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Office of Justice Programs

Office for Civil Rights

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CERTIFIED MAIL: RETURN RECEIPT REQUESTED

John Barrett
Clerk of the Circuit Court
Room 104
901 North 9th Street
Milwaukee, WI 53226

Eric Meaux
DCSD Administrator
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RE: Compliance Review of the Milwaukee County Department of Health and Human Services, Delinquency and Court Services Division (10-OCR-0009); Milwaukee County Circuit Court (10-OCR-0371)

Dear Mr. Barrett and Mr. Meaux:

I am writing to report the findings of the compliance review of language services within the juvenile justice system in Milwaukee County, Wisconsin, conducted by the Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), in accordance with federal regulations 28 C.F.R. §§ 42.107(a), .206. As you know, I issued a Draft Compliance Review Report on February 14, 2012, and provided you thirty days within which to comment and correct any factual inaccuracies in that draft report. The draft report was revised to incorporate your comments, and this is the Final Compliance Review Report. The OCR would like to thank your respective staffs for assisting the OCR during our onsite visit.

In my initial letters to your respective agencies, I noted that the OCR had selected your agencies for a compliance review under Title VI of the Civil Rights Act of 1964 (Title VI) and the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act) and their implementing regulations.¹ As I noted at the time, the OCR limited the scope of the compliance review to the

¹ In addition, while the OCR did not conduct this review under the Juvenile Justice Act of 2002, we note that the requirements under that Act to identify and mitigate disproportionate minority contact are also implicated by language access for national-origin-minority LEP juveniles and LEP families of juveniles having contact with the juvenile justice system.

provision of pre-adjudication juvenile justice services in Milwaukee County to juveniles and their families² who, as a result of their national origin, are limited in their English proficiency (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.

As you know, Title VI and the Safe Street Act both prohibit discrimination on the basis of national origin by recipients of federal financial assistance. Further, the implementing regulations of those statutes prohibit recipients from administering programs in a manner that has the effect of subjecting individuals to national origin discrimination, (28 C.F.R. 42.104(b)(2), 42.203(e)), which has been held to apply to a failure to take reasonable steps to ensure meaningful access to LEP persons. *See* *Lau v. Nichols*, 414 U.S. 563 (1974). Further, Executive Order 13166 directed federal agencies to publish guidance for their recipients, consistent with initial general guidance from DOJ, in making their programs accessible to LEP persons. *See* Exec. Order 13166, 65 Fed. Reg. 50121 (Aug. 11, 2000). In June 2002, the DOJ published guidance for its recipients of financial assistance 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. *See* *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 67 Fed. Reg. 41455 (June 18, 2002) [hereinafter DOJ Guidance]. Using the technical assistance standards in the DOJ Guidance, the OCR initiated this compliance review to determine the extent to which your respective agencies provide language services to LEP persons involved with the pre-adjudication juvenile justice system in Milwaukee County.

Executive Summary

As discussed above, a recipient of federal financial assistance is required to take reasonable steps to ensure meaningful access to its programs and activities for LEP persons. Given the wide range of recipients of federal funds and the even wider range of types of contacts those recipients may have with LEP individuals,³ the DOJ Guidance establishes an analytical framework that balances four factors in determining what measures are reasonably required to ensure meaningful access: (1) the number or proportion of LEP persons that are 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 related costs. 67 Fed. Reg. at 41,459-61. Under this analysis, and with respect to the limited scope of our review, the OCR concludes that the Milwaukee County Department of Health and Human Services, Delinquency and Court Services Division (DCSD) and the Milwaukee County Circuit Court (Circuit Court) are taking steps to ensure that LEP individuals have meaningful access to their programs and services.

However, this Compliance Review Report includes recommendations for improving services to LEP individuals and ensuring your compliance with federal civil rights laws. Recommendations for the DCSD include developing a Language Assistance Plan which outlines the methods for assessing and documenting language needs, the procedures for providing language services, a

² Throughout this Compliance Review Report, the terms "family" and "families" include parents and/or legal guardians.

³ Given this broad requirement, while the OCR limited the instant Compliance Review to aspects of the juvenile justice system, we encourage the Recipients to apply the Compliance Review Report's recommendations to their other services and programs, such as those provided to juveniles after they are adjudicated and to adults.

plan for training staff, and a process for notifying LEP individuals of the availability of language assistance. The OCR also recommends that the DCSD improve its data collection about language services, improve its procedures for monitoring sub-contractors' compliance with Title VI, and evaluate the sufficiency of its current translations. Recommendations for the Circuit Court include revising its existing Language Assistance Plan to reflect the specific issues and services of its service area, improving its data collection about language needs and services, translating vital documents into most frequently encountered languages, and improving its complaint procedures.

Compliance Review Report

This Compliance Review Report closely tracks the structure of the DOJ Guidance by assessing the recipients' obligation to provide LEP services and then reviewing the recipients' current language services. Finally, this Compliance Review Report offers recommendations for improving access for LEP persons to your programs and activities.

I. 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 four factors: (1) the number or proportion of LEP persons served or encountered in the eligible service population; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided; and (4) the resources available to the recipient and the related costs. 67 Fed. Reg. 41, 459-61. In considering the application of these four factors to the respective recipients, the OCR offers the following observations.

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

The DOJ Guidance suggests that recipients first assess the number or proportion of LEP persons served or likely to be encountered, as a prelude to determining appropriate language services. In the case of a juvenile justice system, that includes trying to ferret out language fluency by age group, in order to understand the needs of Milwaukee County's juvenile population.

1. DCSD

In its response to the OCR's Data Request, the DCSD cited the U.S. Census Bureau in estimating that Milwaukee County is 42.6% Caucasian, 37.7% African-American, 14.1% Hispanic, 4.5% Asian, and 1.2% Native American. Based upon the same source, it reported that juveniles (age 5-17) make up approximately 20.1% of the total population of Milwaukee County. Among Hispanic juveniles, the DCSD estimated that 78% speak some Spanish in the home, and 8% speak English "less than very well," which the OCR considers LEP. Among Asian juveniles, the DCSD estimates that 67% speak an Asian or Pacific Island language in the home, and 8% speak English less than very well. For adults, 91% of Milwaukee County's Hispanic residents speak some English at home, while 32% speak English "less than very well." Among Asian adults, 66% speak an Asian or Pacific Island language at home, while 17% speak English "less than very well."

2. Circuit Court

In its response to the OCR's Data Request, the Circuit Court reported that it does not collect data about the national origin or language spoken for residents of Milwaukee County. However, the Milwaukee County Circuit Court does maintain a Language Assistance Plan (LAP), which contains a demographics section.⁴ The LAP reports that 8.8% of the population in Milwaukee County is Hispanic, .8% is Hmong, and Russian is a "common language." During the OCR's onsite visit, Circuit Court personnel told the OCR that the Hispanic and Hmong data was taken from the U.S. Census Bureau, and the information about Russian speakers was based on past requests for interpreters. Additionally, the LAP reported that 5.8% of the population of Milwaukee County five years and older speaks English "less than very well."

B. Frequency of Contact with LEP Persons

The second factor that the DOJ Guidance encourages recipients to evaluate in determining its obligations to LEP beneficiaries is the frequency with which they have contact with LEP persons. While the number or proportion of LEP individuals in the service area lets a recipient know the size of regional language groups, the frequency with which a recipient actually encounters LEP individuals helps a recipient pinpoint the language needs of its actual clientele.

1. DCSD

At the time of the OCR's onsite visit, the DCSD was transitioning from its old record management system called the Juvenile Information Management System (JIMS) to a new system called Synthesis. Under JIMS, the DCSD does not have the capacity to track national origin or language proficiency of the juvenile or the juvenile's parent. Under Synthesis, the DCSD will be able to record the juvenile's national origin, as well as the language spoken by the juvenile and the language spoken by the parent(s)/guardian(s).

