OFFICE OF LANGUAGE ACCESS
LANGUAGE ACCESS ADVISORY COUNCIL MEETING
February 13, 2008
DLIR Conference Rooms #310/313
9:30 a.m. to 11:00 a.m.

AGENDA

1. Welcome and Introductions

2. Roll Call

3. Approval of Minutes of January 8, 2008 Meeting

4. Director’s Report

5. Language Access Conference

6. Legislative Initiatives
   - Relating to Language Access – clarifies definitions; requires covered entities to file a language access plan and appoint language access coordinator; expands the language access advisory council from 11 to 15 members.
   - Appropriates funds to establish a statewide language access bank.
   - Resolution declaring the month of September of each year as Language Access Month in Hawaii.

7. Bilingual Staffing

8. New Business
   - Update on the Judiciary’s Language Access Program
     (Debi Tulang-De Silva)
   - Bill’s Concerns (Email Dated 1/24/08)

9. Meeting Schedule for 2008

10. Announcements

11. Adjournment

If you have special needs due to disability or limited English proficiency, please contact the Office of Language Access (OLA) at 586-8730.
LANGUAGE ACCESS ADVISORY COUNCIL

STATE OF HAWAII
DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS
830 Punchbowl Street
Honolulu, Hawaii 96813

Wednesday, February 13, 2008
DLIR Conference Rooms #310-313

MINUTES

The meeting was called to order at 9:45 a.m.

1. Welcome and Introductions

2. Roll Call:

Present:
- Serafin "Jun" Colmenares Executive Director, Office of Language Access, Ex-officio
- Dominic Inocelda Language Access Advisory Council, Chairperson
- Gerald Ohta Language Access Advisory Council, Vice Chair
- Lito Asuncion Language Access Advisory Council Member
- Nāmaka Rawlins Language Access Advisory Council Member
- Dr. Tin Myaing Thein Language Access Advisory Council Member
- Dr. Suzanne Zeng Language Access Advisory Council Member
- Canisius Filibert Language Access Advisory Council Member
- Sr. Earnest Chung Language Access Advisory Council Member

Excused:
- Alohalani Boido Language Access Advisory Council Member
- Bill Hoshijo Executive Director, Civil Rights Commission, Ex-officio

(Quorum at 9:50am)

Others Present:
- Frances Lum Department of the Attorney General
- Jeremy Low Research Analyst, Office of Language Access
- Uilani Pauole de Sa Senior Legal Analyst, Office of Language Access
- Khin Hnin Htwe (Ozzie) Guest
- Trevor Graham Guest

3. Approval of minutes of January 8, 2008 Language Access Meeting.
Ms. Zeng was concerned about the training and testing aspects, felt that the Language bank should not be doing the testing or certification. Executive Director Colmenares responded that the Language Access Bank would coordinate and not actually do the training. He also said that the Bank would establish and maintain a directory of language service providers that state agencies can access when in need of interpreters or translators.

Council Advisor Member Mr. Canisius also expressed concerned about the Language Bank, pointing out a need for further discussion of the proposal.

Council Chairman Inocelda stated in defense of OLA, that the Office is under pressure from several quarters to get language access in place fast – and that those who were pushing for fast action are now fighting the bills and concepts because they now feel threatened by the process.

Council Vice Chair Ohta was concerned about the bills being combined due to technical corrections in one component might not bode well for the rest of the bill. Vice Chair Ohta also suggested a structured way to provide input to alter bills. Executive Director Colmenares responded that LAAC already has established a “Legislative Committee” to handle that process.

Council Member Mr. Asuncion felt that the bill is written well – Language Bank doesn’t do more than it says and deals with the issues well.

Executive Director Colmenares requested support from the Advisory Council members, as individuals who represent other agencies as opposed to being members of LAAC.

7. **Bilingual Staffing**

Chairman Inocelda directed the floor to Uilani. She is still researching the matter but learned from DHRD that departments are able to recruit bilinguals using the Selective Certification Requirements. Vice-Chair Ohta stated serious personnel issues – need to tie in criteria, and not narrow hiring pool.

8. **New Business**

Chairman Inocelda turned the floor to Phil Liu of the Office on Equality and Access to the Courts. Mr. Liu gave an update on the Judiciary’s Language Access Program, and thanked OLA for their support of the OEAC workshops. (see attached handout that was presented in power point)

Mr. Hoshijo’s Concerns (Email dated 1/24/08)

Executive Director Colmenares referred the group to Mr. Hoshijo’s email dated 1/24/08. He informed the body that Bill Hoshijo was concerned that OLA was telling covered entities that they must submit a language access plan to OLA. He was also concerned about the solicitation made by for-profit entity (UPR) based on this wrong information. Director Colmenares told the group that he already spoke with Bill about this – that OLA has not been doing this and that OLA has met with UPR and has written to covered entities about the incorrect information given by UPR. He
The following is the report of the OLA Executive Director for the month of January:

**Operations:**

- Attended opening of legislative session and Governor’s state of the state address. Distributed informational kits to legislators and worked with Governor’s Office re translation of state of the state address into six languages.
- Preparing employee handbook (guidelines and procedures) for the office.
- Shari Dela Cuadra, research analyst, left OLA for the DOE; in the process of filling position.
- Staff has been busy tracking legislation and meeting with legislators and stakeholders.

