

December 17, 2007

Office for Civil Rights
U.S. Department of Health and Human Services
JFK Federal Building, Room 1875
Boston, MA 02203

Dear Sir or Madam:

Please consider this a formal complaint pursuant to Title VI of the Civil Rights Act of 1964, 42 USC 2000d; your Department's "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons," 68 FR 47311 (August 8, 2003) [hereinafter "HHS Guidance"]; and the Resolution Agreement reached between your office and the Rhode Island Department of Human Services ["DHS" or "agency"] in Docket No. 01-94-3042, dated February 12, 1997.

The complaint is against DHS for failing to provide appropriate language interpreter services to Limited English Proficient ["LEP"] persons and for non-compliance with a Resolution Agreement in effect with OCR. The State of Rhode Island, including DHS, receives federal funding which subjects its relevant programs to the requirements of Title VI. As an organization long concerned with both the rights of LEP individuals and due process of law in administrative settings, the Rhode Island Affiliate of the American Civil Liberties Union ["RI/ACLU"] requests that OCR investigate the problems being faced by LEP clients of DHS, impose sanctions for DHS's failure to comply with the resolution agreement, and issue further findings requiring DHS to take additional steps to ensure compliance with Title VI in this area. We separately request that OCR take action to require DHS to restore certain staff interpreter services that were recently eliminated from the employ of DHS.

HISTORY

Although we are unfamiliar with the specifics, we know that as far back as 1979, OCR had received complaints about the adequacy of services to LEP clients being provided by DHS. These complaints resulted in the approval of a Compliance Agreement on July 1, 1982. (Review No. 01-79-7006).

In the early 1990's, eight complaints regarding this same issue were filed with OCR. The complaints were consolidated and resulted in a supplemental Resolution Agreement that was entered into on February 12, 1997. One complaint brought to OCR's attention at the time alleged that individuals at some DHS offices were being told to bring their own interpreters in order to

receive services. Another complaint involved a Spanish-speaking mother and her newborn baby whose attempts to obtain food stamps were delayed because DHS was making use of student translators who were only available sporadically. The 1997 resolution agreement required DHS to undertake a variety of actions to ensure appropriate interpreter services were being provided to LEP individuals. The specifics of the obligations imposed upon DHS pursuant to this resolution agreement are discussed *infra*. A copy of the 1997 Resolution Agreement is attached as Appendix A.

Issues regarding interpreter services at DHS have once again come to the fore in Rhode Island in 2007. Public attention was focused on the issue in October when Rhode Island Governor Donald Carcieri appeared on a radio talk show and questioned why the state was funding any language interpreters at all, expressing the view that LEP clients should swim or sink on their own – or with the help of friends or relatives – without state assistance. The exact comments from that show appear below:

“BUDDY FROM JOHNSTON: The court systems they have, like, I don’t know, maybe a half dozen interpreters. I don’t know if that number is accurate or not, but why can’t we just eliminate those jobs and have the people that gotta go to court that don’t speak English bring a relative or a friend to interpret for them, like our grandparents did many years ago? That’s my question, why can’t we eliminate those interpreter jobs?”

“GOVERNOR CARCIERI: Amen to you, Buddy. One of the things that we found when I went through our own departments – the department of human services and a number of them – when I looked at the organizational charts, I saw a number of – and there was one department, there had to be eight – eight and these were specifically Spanish – interpreters in our departments – let alone, I know what you’re talking about, – the court system when somebody comes in. And I said the same thing to our people. This is part of the process we went through. I said why are we, at taxpayer expense, providing interpreters for people who are trying – who want benefits from us? It seems completely illogical to me because you’re right.