Despite JIMS inability to capture national origin information, the system does contain a category for race. Based upon this information, the DCSD reported that between January 1, 2008, and March 31, 2010, the DCSD encountered 610 Hispanic juveniles and 28 Asian juveniles. During that same time period, the DCSD estimates that it provided language services to 22 Spanish-speaking juveniles, 78 Spanish-speaking family members of juveniles, 2 Vietnamese-speaking juveniles, and 2 Vietnamese-speaking family members of juveniles. Because JIMS does not capture language information, the DCSD estimated these numbers after reviewing its system for paying interpreters and briefly surveying bilingual staff.

2. Circuit Court

As mentioned in Section I.A.2. of this Compliance Review Report, the Circuit Court does not track the national origin or language proficiency of residents of Milwaukee County. Similarly, the Circuit Court does not track the frequency of contact with LEP juveniles or LEP parents of juveniles, per se. However, the Circuit Court does record the number of times that an interpreter was provided for a proceeding in Children's Court, which would encompass all juvenile proceedings. During 2007, the Circuit Court provided Spanish-language interpreters in Children's Court 448 times, Hmong interpreters 109 times, and interpreters for other language(s)

⁴ As discussed in Section II.A.2. of this Compliance Review Report, the Circuit Court's LAP appears to be a loose reproduction of a Wisconsin state model LAP, and reflects very little local specificity. Section III.B.1. of this Report contains recommendations for revising the Circuit Court's LAP.

64 times; During 2008, the Circuit Court provided Spanish-language interpreters in Children's Court 606 times, Hmong-language interpreters 29 times, and interpreters for some other language(s) 81 times; in 2009, the Circuit Court provided Spanish-language interpreters in Children's Court 663 times, Hmong-language interpreters 28 times, and interpreters for some other language(s) 90 times. During the OCR's onsite visit, Circuit Court administrators said that their record keeping system does not easily allow them to break the category of "other languages" into individual languages.

C. Nature and Importance of the Program

The third factor that the DOJ Guidance encourages recipients to consider in determining its obligations to LEP beneficiaries is the nature and importance of a particular activity to an LEP individual. Generally speaking, the more dire the consequences to the LEP person if language services are *not* provided, the more important the service or activity is. Below is a summary of the services provided to juveniles and their families by the DCSD and the Circuit Court. Arguably, the vast majority of these services are of high importance, as the consequences to the beneficiary involve loss of freedom, legal penalties, and mental health and other social services.

1. DCSD

The DCSD consists of three functional areas: (1) the intake and probation section; (2) the Detention Center; and (3) Purchased and Contract Services, which encompasses the service providers for the deferred prosecution program, in-home monitoring, non-secure detention, and other purchased social services.

a. Intake

When the Milwaukee Police Department (MPD)⁵ decides to detain a juvenile and refer the juvenile to DCSD while in physical custody, the MPD will transport the juvenile to the Children's Court Center Secure Detention Facility (Detention Center) for intake. Approximately one-half of the juveniles who are referred to DCSD are referred while in physical custody of the MPD. The remaining juveniles are required to report to DCSD with a parent or guardian at some appointed date; these cases are referred to as "Order-In." The following describes the DCSD's custody intake procedure, as outlined in a DCSD Manual, and described to the OCR in the DCSD's Data Response.

The DCSD custody intake staff members are housed at the Detention Center and are available 24 hours per day, seven days per week. When a juvenile arrives at the Detention Center, after being transported by the MPD, the Detention Center staff will pat the juvenile down for safety and take the juvenile's property. The MPD officer gives the DCSD custody intake worker the police report and a form entitled "Temporary Physical Custody Request/Authorization Form" (Delinquency Referral). The Delinquency Referral contains the reason for taking the youth into physical custody, criteria for holding the juvenile, parental contact information, and placement recommendations. The Delinquency Referral does not contain information about language needs of either the juvenile or the family, but DCSD administrators told the OCR that the MPD officer

⁵ The OCR previously conducted a review of the MPD's compliance with Title VI and its services to individuals who are limited in their English proficiency because of their national origin. Therefore, this report will not address the services and procedures of the MPD.

or DCSD intake worker could write in the margin that language services were needed. The custody intake worker then confirms jurisdiction; in general, the DCSD has jurisdiction for juveniles under seventeen who are alleged to have committed a statutorily defined delinquent act (*See* Wis. Stat. § 938.02(10m) and 938.12), or juveniles under fifteen who are alleged to have committed an adult offense (*Id.* at § 938.183). The custody intake worker then conducts a medical screening, which includes visually checking the youth's physical condition, asking some basic questions about the juvenile's health (eg: current medications, pregnancy, allergies etc.), and completing the medical screening/consent form. The medical consent form has been translated into Spanish, and if the juvenile spoke a language other than Spanish or English, then the custody intake worker would either recruit a bilingual staff member to assist, (*See* discussion *infra* I.C.b.) or use a telephonic interpreter service. The Detention Center has medical and psychiatric staff to assist in completing the medical screening, if necessary. At this point, the MPD officer may leave, and the DCSD has custody of the youth. The custody intake worker will discuss with the juvenile why s/he is being held and the intake process. The juvenile will also be allowed to call his/her family, and the intake worker may also talk to the parent or guardian to explain the situation and discuss any medical issues.

At this point, the custody intake worker will check JIMS to see if the juvenile has any past or pending charges, and make a placement determination using an Intake Screening Worksheet. The Intake Screening Worksheet helps evaluate the juvenile on five areas, with a numerical value attached to each. These include the current behavior, current legal status, referral history within the past year, *capias* status, and special circumstances. The Intake Screening Worksheet does not contain information about language needs, although an intake worker could document that in the comment section of the form. Based upon the "score" from the Intake Screening Worksheet, the juvenile will be held in secure detention in the Detention Center, be placed in non-secure detention, or be released to themselves or their parent or guardian; language needs have no bearing on placement decisions. Following the initial custodial decision, the juvenile is assigned an intake officer or, if the juvenile already has an open case, a probation officer.

At this point, the custody intake worker arranges transportation to the juvenile's placement, if applicable, and notifies the parent or guardian of the placement decision and the date, time and location of the initial hearing; every juvenile held in either secure or non-secure detention will have a hearing scheduled for no later than 1:00 pm the next working day.

Prior to the initial hearing, the intake officer interviews the juvenile and family in order to assess the risk and make dispositional recommendations to the District Attorney. This interview and screening may include the following four assessment tools: (1) Problem Oriented Screening Instrument for Teens (POSIT): This is a 139 item questionnaire designed to assess a juvenile's use of alcohol and other drugs. It has been translated into Spanish. (2) Global Appraisal of Individual Needs (GAIN): This is a computer-based assessment of substance use, risk taking, mental and emotional health, among other areas. (3) Milwaukee County Delinquency Risk Assessment: This is a tool that assigns points to various risk factors, such as current and prior charges, history of abuse or neglect, history of running away, and prevalence of emotional problems. It is used to inform placement decisions. (4) Milwaukee County Delinquency Needs Assessment: This is a tool which assigns points to various indicators of juvenile well-being, such as parental substance abuse, emotional stability, school adjustment, and peer relationships. It is used to make recommendations about level of treatment. POSIT and GAIN will only be administered if it is indicated by youth's history of alcohol and drug use, or other factors. The

Milwaukee County Delinquency Risk Assessment and the Milwaukee County Delinquency Needs Assessment are administered to all youth.

If DCSD identified a juvenile or a juvenile's parent(s) as Spanish-speakers, either after being informed by the MPD or by learning that after meeting the youth, the DCSD will assign a Spanish-speaking bilingual staff member to conduct the intake. If such a staff member is not available or the LEP individual speaks a language other than Spanish, a monolingual staff member will conduct an intake with the assistance of a telephonic interpreter service. The DCSD has access to a telephonic interpreter service line under a county-wide contract. The DCSD is only one of many county departments that depend upon this service, and currently, the DCSD has no way of disaggregating its use of the telephonic interpreter service from other users. Sub-contractors cannot use the service under the DCSD's contract, and must secure their own language services.

b. Secure Detention

The OCR toured the Detention Center during the onsite portion of this Compliance Review. As described above, an initial custodial decision is made after the juvenile is brought to DCSD by the MPD. An initial hearing takes place by 1:00 pm the following work day, and the initial custodial decision can be sustained or changed. The Detention Center Superintendent reported to the OCR that approximately 50% of the juveniles who are placed initially in the Detention Center are released after the initial hearing. Of the remaining juveniles who are committed to the Detention Center at the initial hearing, the average length of stay is approximately nine days. Upon arrival at the Detention Center, the staff inventory the youth's clothing, review the rules of the facility, and allow the youth to call his/her family. The juvenile signs the list of rules, which has been translated into Spanish, and signs a property form. The juvenile then receives an initial medical screening, followed by a full physical the next day. The Detention Center has a nurse on duty during the first and second shift 365 days a year. The Detention Center also conducts a mental health assessment within 24 hours of a juvenile's arrival. The juvenile is then placed into their housing unit or "pod;" there are seven pods that are categorized by the offense of the juvenile.

