Spanish, Russian, Vietnamese, and Chinese. The PCJC should take steps to translate all of its vital documents into the languages that meet this threshold. To ensure the accuracy of translated materials, the PCJC should continue to have a second, independent translator review the document for accuracy. The PCJC may also wish to perform a “back translation,” where the first translator translates the document and a second translator converts it back to English to ensure the appropriate meaning was conveyed during the translation. As the PCJC works toward translating its vital court documents, it should continue to use qualified staff and contract interpreters to provide sight translations of court documents not currently translated and to assist juveniles and juveniles' families in completing any necessary forms.

Based on the OCR’s visual check of the PCJC facilities with public access, the PCJC has not posted any notices, in Spanish or any other language, notifying the public that it provides language assistance services at no cost as addressed in the DOJ Guidance. Also, during the PCJC’s enhancement of its website, it should ensure important information regarding PCJC services that are currently in English are also available in Spanish.

IV. Developing an Effective Language Assistance Plan for LEP Persons

According to the DOJ Guidance, an effective plan for providing language assistance to LEP persons has five elements: (1) identifying LEP individuals who need language assistance; (2) providing information to employees and LEP individuals on the ways in which language assistance will be provided; (3) training employees on effective and available methods of communicating with LEP individuals; (4) providing notice to LEP individuals of available free language assistance services; and (5) monitoring and updating the plan. The LAP developed by the PCJC should include an outline for management action and effective implementation to ensure the PCJC is appropriately weighing all the issues to include, but not limited to, policy, budgeting, hiring, supervision, training, monitoring, public notice, and outreach to LEP communities. Formal policies must be implemented to govern the manner in which services will

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be delivered to LEP juvenile's families, witnesses or victims, and protocols must be developed to ensure that PCJC staff are informed of policy requirements and able to implement those policies.

To assist the PCJC in developing an LEP Policy and LAP, we recommend the PCJC consult the DOJ Guidance, along with the following documents: (1) Limited English Proficiency Resource Document: Tips and Tools from the Field, and specifically, "Chapter 5: Tips and Tools Specific to Courts" from DOJ, *Executive Order 13166, Limited English Proficiency Resource Document: Tips and Tools from the Field* (2004); (2) and sample written language assistance plans. These documents are available online at <http://www.lep.gov>. Consulting these documents for guidance will assist the PCJC in ensuring that its newly developed LEP Policy and LAP are fully compliant with Title VI and the Safe Streets Act. Finally, the OCR recommends the PCJC identify one staff member to be responsible for coordinating all language assistance services to LEP persons throughout the PCJC. This individual's first task should be to review this Report and the OCR's recommendations to develop a comprehensive language assistance plan that will be presented to every employee at the PCJC.

V. Conclusion

This letter serves as notice that the OCR has preliminarily determined the PCJC is not fully compliant with the requirements of Title VI and the Safe Streets Act, although it appears the PCJC has taken steps to provide meaningful access to its programs and activities to LEP juveniles and LEP families of juveniles. However, the PCJC must build on these steps to become fully compliant with Title VI and the Safe Streets Act. To this end, the PCJC should further develop the LAP it submitted to the OCR in its April 26, 2012 response to ensure it attains conformity with the DOJ Guidance. To assist the PCJC in this endeavor, in addition to the DOJ Guidance, enclosed please find a copy of two LEP Policies prepared by two different juvenile courts which were reviewed and approved by the DOJ, and which the PCJC should review and use as a stepping stone in further developing its LAP.

On request, the OCR is available to provide technical assistance to the PCJC in implementing the recommendations and formulating a comprehensive written language assistance plan. Upon receipt of this letter, we ask that a responsible official from the PCJC contact Attorney [REDACTED] [REDACTED] to develop a timeline and goals for implementing the recommendations contained within this Report. Thank you for your cooperation and the assistance of your staff throughout the compliance review process. If you have any questions, please contact [REDACTED] electronically at [REDACTED] or at [REDACTED]

Sincerely,

Michael L. Alston
Director

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Enclosures

cc: Dodie Ledbetter
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