“My grandparents emigrated from Italy. My grandmother didn’t speak English. She learned it. She lived to 96 and was still speaking broken English, God bless her, but you know, the point is if they needed somebody and they couldn’t speak English, they got somebody, a friend or a relative who spoke English, right? So why in God’s name [are] we providing, at taxpayer expense, staff whose sole job is to interpret English for people who apparently have no friend and no relative that can speak English. I don’t think we should be doing that.”¹

Although not specified in his comments, the agency with the eight Spanish interpreters that he was referring to was DHS. About a month later, the Governor announced layoffs among many state agencies as part of an effort to address fiscal problems being faced by the state. In doing so, he laid off all three Southeast Asian interpreters and one of two Portuguese interpreters employed by DHS. Based on the general costs for contracting out interpreter services, it is unclear exactly how much savings, if any, will accrue to the state through these layoffs.²

¹ A link to the audio of the interview can be found at <http://www.920whjj.com/cc-common/podcast.html>.

² Contract services for interpreters can easily run to \$60 an hour. Karen Lee Ziner, “ACLU Questions Cutting Interpreters,” *Providence Journal*, November 29, 2007. We would also note that three of the Spanish-speaking interpreters employed by DHS are privatized contract employees, and the annual contractual amount for each of them is almost \$80,000 a year, much higher than the salaries of the laid-off staff interpreters.

These recent comments from, and actions by, the Governor prompted RI/ACLU to engage in a more thorough review of the 1997 Resolution Agreement, leading to this complaint.

THE RESOLUTION AGREEMENT

Upon information and belief, at the time of the filing of this complaint, DHS is in violation of a number of provisions of the 1997 resolution agreement, as described below. The following information, regarding DHS compliance with the resolution agreement, comes from discussions with DHS employees, attorneys representing clients at DHS, and leaders from the ethnic communities directly impacted by the agreement.³

1. The first provision in the 1997 agreement requires:

Conspicuous and continuous display within six months with notice to OCR, in all DHS offices, of a poster or posters, clearly stating, in English, Spanish, Portuguese and other appropriate languages where there are more than 100 persons statewide receiving benefits (hereinafter called "appropriate languages"), as follows:

- If you are applying for or receiving benefits and are not fluent in English, you do not have to bring your own interpreter to a Department of Human Services office;
- The Department will schedule interpreters or bilingual staff when necessary to communicate with you, unless, after being informed of your right to interpreter services, you express a clear preference to bring your own interpreter;
- The Department will schedule an interpreter or bilingual staff member to help you read English language notices, letters or other written information from DHS; and
- If you have problems obtaining interpreter or bilingual staff services at a Department office, please contact (insert name of DHS central office coordinator of interpreter services at (insert address and telephone number).

On-site inspections of the Providence, Cranston, Pawtucket and Newport offices in early December 2007 revealed no display of any such posters, in direct contravention of the resolution agreement.

2. The second provision in the 1997 agreement requires:

Initial and continuing dissemination within six months with notice to OCR to individual applicants and recipients of benefits of a written notice or brochure in English, Spanish, Portuguese and other appropriate languages containing the information set forth in Paragraph 1, above.

Upon information and belief, compliance by DHS with this provision is, at best, fitful and certainly not routine. After talking with a number of individuals, it remains unclear to us how many, and which types of, DHS clients receive notices from DHS' InRhodes system that contain the obligatory information envisioned by this provision in their native language. Other pre-

³ Our references to violations of only some of the provisions of the 1997 resolution agreement should not be taken as a concession that DHS is in compliance with those not cited. In addition, RI/ACLU has not seen a copy of the 1982 Compliance Agreement, which the 1997 Resolution Agreement supplements. We are thus unable to offer any information as to whether DHS may also be in violation of any provisions of the 1982 agreement.

printed forms, such as those relating to General Public Assistance benefits or notices provided by the Collections, Claims and Recoveries Unit, often fail to contain the required information.