The Detention Center relies on bilingual staff primarily to provide language services for LEP juveniles or juveniles with LEP families. On its response to the OCR's Data Request, DCSD reported having ten Spanish-speaking bilingual staff, two of whom were Juvenile Correctional Officers at the Detention Center; additionally two of the bilingual staff are intake specialists, three are probation officers, and three are support staff; there is one vacancy for a Spanish-speaking bilingual juvenile correctional officer. These staff members are classified as bilingual in the civil service system after being tested by the Milwaukee County Human Resources Division. Additionally, there are other Detention Center staff members who, although not classified as bilingual by the County Human Resources Division, have self-identified as having some language skills. If a juvenile is LEP or a juvenile's family is LEP, the Detention Center would first use an employee who is classified as bilingual, preferably a juvenile corrections officer, and then use a self-identified bilingual employee. If a bilingual employee was not available or the language was not Spanish, the Detention Center would access the telephonic interpreter service.

It is against the Detention Center's policy to use bilingual youth to interpret for other youth. However, during the OCR's tour of the Detention Center, staff reported that they often ask

bilingual youth to translate for their own LEP family members. Staff also reported that they may rely upon a friend, relative, or older child to interpret for LEP parents. The OCR noticed several Spanish language signs in the Detention Center, although the facility rules were only posted in English.

c. Non-Secure Detention

The DCSD currently contracts with St. Charles Youth and Family Services (St. Charles) to provide non-secure detention, and the OCR visited St. Charles during the on-site portion of this Compliance review. Juveniles can be transported to St. Charles 24 hours a day, and can stay up to one month; the average length of stay is approximately 15-20 days. When a juvenile is transported to St. Charles, the facility receives a Predisposition Program Admission form, also called a “face sheet,” which lists the offense, parental information, prior placements, demographic information, the intake specialist or probation officer, and any other pertinent information such as required medication. At the time of the on-site portion of this Compliance Review, this form did not list national origin or language spoken, but had a space to list “other significant issues.” Following the Compliance Review, this form was amended to capture the youth’s “primary language.” More typically, however, St. Charles is informed of any language needs over the phone by the custody intake worker who is arranging the placement and transfer. When a juvenile arrives at St. Charles, the staff member conducts a health screening to determine acute needs that require immediate attention, and FAXes the health screening to a contract nurse. The staff member also inventories the juvenile’s belongings, and provides rules for the facility (referred to as “words of wisdom”). St. Charles is not a treatment program, although they do provide some group-based psycho-educational programs, including social and anger management skills. Additionally, the Wauwatosa School District conducts an educational assessment on the youth’s first day at St. Charles, and juveniles attend public school throughout their stay. St. Charles submits a behavioral report to the juvenile’s custody intake worker, which is in turn submitted with the next court report.

The St. Charles staff members whom the OCR interviewed relayed the following information about their services to LEP juveniles or juveniles with LEP families. The first choice for language services would be to use a bilingual staff member. St. Charles has five Spanish-speaking bilingual staff members, and they are currently seeking a case-worker who is bilingual in Spanish. If a bilingual staff member is not working, they may call a bilingual staff member at home or use a bilingual friend of a staff member. St. Charles has no process for verifying the language skills of bilingual staff member in contrast with the County Human Resource Division’s system for certifying staff as bilingual; they depend upon staff self-identification. If the LEP person spoke Hmong, they might access the Hmong American Friendship Association. At the time of the OCR’s onsite visit, St. Charles had three Hispanic juveniles in the facility, one of whom had LEP parents. In that case, they used the juvenile’s older brother to interpret for the parents. Staff members whom the OCR interviewed said that LEP parents generally bring someone with them to interpret, such as an older child or another relative. St. Charles has translated its intake packet into Spanish, which includes the following forms: Consent for Disclosure of Confidential Information, Client Personal Consent, Client Rights for 24 Hour Care Services, Informed Consent Document, and Grievance Resolution Process and Form.

d. In-Home Monitoring

If juveniles are released to themselves or their parents, there will still be an initial hearing, where the Court could order in-home monitoring. This is an intensive in-home program for alleged delinquent youth who are not an immediate risk to the community but are at risk for placement without additional supervision and support services. The DCSD contracts with the Southwest Key Program to provide these services. When a juvenile is referred to Southwest Key, the DCSD custody intake worker completes the Predisposition Program Admission Form, which was described above and FAXes it to Southwest Key. As described above, the form was revised following the on-site portion of this Compliance Review to record the youth's "primary language." After receiving a referral, Southwest Key schedules an intake with the juvenile and the parent(s) or guardian(s). This intake includes a comprehensive assessment, in which the staff member appraises the juvenile's needs, abuse history, mental health, safety, trauma, past placements, and drug and/or alcohol history. The Intake and Demographic Information form used during this process contains a space to list the juvenile's "primary language," and Southwest Key's data base contains a field to record if the juvenile is LEP and a field to record if the parent is LEP. The staff at Southwest Key also provide the juvenile and his/her parent(s) with a Client Handbook, which includes the following statement: "If you or your family is more comfortable communicating in a different language than English, we will make sure our information is either in that language or explained to you in the language you speak." The Client Handbook has also been translated into Spanish. Based upon the initial assessment, Southwest Key provides or coordinates services for the juvenile, but In-Home monitoring includes, at a minimum, two face-to-face visits per day between staff and the juvenile, a curfew call each night, and mandatory group counseling once per week.

If Southwest Key knew ahead of time that the juvenile is LEP or has LEP parents and speaks Spanish, it would use a bilingual employee to schedule the intake and either conduct the intake or serve as an interpreter. The only bilingual employees on staff speak Spanish. However, during the OCR's onsite visit, staff members said that they might also reach out to the Hmong American Friendship Association for Hmong interpreters, or use friends or family members of the LEP person to interpret; they would never use the juvenile to interpret for his/her own family. Staff also reported that they might call the Children's Court for interpreter resources, but Southwest Key has never encountered an LEP person who spoke anything other than Spanish.

e. First Time Juvenile Offender Program

The District Attorney can refer first-time juvenile offenders between the ages of twelve and seventeen who have committed non-felony offenses to the First Time Juvenile Offender Program (FTJOP), in lieu of filing a delinquency petition. *See* Wis. Stat. § 938.245 (2011). If accepted into the FTJOP, the juvenile and his/her parent sign a one-year Deferred Prosecution Agreement, the first six months of which consist of participating in recommended services; if the juvenile can finish the second six months without incident, then the delinquency case is considered closed. The DCSD contracts with two service providers to operate the FTJOP, the Milwaukee Christian Center (MCC), and New Concept Self-Development Center (New Concept). According to the DCSD's response to the OCR's Data Request, the MCC manages the FTJOP for youth in the south side of Milwaukee, which includes a large Hispanic and Asian population. New Concept administers the FTJOP for youth in the north side of Milwaukee, which includes a large African-American population. In carrying out the FTJOP, these two agencies can access the services of the nineteen other service providers that make up the Children's Court Services Network (CCSN).

During the OCR's onsite visit, the OCR met with staff from both New Concepts and MCC, who provided the following explanation of the FTJOP. Once per week there is a meeting in the Children's Court to evaluate juveniles whom the District Attorney has referred to the FTJOP. This meeting is attended by a Children's Court supervisor, and representatives from MCC and New Concept. As juveniles are discussed, they are referred to MCC or New Concept, depending upon the section of Milwaukee in which the juvenile resides. The Children's Court supervisor would have completed a "Service Plan Authorization Form" and a "Services Referral Form," which detail the initial services that the juvenile will receive through the CCSN. There is nothing on either of these forms that would indicate that a juvenile or a juvenile's family is LEP and may need language services, although that could be written in the "notes" section of the forms. Otherwise, the Children's Court supervisor will tell MCC or New Concept of any language needs during this meeting.

MCC and New Concept then assign a "tracker" to each case, who acts as a case manager for the juvenile. Within 48 hours of receiving the referral from the Children's Court, the tracker will attempt to conduct an intake interview with the juvenile and the parents to explain the FTJOP, and to discuss appropriate services. At this intake interview, the tracker explains the services that can be provided directly by MCC or New Concept, and provides the juvenile and parent(s) with a "Provider Network Bulletin" which explains the services available through the CCSN. In order to successfully complete the program, the juvenile must write a letter of apology to the victim(s), if applicable, attend four hours of community education at the Children's Court, and participate in the services that are part of the juvenile's service plan. The tracker will make contact with the juvenile at least once per week, follow-up with all service providers, and provide monthly reports to the Court.

If the MCC or New Concept staff determines that the juvenile is noncompliant, they will attempt to work with the juvenile and his/her parent(s) to amend the service provider selection. Additionally, the Children's Court could send a "violation letter" to the juvenile and parent(s) as a warning that the juvenile is not complying with the terms of the program. MCC and New Concept depend upon the Children's Court to translate any violation letters that go out to LEP juveniles or juveniles with LEP parents.

New Concept has three trackers, and one Spanish-speaking employee. If the client spoke Spanish, New Concept would access its bilingual staff member to interpret between the tracker and the LEP client; New Concept reported it could also use "I Speak" cards to identify any unknown language of a client. Otherwise, New Concept would access community volunteers through La Casa for Spanish-language interpreters or United Community Center for Hmong-language interpreters. If interpreter needs could not be met through these options, New Concept would use the area 2-1-1 social service directory to try to find an interpreter. The only document that New Concept has translated is its "Mentoring Training Form," which has been translated into Spanish. New Concept provides clients with a pamphlet entitled "Client Rights and the Grievance Procedure for Community Services," which explains a client's right to file a grievance; this document has not been translated into any other languages. New Concept reported that it has not had an LEP client in at least three years.

MCC has two trackers, one of whom speaks Spanish, and other employees who speak Spanish, Hmong, Korean, and Laotian. Bilingual staff members are self-identified. MCC reported that if it became aware that a juvenile or the juvenile's parents spoke Spanish, they would assign the Spanish-speaking tracker. MCC uses its other bilingual employees to interpret for clients. If an

LEP client had a language need that its current staff couldn't meet, MCC would contact the International Institute, which is a local organization that provides interpreters for a fee. Although MCC has never used the International Institute for interpreters, MCC reported that it would pay the fee rather than seek resources from DCSD. The MCC reported that it might use juveniles or other family members to interpret for LEP parents in emergency circumstances, but that would not be a preferred or routine way of communicating. MCC reported that it receives a FTJOP referral of a Spanish-speaking juvenile approximately once per month, and that MCC has never received a referral with language needs that it could not meet within its current staff.

f. Complaint Procedures and Community Outreach

DCSD has a department-wide policy on complaint resolution. The policy states that it applies to “[a]ny juvenile or family member’s dissatisfaction with DCSD services, as it relates to: Client Safety Issues, Misappropriation or Misuse of Funds, Denial of Services or Lack of Services.” The policy states that the assigned worker or his/her supervisor will first attempt to resolve the complaint informally. A written complaint will be accepted in any form, although the DCSD has a complaint form that complainants are encouraged to use; written complaint forms are available in English, Spanish, and Hmong. Once a written complaint is received, the DCSD will send a letter acknowledging the complaint within 72 hours. The DCSD will attempt to investigate the complaint within 24 hours and resolve it within 72 hours. If the complaint cannot be resolved within 72 hours, the DCSD may schedule a meeting that includes parties associated with the complaint. If the resolution of the complaint is adverse to a juvenile or the juvenile’s family, the DCSD will advise the complainant that s/he may request a meeting with DCSD management. If such a meeting is scheduled, the parties will be notified in writing seven days in advance of the date, time and location. The DCSD maintains a complaint log of every complaint that results in a face-to-face meeting, and other complaints at the discretion of the DCSD staff. In its Data Response, the DCSD wrote that it has not received any complaints that involved language services.

The DCSD also submitted in its Data Response another policy entitled “How to File an Employment or Service Delivery Discrimination Complaint,” which is part of a county-wide civil rights compliance plan. This policy includes the following:

If you feel that you have been treated differently because of you age, race, religion, color, sex, national origin or ancestry, disability or association with a person with a disability, arrest or conviction record, sexual orientation, marital status or pregnancy, political belief or affiliation, a military participation, or use or non use of lawful products off the employers or service providers premises during working hours, you may file a complaint. If you were wrongly denied services, or if the treatment you received was separate or different from others, or if the program was not accessible to you, it may be discrimination.

This policy goes on to describe several state and federal agencies to whom one might complain, including the Wisconsin Department of Workforce Development, the Wisconsin Equal Rights Office, and the Wisconsin Department of Health and Human Services. The Federal agencies that are listed are the Department of Health and Human Services, Office for Civil Rights; DOJ, Civil Rights Division; United States Department of Agriculture, Office for Civil Rights; Food and Consumer Services, Civil Rights Program; Equal Employment Opportunity Commission; and

The Office of Federal Contract Compliance. This policy includes a complaint form, and the entire policy and complaint form exist in English, Spanish and Hmong.

In its Data Response, the DCSD reported that it has done community outreach to the Hmong American Friendship Association, and has used that group on occasion for interpreter assistance.

2. Circuit Court

According to the Circuit Court's Data Response, the Children's Court exercises jurisdiction over delinquency matters involving juveniles under the age of seventeen, and abuse and neglect matter involving children and youth under the age of eighteen. LEP juveniles or the LEP parents of juveniles may interact with the Circuit Court through court proceedings, walk-ins and other informational encounters in public access spaces, and lodging complaints or other community participation.

a. Proceedings

All proceedings involving juveniles take place in Children's Court. The Consolidated Court Automation Program (CCAP) is the Circuit Court's electronic court management system. The DCSD Probation Department starts a case in CCAP by entering the name, and the District Attorney's Office adds charging information and date of birth. No demographic information is available in CCAP, and the system cannot reflect national origin or language needs, per se. However, there is an "event code" in CCAP that can indicate when an interpreter has been used for a proceeding. Circuit Court personnel do not generate cases in CCAP nor do they add information about the parties into the system.

Each day, the Children's Court receives a "Detention List" of juveniles who will be arriving for their initial hearings that day at 1:00 pm. However, at 10:00 am each morning, the juveniles who are scheduled for initial hearings that day meet with their parent(s), attorney (usually a public defender), and the DCSD intake worker or probation officer, usually at the Detention Center. As a result, any language need of the juvenile or parent(s) would be uncovered prior to the initial hearing by DCSD and the juvenile's attorney.