Attached as Appendix B is page one of a food stamp notice received this year by a Cambodian client of DHS. All the information received by the client, except for one paragraph on the first page, was in English. A translation of the non-English paragraph reads as follows:

“If you have questions about this notice, the Department of Human Services will find an interpreter or staff member who speaks your language to help translate the notice for you. If you cannot locate an interpreter or staff member who speaks your language in the office of the Department of Human Services, please contact the supervisor in charge of languages at [address and phone number follow].”

Attached as Appendix C is a Medical Assistance “appeal rights” notice that contains, in English, one paragraph designated “Limited English Proficiency Notice.” The information provided is similar to that contained in the food stamp notice:

“DHS will schedule an interpreter or bilingual staff member to help you read English language notices, letters or other written information from DHS. If you have problems obtaining interpreter of [sic] bilingual staff services at a DHS office, please contact the Limited English Proficiency Coordinator at [address and phone number follow].”

Importantly, both of these notices cite only two of the four specific pieces of information required by the resolution agreement. Further, we submit that these truncated versions create a subtly misleading impression. When viewed in context, the resolution agreement’s notice requirement advising clients to contact DHS “if you have problems” was meant as a fail-safe mechanism, with the DHS coordinator serving as a sort of ombudsperson to address interpreter inadequacies. By eliminating two of the four required pieces of information, these DHS notices suggest that it is just as likely as not that the client will not be able to obtain interpreter services at DHS offices, and therefore the burden will be on him or her to contact the LEP coordinator to obtain the assistance that the missing pieces of information implied would be available in the first instance.

Taken with the agency’s failure to post in its offices any version whatsoever of the notices required by the first provision of the resolution agreement, this non-compliance is particularly troubling.

3. The seventh provision in the 1997 agreement requires:

Adoption of uniform procedures within six months with notice to OCR permitting timely and effective telephone communication between LEP persons and DHS staff, including instructions for English speaking employees obtaining assistance from interpreters or bilingual staff when receiving calls from, and originating calls to LEP persons.

Upon information and belief, the timely communication required by this provision – and required by law – has not been occurring, and now is even less likely to be met in light of the layoffs of all Southeast Asian interpreter staff. There will sometimes be a need for same-day communication to ensure that applications are timely filed or information is provided in a timely

manner. Indeed, as noted *infra*, DHS has a legal obligation to “make expedited service available to households in immediate need” for food stamps, to ensure an applicant’s “right to file an application form on the same day” that he or she contacts the food stamp office, and to provide “a means for applicants to immediately begin the application process.”⁴

In addition, according to the most recent information we have, nobody at the DHS hearing office speaks a language other than English. As a result, if a non-English-speaking applicant or recipient calls the phone number appearing on a notice, in order to request information regarding an appeal or postponement of a hearing, there is nobody at that number who is in a position to promptly assist or even to determine what language the client is speaking. The consequences of this can be dramatic, as DHS has routinely taken the position in ruling on appeals that, unless the client has called in advance before the hearing to seek a postponement, the appeal will be dismissed if the client fails to show up.

4. The eighth provision in the 1997 agreement requires:

Designation by DHS within one month with notice to OCR of a Statewide coordinator of interpreter services to act as liaison with DHS district offices and with LEP persons, community groups and their representatives in evaluating the effectiveness of DHS policies and procedures for communicating with LEP persons and to resolve questions and complaints about the adequacy and availability of bilingual staff or interpreter services at DHS offices.

We understand that DHS has appointed a “Statewide coordinator of interpreter services” as required by this provision. However, upon information and belief, that coordinator has not “act[ed] as liaison with ... LEP persons, community groups and their representatives in evaluating the effectiveness of DHS policies and procedures for communicating with LEP persons.” RI/ACLU has consulted with a half-dozen or so organizations representing immigrants in general, and the Southeast Asian community in particular, and none was able to point to having any communications with the Statewide coordinator as set out in this provision.

5. The ninth provision in the 1997 agreement requires:

Training of DHS managers and staff beginning no later than six months with notice to OCR on the Title VI issues presented by the instant complaint and the terms of this agreement.