Section II.A.2. will explain the language services that are provided by the Circuit Court during proceedings and the procedures for requesting them. However, in light of the recommendation in the DOJ Guidance to consider the nature and importance of a recipients' services, and in consideration of the grave consequences of legal proceedings, language services in court proceedings should be the top priority of the Circuit Court.

b. Walk-In and Information Windows

During the onsite portion of this Compliance Review, Circuit Court staff represented that it would be unusual for the parents of a juvenile to appear at the Courthouse without having first seen their child, his/her attorney, and DCSD intake worker or probation officer at the Detention Center or other facility. Be that as it may, the informational windows, directional signage and general public access stations are often the first points of contact that beneficiaries have with the Circuit Court. Section II.A.2 and II.B.2. of this Compliance Review Report thoroughly explain the language services that are available to Circuit Court staff during walk-in and window encounters. However, staff that the OCR interviewed during this review said that if they

encountered a LEP person at a public access window or similar point of contact, they would summon the Circuit Court's staff interpreter. *See infra* Section II.A.2. Additionally there are "I Speak"⁶ posters at several locations in the Courthouse to assist in language identification as well as some Spanish-language signage.

c. Complaint Procedures and Community Outreach

During the onsite portion of this Compliance Review, Circuit Court administrators explained that if someone inquired about filing a complaint about a failure to provide adequate language services, the person to whom the inquiry was made would ask the Complainant to put the allegations in writing, and that would be forwarded to the presiding judge. There are no complaint forms. The presiding judge would evaluate the complaint and make a determination on its merits and possible remedy. If the complaint is submitted in a language other than English, the Court will have it translated. During the on-site portion of this Compliance Review, the Circuit Court administrators reported that they have not received a complaint related to national origin or language access in fifteen years.

Additionally, the Wisconsin State Court Interpreter Program, described in more detail in Section II.A.2. of this report, will investigate complaints made about the interpreters on its roster. There is a written complaint form, which the Complainant could request from the Circuit Court personnel. A completed complaint form is forwarded to the Director of State Court Interpreter Program, who would conduct a character and fitness review of the interpreter. This could result in the interpreter being removed from the state roster of interpreters.

The Children's Court does not conduct any formal outreach to the community.

D. Resources Available and Costs

1. DCSD

According to the DCSD Data Response, its operational budget for FY 2008 was \$41,669,915, and it spent \$939 on language services. Its operational budget for FY 2009 was \$41,386,444 and it spent \$5,185 on language services. The DCSD budgeted \$10,000 for language services for FY 2010.

2. Circuit Court

According to the Circuit Court's Data Response, its operational budget for FY 2008 was \$51,114,005, with the Children's Court making up \$10,408,027. During that time period, the Circuit Court spent \$120,027 on language services in Children's Court. The total budget for FY 2009 was \$50,952,331, with the Children's Court making up \$10,077,184, and \$163,630 was spent on language services in Children's Court. The total budget for FY 2010 was \$52,571,177, with the Children's Court making up \$10,567,663, and \$120,000 was budgeted for language services for Children's Court. The Circuit Court does not charge the interpret fees to any beneficiary.

⁶ An "I Speak" sign has the phrase "I speak [specific language]" translated into multiple languages. It does not notify the viewer of the existence of language services or contain any other substantive information.

The Circuit Court's LAP contains a section that outlines other resources that it may access for language services. Specifically, the LAP lists statewide resources, such as training on the State Court Interpreter Program, "I Speak" cards, and some state-translated forms. In addition, the Circuit Court's LAP mentions the potential for receiving assistance from community organizations, but does not elaborate on specifically what community resources it uses now or will use in the future.

II. Providing Language Services

Based upon a recipient's assessment of the LEP population, the frequency of contact with LEP persons, the importance of its services, and the resources available to the recipient, the DOJ Guidance next advises recipients on the options for language services. A recipient can provide language services in two primary ways, through oral interpretation and through written translation.⁷

A. Interpretation

Interpretation is the act of listening to something in one language and orally translating it into another language. The DOJ Guidance describes how a recipient may provide interpretation through the use of bilingual staff, staff interpreters, contract interpreters, telephonic interpreter services, and community volunteers, depending upon the service or activity. The DOJ Guidance strongly cautions against the use of family members or friends of the person needing language assistance as interpreters.

1. DCSD

The State of Wisconsin, Department of Workforce Development prepares a document entitled "Civil Rights Compliance Requirements: Affirmative Action, Equal Opportunity and Limited English Proficiency for Recipients of Federal and State Funded Programs/Services/Activities from Department of Workforce Development & Department of Health and Family Services." This document provides a model LEP Policy, which the Milwaukee County DHHS has adopted for all of its components, including DCSD. This policy provides that in accordance with Title VI, it is the policy of DHHS to provide "written translation and oral interpretation, free of cost, to LEP persons to ensure meaningful, accurate, and equal access to programs, benefits, and activities." This policy further discourages the use of family members and friends of LEP individuals as interpreters, and prohibits the use of minor children as interpreters. The policy provides that LEP individuals will be informed of their right to free language assistance, and that DHHS will monitor demographical changes to meet the language needs of beneficiaries. This policy does not articulate the specific language assistance measures that are available or are anticipated.

DCSD currently has ten staff members who are classified as bilingual in Spanish and English. As discussed in Section II.A.1. of this Compliance Review Report, these employees are classified as bilingual by the County Human Resources Division after a written and oral competency test. The first choice for providing language assistance to a Spanish speaking LEP

⁷ A recipient may also provide services directly by bilingual service providers, with no intermediary interpreter or translator, if the staff member is both qualified in the service provision and fluent in the LEP client's language. For example, a counselor who is fluent in Spanish could conduct a counseling session completely in Spanish, without using an interpreter.

person is to call one of these bilingual employees; in the intake process the preference would be one of the three bilingual Juvenile Corrections Officers (JCO). If a bilingual staff member is unavailable, or the language is something other than Spanish, DCSD would use a telephonic interpreter service. This process would be followed during intake procedures, health screenings, providing public safety information, handling grievances, offering non-emergency assistance and conducting meetings with juveniles and their families. DCSD reported to the OCR during the onsite portion of this review that during meetings with family members of juveniles, the DCSD might use other family members, friends of the family, or the juvenile to interpret; the DCSD tries to be mindful of confidentiality issues, and attempts to limit the instances when it uses juveniles to interpret for their own parents to non-sensitive topics.

DCSD's access to a telephonic interpreter service line is via the County's contract with Certified Languages International (CLI). During the onsite portion of this Compliance Review, DCSD staff told the OCR that because this is a county-wide language line, there is no easy way to analyze how often it is used by DCSD for juvenile matters.

DCSD reported that if an LEP parent or guardian brings an adult family member or friend to interpret, then DCSD would allow that person to serve as interpreter. However, when the topic for discussion is sensitive, or if DCSD has concerns about interpreter reliability, DCSD will attempt to secure their own interpreter. Youth are only occasionally allowed to interpret for their own parents, primarily in instances of little consequence or until another interpreter is secured.

DCSD staff members are notified of the procedures to access the telephonic interpreter service line through e-mail at least every four years when the County updates its state-required civil rights plan. In its Data Response, the DCSD provided the OCR with a sample email to all DHHS staff which provides the telephone number, access code, and operating procedure for the service. Additionally, DCSD often addresses situations involving LEP individuals in staff meetings, which might include an explanation of how to access the telephonic interpreter service.

The language assistance measures of sub-contractors are reviewed in Section I.C.1.c-e of this Compliance Review Report, and some of those language services may be charged to DCSD through the contract. However, during the onsite portion of this Compliance Review, the DCSD administrators reported that it is not easy to analyze when a sub-contractor is paying for a language service. The payment system requires sub-contractors to enter a code for each purchase, and there is currently no code for language services; a sub-contractor would have to use a "miscellaneous" code, which encompasses many other kinds of purchases.

2. Circuit Court

Wisconsin State law requires that qualified interpreters be provided in Circuit Court proceedings at no charge for individuals who are limited in their English proficiency. Wis. Stat. § 885.38. The Wisconsin statute defines an LEP person as someone who is unable "because of the use of a language other than English, to adequately understand or communicate effectively in English in a court proceeding." *Id.* at (1)(b). A "qualified interpreter" is defined as someone who can do the following:

1. Readily communicate with a person who has limited English proficiency.

2. Orally transfer the meaning of statements to and from English and the language spoken by a person who has limited English proficiency in the context of a court proceeding.

3. Readily and accurately interpret for a person who has limited English proficiency, without omissions or additions, in a manner that conserves the meaning, tone, and style of the original statement, including dialect, slang, and specialized vocabulary.

Id. at (1)(c). Finally, the Wisconsin statute provides that an LEP person has a right to a qualified interpreter if s/he is a party in interest, a witness while testifying, an alleged victim, a parent or guardian of a minor party or “another person affected by the proceedings, if the court determines that an [interpreter] is necessary and appropriate.” Id. at (3)(a).

During the OCR’s onsite visit, the Circuit Court administrative staff told the OCR that the Circuit Court provides interpreters in any juvenile proceeding where a party or interested person is LEP. The Circuit Court employs one Interpreter Coordinator and one Spanish-speaking staff interpreter. The Interpreter Coordinator is responsible for receiving and filling requests for interpreters through the use of a statewide roster of court interpreters, and the process for securing an interpreter for a juvenile proceeding is as follows. Prior to the initial hearing, DCSD generally calls the Children’s Court Administrator to inform the Court that the juvenile or the juvenile’s parent(s) is LEP. In addition, all juveniles are represented by counsel, and the youth’s lawyer generally notifies the Court of the need for an interpreter as well. The Children’s Court Administrator then ascertains the language, the party, the courtroom and the time; there is no form for making a request for an interpreter. Once the Children’s Court Administrator is notified of a language need, he sends an email to the Interpreter Coordinator, and she secures an interpreter from a statewide roster of interpreters or, if the language is Spanish, by scheduling the Circuit Court’s staff interpreter.

This statewide roster of interpreters is maintained by the Director of State Courts for the Wisconsin Supreme Court, the administrative arm of the Wisconsin Court system and itself a recipient of federal financial assistance. The Director of State Courts maintains a Language Assistance Plan [State LAP], which describes the roster of interpreters and the training and certification process for interpreters. According to the State LAP, the training is two days and covers ethical conduct, legal terminology, court procedure and basic interpreting skills. The certification process includes both a written test and an oral test. The written test consists of multiple choice questions and a written language assessment, and tests professional and ethical conduct, general language proficiency and court related terms. The oral exam was developed by the National Center for State Courts Consortium for State Court Interpreter Certification and assesses sight translation, consecutive interpretation and simultaneous interpretation. Interpreters on the statewide roster of interpreters are classified as either “trainee,” “provisional,” or “certified.” Trainee interpreters are those who have completed the training; provisional interpreters are those who have completed the training and passed the written exam; certified interpreters are those who have completed the training, passed the written exam, and passed the oral exam. In addition to the training, all interpreters are given a copy of *The Wisconsin Court Interpreters Handbook: A Guide for Judges, Court Commissioners, Attorneys, Interpreters and Other Court Users* [Interpreters Handbook], which is also available to the public at the Director of State Court website.

The Circuit Court submitted the statewide roster of interpreters in its Data Response, and the roster listed seventy-five certified interpreters at that time - sixty-three speak Spanish, four speak Russian, two speak Hmong, one speaks French, one speaks German, one speaks Laotian, one speaks Vietnamese, one speaks Mandarin, and one speaks Somali. For other languages, the Circuit Court may use provisional or trainee interpreters. For courtroom proceedings, every effort is made to secure a certified interpreter, and Spanish language interpreters are always certified. However, in its Data Response, the Circuit Court represented that a judge may conduct a voir dire to assess the interpreter's qualifications and experience, particularly for "refugee" languages such as Burmese, Mandingo, or Somalian Bantu Mai-Mai.

In its Data Response, the Circuit Court indicated that it may use a telephonic interpreter service or a video interpreter service, if it cannot secure an interpreter from the roster. However, during the onsite portion of this Compliance Review, the Court staff said that video interpretation is not used in Children's Court, and a telephonic interpreter service is only used for short non-substantive proceedings.

As mentioned earlier, the Circuit Court employs one full-time certified Spanish-language interpreter, and a few bilingual employees. If someone presents at a service window or a similar walk-in setting, the Courthouse staff would call the Interpreter Coordinator or the staff interpreter directly. The Circuit Court wrote in its Data Response that the Children's Court never uses family members or friends of the LEP individual to interpret during proceedings. However, other divisions of the Circuit Court might use family and friends of the LEP individual to interpret for non-substantive discussions, rescheduling appointments, or relaying the need for an interpreter.

The Circuit Court staff members are notified about the Court's language services primarily through office memorandums and electronic-mail updates. The Circuit Court provided examples of each such communication in its Data Response. These communications explained how to request an interpreter and how to enter the appropriate interpreter "event code" into CCAP. *See* discussion *supra* I.C.2. In its Data Response, the Circuit Court also indicated that staff could become aware of these language services by reading the Interpreter Handbook, which is readily available on the Director of State Court website. However, the Interpret Handbook is intended for a statewide audience, and does not contain any procedures specific to the Milwaukee County Circuit Court.

Although the Circuit Court submitted its own Language Assistance Plan in its Data Response, most of the above information was provided in the Circuit Court's Data Response or during on-site interviews. In fact, during the onsite portion of this Compliance Review, Circuit Court administrators told the OCR that the existing LAP was modified from a state model, and contains little local specificity. For example, the Circuit Court's current LAP states that "each county is responsible for conducting a needs assessment and developing a local language assistance plan to meet court-related needs of the county population." But the LAP does not articulate such a needs assessment or how the Circuit Court may otherwise meet county-specific language needs. In fact, the Circuit Court's LAP retains parenthetical instructional comments from the state court, indicating to the OCR that the LAP was not tailored to address the local needs in Milwaukee County. Section III.B.1. provides specific recommendations for revising the LAP.

B. Translation

Translation is the replacement of a written text from one language into an equivalent written text in another language. In determining which documents to translate and into which languages, the DOJ Guidance suggests that recipients consider which documents are vital to a beneficiary's access to the recipients services, and the languages most frequently encountered by the recipient. As with insuring the competency of interpreters, the DOJ Guidance further notes the importance of using qualified translators.

1. DCSD

In its Data Response, the DCSD wrote that the following forms have been translated into Spanish: Acknowledgement of Notice of Rights; POSIT questions (*supra* I.C.1.a.); Probation Agreement; and Sanctions Warning, and Rights Form. The DCSD reported that it determines which documents to translate through consultation with staff and supervisors, and that County-certified bilingual staff produce the translations. The DCSD indicated in its Data Response that staff will notify LEP beneficiaries of the existence of translated forms on a case-by-case basis. Additionally, DHHS has had its LEP policy translated into Spanish and Hmong.

DCSD also has "I Speak" cards available at critical points of public access, and has notified staff via e-mail of the cards and their use. DCSD also has several signs throughout the Detention Center and other public locations translated into Spanish, including directional signs and office names and hours. DCSD also has a notice of available language services posted in its intake waiting area in both English and Spanish.

Any translations that have been made by DCSD sub-contractors were discussed in Section I.C.1.c-e of this Compliance Review Report.

2. Circuit Court

After an initial hearing, a juvenile is given a written notice of the next proceeding. If the juvenile or parent of the juvenile is LEP, the interpreter for the proceeding would provide an oral sight translation at the end of the proceeding. The Circuit Court does not generate any other notices for juvenile proceedings, and does not mail out any documents to juveniles or their parents.

The Circuit Court LAP does not cover translation; it does not address how the Court will identify documents to be translated nor how it will ensure competent accurate translation. However, in its Data Response, the Circuit Court wrote that the Director of State Court's Consolidated Court Automation Programs (CCAP), which aims to support the IT needs of the entire Wisconsin Court system, contains several Spanish language versions of state court forms; these forms can be downloaded and used by any Court in Wisconsin. The following juvenile forms have been translated into Spanish, and are available on the state website: Summons (Termination of Parental Rights); Notice of Right to Seek Post-disposition Relief; Notice of Rights and Obligations; Acknowledgement of Notice of Rights and Obligations; Statement of Income, Assets, Debts and Living Expenses; Waiver of Right to Counsel; Plea Questionnaire/Waiver of Rights – Juvenile; Acknowledgement of Dispositional Conditions and Sanctions; and Notice of Right to Seek Post-Judgment Relief.

The Circuit Court has several signs throughout the Courthouse translated into Spanish, including the business hours of various divisions, basic directional signs and emergency signs.

Additionally, the Circuit Court has a sign posted in numerous locations that states in twenty languages that interpreters are available.