Upon information and belief, there is no on-going training of DHS managers and staff. As best as we have been able to determine, such training has not taken place for some time, assuming that it was ever performed at all.

6. The tenth provision in the 1997 agreement requires:

Periodic annual review by the DHS central office, in consultation with district offices and staff, LEP persons, community groups and their representatives, to determine the current communication needs of LEP persons at each office and whether existing

⁴ See footnote 11 and related text, *infra*.

interpreter and bilingual staffing, outside interpreter services, and translated materials are meeting such needs or should be modified.

Upon information and belief, there has been no annual consultation with “LEP persons, community groups and their representatives” as set out in this provision, at least not in recent years. In fact, the State’s decision to layoff the entire Southeast Asian interpreting staff at DHS came as a complete surprise to advocates in the Southeast Asian community, not to mention the interpreters themselves. If DHS had been complying with the eighth and tenth provisions of the resolution agreement, there surely would have been some advance awareness in the community about any planned layoffs. Instead, the decision by DHS to eliminate these staff positions was made without any consultation whatsoever with the affected communities, a clear violation of the agreement.

In sum, it appears that DHS is, and has been, in violation of a number of aspects of the 1997 resolution agreement. That agreement provides that if, upon proper notice, “OCR finds that DHS has not complied with any provision of the Agreement, OCR may request the initiation of administrative or judicial enforcement proceedings ... or take other appropriate action.” Under the circumstances, and for the reasons that follow, we believe such action is necessary.

THE NEED FOR APPROPRIATE SANCTIONS

In addition to ensuring that DHS finally begins meeting its obligations under the 1997 resolution agreement, OCR should, we believe, impose additional sanctions in order to better protect the rights of LEP clients.

Governor Carcieri’s radio comments objecting to state-provided interpreters, and particularly objecting to interpreters for DHS clients, generated significant concern in the community. Shortly after he made those comments, twenty-two civil rights and community organizations wrote a letter to the Governor, protesting that his remarks could only encourage discrimination against people of certain ethnicities and races by feeding into a “xenophobic atmosphere” in the state. (A copy of the letter is attached as Appendix D.) In addition to being callous, his remarks demonstrated a clear disregard for the State’s obligations under both Title VI and the Resolution Agreement. This attitude, we believe, has led to significant skepticism in the immigrant community about the commitment of the State, the Governor, and agencies like DHS that are under the Governor’s control, to assist people with limited English proficiency. As discussed *infra*, that skepticism has only been heightened by the Governor’s subsequent layoffs of interpreter staff at DHS. Strong action by OCR is essential to restore trust in the community.

The Governor’s comments – stating that LEP clients should rely on friends and relatives for assistance – not only failed to acknowledge the resolution agreement, but they simply were wrong as a matter of law. Federal guidelines implementing Title VI specifically note that while “some LEP persons may feel more comfortable when a trusted family member or friend acts as

an interpreter,” agencies cannot require applicants to use them as interpreters.⁵ In fact, in many circumstances, including accessing the types of benefits that DHS administers, your Department *strongly discourages* use of family members or friends for a host of obvious and important reasons. As the HHS Guidance notes:

As with the use of other non-professional interpreters, the [state] may need to consider issues of competence, appropriateness, conflicts of interest, and confidentiality in determining whether it should respect the desire of the LEP person to use an interpreter of his or her own choosing. [The state] should take reasonable steps to ascertain that family, legal guardians, caretakers, and other informal interpreters are not only competent in the circumstances, but are also appropriate in light of the circumstances and subject matter of the program, service or activity, including protection of the recipient's own administrative or enforcement interest in accurate interpretation.

In some circumstances, family members (especially children) or friends may not be competent to provide quality and accurate interpretations. Issues of confidentiality, privacy, or conflict of interest may also arise. LEP individuals may feel uncomfortable revealing or describing sensitive, confidential, or potentially embarrassing medical, law enforcement (e.g., sexual or violent assaults), family, or financial information to a family member, friend, or member of the local community. . . . For HHS recipient programs and activities, this is particularly true, for example, in administrative hearings, child or adult protective service investigations, situations in which life, health, safety, or access to important benefits and services are at stake, or when credibility and accuracy are important to protect an individual's rights and access to important services.⁶

The Governor's radio comments are not the first time he has shown a lack of recognition of the important legal and public policy considerations underlying the State's Title VI's obligations to assist people with LEP. Three years ago, for example, Governor Carcieri initially sought to cut *all* of the money that the Rhode Island Judiciary had proposed to hire language interpreters to provide services to certain non-English-speaking criminal defendants.⁷

We recognize that state officials have since acknowledged their legal obligations to provide, in some fashion, interpreter services to DHS clients. However, RI/ACLU submits that the comments of the State's chief executive officer must be taken into account as OCR examines the agency's plans to comply with those obligations, considers DHS' good faith commitment to appropriately serving LEP clients in the future, and determines the level of sanctions that should be imposed. As the head of state, the Governor sets the direction for the State's executive agencies, and his comments have sent an unmistakable message to DHS. In that regard, OCR must also take into account DHS' contemporaneous decision, discussed in more detail *supra*, to lay off an entire category of staff interpreters. Finally, the agency's substantial non-compliance with the long-standing 1997 resolution agreement must also be considered. Under all these circumstances, RI/ACLU believes that strong sanctions are warranted and necessary.

⁵ “Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons,” U.S. Department of Health and Human Services, 68 FR 47317 (August 8, 2003).

⁶ *Id.* at 43717-43718.

⁷ Edward Fitzpatrick, “Adios to Money for Interpreters,” *Providence Journal*, March 4, 2004. This article is attached as Appendix E.

THE LAYOFF OF ALL SOUTHEAST ASIAN INTERPRETERS

As previously mentioned, DHS recently laid off all three Southeast Asian interpreters employed by the agency. These interpreters were available to translate for clients who spoke Laotian, Cambodian or Hmong. In their place, DHS plans to use contract services. We do not believe this comports with the standards for determining the level of services to be provided LEP clients, particularly in light of the history of the agency's inadequate dealings with those clients in the past, discussed *supra*.⁸

HHS Guidance is based on DOJ model guidance that was issued in 2002. The HHS Guidance, like its DOJ counterpart, notes that "a recipient may conclude that different language assistance measures are sufficient for the different types of programs or activities in which it engages....For instance, some of a recipient's activities will be more important than others and/or have greater impact on or contact with LEP persons, and thus may require more in the way of language assistance." 68 FR 47314. There can be no question that the activity involved here – ensuring adequate services for LEP individuals seeking benefits to such basic services as food stamps – is of the highest importance and impact and should be viewed accordingly in the analysis.

HHS Guidance establishes a four-factor analysis for agencies to use to help determine the level and type of interpreter services that should be provided in any given program. Relying on those factors, we believe DHS' decision to solely use contract services for Southeast Asian clients is inadequate.

The four factors to be considered are: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity or service provided by the program to people's lives; and (4) the resources available to the grantee/recipient and costs. *Id.* They are briefly reviewed individually below:

(1) *The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee.* The Guidance notes: "One factor in determining what language services recipients should provide is the number or proportion of LEP persons from a particular language group served or encountered in the eligible service population." *Id.* In terms of language ability, the 2000 census estimates that approximately 20% of Rhode Island residents speak a language other than English at home, and 8.5% of the state's total population speaks English less than "very well." Of the state's Asian population, *over half* speak English less than "very well."⁹

An examination of the 2000 census data further reveals the relative prevalence of Cambodian, Laotian and Hmong speakers in particular in Rhode Island – the Southeast Asian languages for which DHS previously had staff interpreters. According to our analysis of that data, when looking simply at the number of people who speak these three languages, Rhode

⁸ DHS also laid off one of its two staff Portuguese interpreters at the same time that the entire Southeast Asian interpreting staff was laid off. The concerns expressed herein apply to that layoff as well.