Lastly, the Circuit Court's website contains a link entitled "Translate Language." This takes the website user to links to online translation services, including www.freetranslation.com, www.babelfish.com, and www.transexp.com (a website that sells translation products), and two non-functioning links.⁸

III. Recommendations

While DCSD and the Circuit Court have some procedures in place for ensuring meaningful access to programs and services by LEP individuals, the OCR offers the following recommendations to ensure compliance with Title VI and the Safe Streets Act.

A. DCSD

The OCR recommends that the DCSD take the following steps to provide meaningful access to its programs and activities by LEP persons: (1) Develop a Language Assistance Plan; (2) Evaluate the Sufficiency of its Current Translations; (3) Improve and Monitor the Language Services of Sub-Contractors; and (4) Improve Data Collection.

1. Develop a Language Assistance Plan:

As discussed in Section II.A.1. of this Compliance Review Report, the State of Wisconsin provides a model LEP Policy for recipients of state and federal funds. The Milwaukee County DHHS has endorsed this policy for all of its components, including DCSD. However, the OCR recommends that DCSD develop a comprehensive Language Assistance Plan which would include procedures for implementing language services. At a minimum, the LAP should include the following:

- *A process for identifying individuals in the service population who need language assistance:* DCSD currently identifies an individual who needs language services at intake, either via the police report, the Delinquency Referral, or a face-to-face interaction. However, at the time of the on-site portion of this Compliance Review, neither the forms that the DCSD receives at intake, nor the forms it uses to process a juvenile, contained a field to record the language needs of the juvenile or the juvenile's parents. The OCR understands that the DCSD new record management system, Synthesis, will have the ability to capture LEP data. The OCR encourages the DCSD to modify that system to record the language spoken by the juvenile and the parent(s)/guardian(s). Consistent with the DOJ Guidance, the DCSD should develop a comprehensive way of assessing the number or proportion of LEP individuals in its service population, and the frequency with which LEP persons have contact with DCSD.

⁸ DOJ strongly discourages the use of machine or automated translations, due to a concern for accuracy. See Federal Coordination and Compliance Section, Civil Rights Division, U.S. Dep't of Justice, *Common Language Access Questions, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs*, August, 2011, available at http://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf (last modified May 4, 2011). See also Office of Citizen Services and Innovative Technologies, U.S. General Services Administration and Federal Web Managers Council, *Automated Translation – Good Solution or Not?*, available at <http://www.howto.gov/web-content/multilingual/automated-translation> (last modified Feb. 22, 2011).

- *A description of the available language assistance measures, and procedures for accessing them:* DCSD relies heavily on bilingual employees and a telephonic interpreter service. However, a comprehensive LAP should describe all of the language assistance measures (e.g.: including staff interpreters, contract interpreters, bilingual staff, language line, video interpreters etc.) available, as well as the specific procedures for using them. Additionally, the LAP should articulate how the recipient will ensure the competency of language assistance, in what order the language assistance measures should be used, and any situations where one or more language assistance measures are not appropriate. The LAP should also outline a plan for determining which vital documents it will have translated, and into which languages those documents will be translated.
- *A plan for training staff:* The DCSD reported to the OCR that staff is told how to access the telephonic interpreter service through e-mails that coincide with the updating of the state-required civil rights plan every four years. However, staff should receive more comprehensive training about the DCSD obligations to provide meaningful access to LEP persons to its programs and activities, and this training program should be articulated in the LAP. DCSD should consider the following in developing its training plan:

 - All staff should know about the DCSD's LEP policies and procedures contained in the LAP.
 - Staff having contact with the public or with juveniles and their families should receive in depth training, including the procedures for accessing in-person and telephonic interpreters; staff having *no* contact with the public or juveniles and their families may only need to be aware of the LAP.
 - Training should, at a minimum, be part of new employee orientation; DCSD should also have a system for notifying staff of updates or changes to language services.
- *A process for notifying LEP persons of the existence of language measures:* DCSD does post a notice of the availability of language services in its main intake area. However, DCSD should consider more comprehensive methods for notifying LEP persons of the existence of language assistance measures, and include those in the LAP. In addition to posting signs, DCSD should consider stating on outreach documents that language services are available, working with community-based organizations to make these services known, and using a telephone voice mail menu in the most common languages encountered. All such efforts shall emphasize that language services are provided free of charge to the beneficiary.
- *A plan for monitoring and updating the LAP:* DCSD should have a process for monitoring shifting demographics, evaluating its current services and procedures, and planning for new services or outreach efforts. In reviewing the LAP, the DCSD may want to consider the following:

 - Changes in LEP populations in the service area or population affected or encountered;
 - Updated assessment of the frequency of encounters with LEP language groups;

- Any new services being provided, either internally or through new sub-contractors, and how they will be accessible to LEP persons;
- Any new vital documents that should be translated or changes to old vital documents that should be re-translated;
- Availability of resources, including technological advances and sources of additional resources, and the costs imposed;
- Whether existing assistance is meeting the needs of LEP persons;
- Whether staff knows and understands the LAP and how to implement it;
- Whether identified sources for language assistance are still available and viable.

The OCR encourages the DCSD to seek feedback from community groups and beneficiaries in monitoring and updating its LAP.

In implementing this recommendation, the DCSD may wish to consult the DOJ Guidance, along with the following documents: (1) Language Access Instrument and Planning Tool for Federally Conducted and Federally Assisted Programs; (2) Planning Tool for Creating a Language Assistance Policy and Plan in a Law Enforcement Agency and a Planning Tool for Creating a Language Assistance Policy and Plan in Corrections; (3) Limited English Proficiency Resource Document: Tips and Tools from the Field; and (4) a sample written language access plan. These documents are available at <http://www.lep.gov>. The OCR recommends that the DCSD make developing its own LAP a high priority.

2. Evaluate the Sufficiency of Current Translations

As discussed in Section II.B.1. of this Compliance Review Report, the DCSD has translated several documents into languages other than English. However, the DCSD should evaluate the sufficiency of its current inventory of translated documents, and develop a plan for continuing to translate vital documents into the most frequently encountered languages. The DOJ encourages recipients to satisfy the “safe harbor” provision in the DOJ Guidance when determining which documents to translate. *See* DOJ Guidance, 67 Fed. Reg. at 41,464. This provision states that recipients should translate “vital documents” for LEP groups that comprise five percent or 1,000, whichever is less, of the eligible service population. *Id.* Whether a document is “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 41,463. In the event that a document is not translated and must be presented to an LEP individual, a certified interpreter or qualified bilingual staff member should translate the document for the LEP person or, if that is not practicable, orally interpret the document for the individual.

The OCR recommends that the DCSD assess whether its current inventory of translations sufficiently meets the needs of its LEP juveniles and their families. If the DCSD determines that its current library of translations falls short of the need, then a plan for securing new translations should be outlined in the LAP. If the DCSD determines that its current set of translated documents is currently sufficient, then the LAP should articulate when and how translations will be reviewed in light of potential demographic shifts.

3. Improve and Monitor the Language Services of Sub-Contractors

Sections I.C.1.c-e of this Compliance Review Report reviewed the services of DCSD's sub-contractors and the language services used by those agencies. However, DCSD does not appear to take any steps to ensure that its sub-contractors are providing meaningful access to their programs and activities to LEP persons. The OCR recommends monitoring its sub-contractors for compliance with Title VI and the Safe Streets Act's prohibition on national origin discrimination. Specifically, DCSD should survey its sub-contractors about their own LEP policies and language access procedures, and make sure that those policies and procedures are consistent with the DCSD LAP. Additionally, DCSD should consider ways to assist sub-contractors with providing language services, such as allowing them to access DCSD's telephonic interpreter line, sharing translated documents, and otherwise coordinating resources to ensure seamless service delivery to LEP juveniles and LEP parents of juveniles. The OCR also suggests adding a code for "language services" in the system used to reimburse sub-contractors. In this way, DCSD could better track the frequency of contact with LEP individuals and keep abreast of the language services being provided by its sub-contractors.