⁹ <http://www.census.gov/population/cen2000/phc-t20/tab04.pdf>

Island, despite its relatively small population, ranks 6th in the nation – in absolute numbers – for speakers of Cambodian, 11th for speakers of Hmong and 15th in the country for the number of people who speak Laotian.¹⁰

Further, when analyzing how Rhode Island compares to other states in regards to what percentage of each states’ non-English-speakers speak these particular languages, Rhode Island ranks 1st in Cambodian, 5th in Laotian and 7th in Hmong.

The fact that DHS has had three employees on staff for a number of years to assist these Southeast Asian clients is a clear demonstration of the need that has existed for that community. It is difficult to comprehend how that staffed presence can be so easily replaced by the use of contract services.

(2) *The frequency with which LEP individuals come in contact with the program.* The HHS Guidance notes: “Recipients should assess, as accurately as possible, the frequency with which they have or should have contact with an LEP individual from different language groups seeking assistance. ... The steps that are reasonable for a recipient that serves an LEP person on a one-time basis will be very different than those expected from a recipient that serves LEP persons daily.” 68 FR 47314. It is clear, both from past history and the statistics relating to the Southeast Asian population in Rhode Island, that DHS deals on a daily basis with Southeast Asian clients who need assistance with interpreter services. This is of particular import in light of DHS’ obligation, under federal law, to “make expedited service available to households in immediate need” for food stamps and to ensure an applicant’s “right to file an application form on the same day” that he or she contacts the food stamp office. Indeed, DHS “must provide a means for applicants to immediately begin the application process.”¹¹

The decision to use only contract services for this significant population virtually ensures that DHS’ obligations in this regard will not be met. While we recognize that contract services have their place, particularly in light of the many languages that can be spoken by a small number of people in any community, the number of Southeast Asian clients is, and has been, numerous enough to justify the presence of the staff interpreters that, until this month, had been employed by DHS.

(3) *The nature and importance of the program, activity or service provided by the program to people’s lives.* The HHS Guidance states: “The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed.” *Id.* The Guidance in numerous places recognizes that the provision of interpreter services to LEP clients of human services such as those provided by DHS – including, but not limited to, food stamp applications – is of great importance.¹² In light of the potential complexity of issues surrounding eligibility for benefits

¹⁰ The data from which these figures have been derived can be found at: <http://www.census.gov/population/cen2000/phc-t20/tab05.pdf>. Table 5 contains a “Detailed List of Languages Spoken at Home for the Population 5 Years and Over by State: 2000.”

¹¹ 7 CFR §273.2(c)(3).

¹² See, e.g., fn. 6, *supra* (HHS guidance strongly discouraging use of family members or friends as interpreters when “access to important benefits and services are at stake”).

and the landmines that await clients who fail to meet strict deadlines for appealing DHS decisions, staff interpreters obviously provide a critical service that contract interpreters cannot. This is one of the points that leaders of the Southeast Asian community have emphasized in criticizing the DHS layoffs.¹³

(4) *The resources available to the grantee/recipient and costs:* The HHS Guidance explains: “A recipient’s level of resources and the costs that would be imposed on it may have an impact on the nature of the steps it should take to comply with Title VI. Smaller recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets.... Large entities and those entities serving a significant number or proportion of LEP persons should ensure that their resource-limitations are well-substantiated before using this factor as a reason to limit language assistance.” 68 FR 47315. DHS is, of course, a very large entity and one serving a significant proportion of LEP persons. The amount of funding at issue for retention of the laid-off staff interpreters, in order to ensure appropriate Title VI services to the Southeast Asian community, would constitute a minuscule portion of the budgetary resources of the State in general and DHS in particular. It is not just that the agency at issue is not a “smaller recipient.” There is also, as noted *infra*, a lack of clarity as to exactly how much, if any, savings the State will achieve in using contract services.

The reliance by DHS on contract interpreters fails for other general reasons as well. As representatives from the Southeast Asian community recently noted in denouncing the layoff of these interpreters, fee-for-service interpreter services simply cannot provide the same level and type of assistance that the staff interpreters have provided for many years.¹⁴ Not only are contract interpreters unlikely to have the same skills in understanding the nuances of the government benefit programs being provided by DHS, but the layoffs have eliminated people with ties to the community that have fostered a trust in state government and, by the same token, that have encouraged members of the community to apply for benefits that they might not otherwise be aware of or follow through on. As the HHS Guidance notes, “certain recipients should take care to consider whether appropriate outreach to LEP persons could increase the frequency of contact with LEP language groups.” 68 FR 47314. The Southeast Asian interpreters have played a critical role in that regard, and it is one that DHS’ planned contract services cannot provide in any manner.

We also refer back to the first and seventh provisions of the 1997 resolution agreement, which contain an expectation that DHS “will schedule interpreters or bilingual staff *when necessary* to communicate with you,” “to help you read English language notices, letters or other written information from DHS,” and to “permit[] *timely* and effective telephone communication between LEP persons and DHS staff.” (Emphasis added.) The promptness implied by these obligations and federal law – which can be more easily met by interpreters on staff – is unlikely to occur with contracted services. In fact, since budgetary motivations are allegedly the basis for the termination of the staff interpreters at DHS, one can expect DHS to begin using contracted interpreters for Southeast Asian clients in the most *financially efficient manner for the agency*, which is likely to clash with what is most efficient and expeditious *for the agency’s clients*. For

¹³ Karen Lee Ziner, “Protesters Say Governor’s Layoff of Staff Interpreters Will Harm Immigrants,” *Providence Journal*, December 12, 2007. This article is attached as Appendix F.

¹⁴ *Id.*

example, since contract services usually have a minimum initial charge for services, there will undoubtedly be pressure on DHS to schedule requests for interpreting services in a group, inevitably delaying services for some clients.

Finally, we would emphasize that there is a legitimate question as to whether the layoff of these staff interpreters would have ever occurred had DHS been complying with the 1997 resolution agreement and engaging in good faith consultation with the LEP community in examining the adequacy of interpreter services. DHS should not be rewarded – and those with LEP in the Southeast Asian community punished – for the agency’s failure to abide by those provisions of the agreement.

Again, RI/ACLU recognizes that non-staff interpreting services have their place at an agency like DHS. However, for all the reasons discussed, we submit that DHS has failed to demonstrate the appropriateness of this approach in specifically addressing the needs and rights of LEP clients in the Southeast Asian community under Title VI and the Resolution Agreement.

CONCLUSION

We urge OCR to investigate this matter and take action to ensure that LEP clients at DHS will have suitable access to appropriate interpreter services, including Southeast Asian staff interpreters, in order to meet the standards imposed by Title VI, the Department’s regulations and Guidance, and the Resolution Agreement. We further urge OCR to take any and all other appropriate action to ensure DHS compliance with all of the provisions of the Resolution Agreement.

In seeking OCR’s intervention, we wish to emphasize both the long history of discrimination against LEP clients at DHS and the agency’s continued non-compliance with a long-standing resolution agreement. Applicants of certain backgrounds find themselves severely disadvantaged when they seek benefits, or challenge the termination of benefits. Without OCR intervention, we fear that both budgetary priorities and a clear and publicly-stated executive branch antipathy towards state-funded interpreters will stymie implementation of appropriate interpreter services that meet Title VI standards.

Thank you in advance for your attention to this matter. We would appreciate being kept apprised of any actions taken by your office in this regard.

Sincerely,

Steven Brown
Executive Director

Enclosures