4. Improve Data Collection

The OCR commends DCSD for adopting a new record management system that has the ability to capture language needs. However, the OCR recommends that this system be modified to capture the following information: (1) the primary language spoken by the individual; (2) how DCSD provided language services; and (3) information that might assist in providing language assistance for future matters (e.g., the name of the interpreter used and any concerns about the effectiveness of the communication). In addition to modifying Synthesis to record this, the OCR recommends that the intake forms used by DCSD and its subcontractors be modified to capture this information as well. Developing a system for memorializing details about each encounter with an LEP person will give DCSD better data about the language needs of the population and the utilization of DCSD's language services.

B. Circuit Court

The OCR offers the following recommendations to the Circuit Court to ensure that LEP individuals have meaningful access to its programs and activities: (1) Revise the Language Assistance Plan; (2) Improve Data Collection; (3) Translate Vital Documents into Most Frequently Encountered Languages; and (4) Improve Complaint Procedures.

1. Revise Language Assistance Plan

The OCR commends the Circuit Court for developing a Language Assistance Plan (LAP). However, as discussed in Section II.A.2. of this Compliance Review Report, the current LAP is insufficient to articulate the steps that the Circuit Court is taking to ensure meaningful access to its services by persons who are LEP, and how language assistance measures may be improved over time. At a minimum, the Circuit Court's LAP should contain the following elements:

- *A process for identifying individuals who need language assistance:* The Circuit Court currently identifies persons who needs language assistance in juvenile proceedings by relying on DCSD or the juvenile's attorney to call the Children's Court administer. However, the Circuit Court has no form to facilitate such a request or document the frequency of requests for language assistance, nor does its current records management system have the ability to record national origin or language needs. Consistent with the

DOJ Guidance, the Circuit Court should develop a comprehensive way of assessing the number or proportion of LEP individuals in its service population, and the frequency with which LEP persons have contact with the Court.

- *A description of the available language assistance measures, and procedures for accessing them:* The Circuit Court’s current LAP describes generally what interpretation services are available, but lacks specificity. For example, the LAP indicates that “some tools are available” to help Courthouse personnel assess the need for an interpreter when an LEP is unrepresented. However, the LAP does not articulate what those tools are, and how personnel are trained to use them. A comprehensive LAP should describe all of the language assistance measures available (e.g.: including staff interpreters, contract interpreters, bilingual staff, language line, video interpreters etc.), as well as the specific procedures for using them. Additionally, the LAP should articulate in what order the language assistance measures should be used, and any situations where one or more language assistance measures are not appropriate. Additionally, the LAP does not articulate any plan for translations, which is addressed in more detail below.
- *A plan for training staff:* The Circuit Court LAP states that “[d]eputy clerks of court and judicial assistants will be trained on ways to identify limited English proficiency, best practices on delivering services, and cultural issues.” However, the plan does not articulate when or how such training will happen, nor does it appear that the Circuit Court is, in fact, training staff on LEP issues and how to access language assistance measures. The LAP should articulate the content of staff training, the procedures for assuring such training, and how the information will be passed on to new staff.
- *A process for notifying LEP persons of the existence of free language services:* The Circuit Court’s current LAP does not address how LEP persons will be notified that language services are available. However, as mentioned in Section II.B.2. of this Compliance Review Report, there is a notice in 20 languages that interpreter services are available. However, the Circuit Court should consider more comprehensive methods for notifying LEP persons of the existence of free language assistance measures, and include that in the LAP. In addition to the posted signs that the Circuit Court already uses, it should consider stating on outreach documents that language services are available, working with community-based organizations to make these services known, and using a telephone voice mail menu in the most common languages encountered.
- *A plan for monitoring and updating the LAP:* The Circuit Court’s current LAP has a statement about evaluating the LAP, but this statement appears to be taken from the state court plan; it mentions “coordinat[ing] with the circuit courts to review the effectiveness of the plan” and talks about “each county’s language assistance plan.” The Circuit Court should have a process for updating its own LAP based on the needs in Milwaukee County. The Circuit Court should consider the following in updating its LAP:
 - Changes in LEP populations in the service area or population affected or encountered;
 - Updated assessment of the frequency of encounters with LEP language groups;
 - Any new vital documents that should be translated or changes to old vital documents that should be re-translated;

- Availability of resources, including technological advances and sources of additional resources, and the costs imposed;
- Whether existing assistance is meeting the needs of LEP persons;
- Whether staff knows and understands the LAP and how to implement it;
- Whether identified sources for language assistance are still available and viable.

The OCR encourages the Circuit Court to seek feedback from community groups and beneficiaries in monitoring and updating its LAP.

The OCR recommends that the Circuit Court make updating its LAP a high priority.

2. Improve Data Collection

The Circuit Court should collect data about national origin and language proficiency of juveniles, their families, victims, and witnesses. Specifically, the data fields regarding language needs should capture the following information: (1) the primary language spoken by the individual; (2) how the Circuit Court provided language services; and (3) information that might assist in providing language assistance for future matters (e.g., the name of the interpreter used and any concerns about the effectiveness of the communication). One way in which the Circuit Court might capture this information is to develop a form for requesting an interpreter, rather than relying solely on a phone call from DCSD or an attorney, and an email from the Children's Court Administrator to the Interpreter Coordinator. Developing a system for memorializing details about each encounter with an LEP person will give the Circuit Court better data about the language needs of the population and the utilization of the Court's language services.

3. Translate Vital Documents into Most Frequently Encountered Languages

As mentioned above, the LAP should articulate a plan for providing written translations of vital documents. The DOJ encourages recipients to satisfy the "safe harbor" provision in the DOJ Guidance when determining which documents to translate. *See discussion supra III.A. 2.*

As part of the translation portion of the LAP, the Circuit Court should perform an inventory of all pertinent written materials, identifying the documents that may be "vital" to beneficiaries, including juveniles, families, witnesses, and victims. The LAP should identify the order in which the Circuit Court will translate these documents and into which languages, considering the resources available to the Circuit Court, the cost of translations, and the most frequently encountered languages. The Circuit Court should also develop a strategy for distributing the translated materials to those eligible to receive specific services, as appropriate, including through its Web site. Additionally, the Circuit Court should take steps to ensure that important information available in English on the Web site is also available in the most frequently encountered languages, and cease relying upon online translation tools. The Circuit Court should also ensure that employees know of the array of translated documents.

4. Improve Complaint Procedures

The Circuit Court should refine its existing procedures for receiving, investigating, and resolving complaints involving LEP individuals. The OCR recommends that the Circuit Court consider taking the following actions:

- designating a coordinator who is responsible for overseeing the complaint process;
- notifying members of the public of prohibited discrimination in funded programs and activities and the Circuit Court's policy and procedures for handling discrimination complaints;
- developing a written complaint form, translated into the most frequently encountered languages, which will provide better documentation of the allegations and enhance the collection of basic information from complainants about their concerns;
- establishing written procedures for receiving and investigating discrimination complaints from members of the public;
- notifying the OCR in writing when the Circuit Court investigates the complaint internally; and
- training Circuit Court staff members on the complaint procedures and the responsibilities of the Circuit Court's complaint coordinator.

The Circuit Court may wish to consider adopting a local rule regarding its complaint procedures.

IV. Conclusion

This letter serves as notice that the OCR has made a preliminary determination that, although DCSD and the Circuit Court have taken some steps to provide meaningful access to their programs and activities involving LEP persons, they should build on these steps to ensure compliance with Title VI and the Safe Streets Act. Further action is needed to ensure these entities adequately provide language assistance services to LEP juveniles, families, witnesses, and victims who are involved in the juvenile justice process.

On request, the OCR is available to provide technical assistance to the DCSD and the Circuit Court in implementing its recommendations and formulating or refining written language assistance plans. Immediately upon receipt of this letter, we ask that you have a responsible official contact Attorney Advisor Debra S. Murphy to develop timelines for implementing specific recommendations in this Compliance Review Report. The OCR will review these responses, including written language assistance plans, and provide feedback. We expect that this Compliance Review will be closed when satisfactory plans are in place and being appropriately implemented. Thank you for your cooperation and the assistance of your staff throughout the Compliance Review Process. If you have any questions, please contact Ms. Murphy at 202-305-0667.

Sincerely,

/s/

Michael L. Alston
Director