**Compliance Assistance:**

- 23 of 25 state agencies completed their plans; 2 are under review.
- 40 covered entities have submitted their plans.
- Made presentations to staff of Department of Public Safety on January 10 and 11, 2008.
- Met with state language access coordinators on January 9, 2008. OLA prepared short-term tasks to be performed; submitted reporting tool for state agencies.
- Prepared guidelines for state agencies re (1) the question of liability for state agency staff performing interpretation/translation services, and (2) the hiring of bilingual staff.

**Legislative Initiatives:**

- HB2575 and HB2446, as amended, were combined into HB2575 HD1 and passed by the House Committee on Labor. Will be heard by the House Committee on Human Services on Thursday, February 14, 2008.
- SB2395 (companion bill of HB2575) was passed with amendments by the Senate Committee on Human Services and Public Housing and referred to the Senate Committee on Judiciary.
- HCR30 will be heard later.
- Senate confirmation of reappointment of Council members Inocelda, Ohta, and Chung will be held this legislative session.

**Projects:**

- Two pre-orientation training workshops for Micronesian interpreters (Chuukese and Marshallese) were held on January 11 and 16, 2008 in Honolulu; statewide basic orientation workshops for interpreters were held as part of the court certification process. Co-sponsored with the Judiciary’s Office of Equality and Access to the Courts.
- Preparations for the Hawaii Language Access conference on March 28-29, 2008 at the Hawaii Imin International Conference Center ongoing. The conference program is almost complete; second round of publicity done. Keynote speaker from the Department of Justice confirmed, as well as speakers from Washington, D.C., New York, and Alaska.

**Strategic Plan:**

- Goals, strategies, and action plans to be discussed in a strategic planning meeting in early March 2008 with Dr. Michael Cheang.
A BILL FOR AN ACT

RELATING TO LANGUAGE ACCESS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. Section 371-32, Hawaii Revised Statutes, is amended to read as follows:

"[§]§371-32[§] Definitions. Whenever used in this part, unless a different meaning clearly appears from the context:

["Access or participate"] "Access" or "participate" means to be informed of, participate in, and benefit from the services, programs, and activities offered by the State and covered entities.

"Covered entity" means a person or organization receiving state financial assistance, including grants, purchase-of-service contracts, or any other arrangement by which the State provides or otherwise makes available assistance in the form of funds to the person or organization for the purpose of rendering services [on behalf of the State] to the public. It shall not include procurement contracts, state insurance or guaranty contracts, licenses, tax credits, or loan guarantees to private businesses of general concern that do not render services on behalf of the State.

"Language" means human speech or the expression of ideas by written characters and includes systems used by nations, people, or
other distinct communities.

"Limited English proficient" means individuals who, on account of national origin, do not speak English as their primary language and who identify themselves as having a limited ability to read, write, speak, or understand the English language.

"Oral language services" means the free provision of oral information necessary to enable limited English proficient persons to access or participate in services, programs, or activities of a state agency or covered entity.

"Purchase-of-service contract" means any and all types of formal written agreements, regardless of what they may be called, between the State and any person, to purchase or otherwise acquire any service for the purpose of rendering services to the public.

"State" or "state agency" means the executive, legislative, and judicial branches of state government, including departments, offices, commissions, boards, or other agencies within the executive, legislative, or judicial branches.

"Vital documents" means printed documents that provide important information necessary to access or participate in services, programs, and activities of a state agency or covered entity, including but not limited to applications, outreach materials, and written notices of rights, denials, losses, or decreases in benefits or services.

"Written language services" means the free provision of written information necessary to enable limited English proficient persons to access or participate in services, programs, or activities of a state agency.
agency or covered entity.”

SECTION 2. Section 371-37, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established the language access advisory council within the department of labor and industrial relations for administrative purposes. The council shall consist of the following members to be appointed by the governor:

(1) One representative from the state government;
(2) One representative from a covered entity;
(3) One bilingual case management worker, or an individual who is or has been employed by a state-funded immigrant service agency or program;
(4) One representative of an advocacy organization that provides services to limited English proficient persons;
(5) One member from the limited English proficient population who has an interest in the provision of oral language services;
(6) One representative of the University of Hawaii department of language and linguistics who provides professional training in interpretation and translation;
(7) One representative of a Hawaiian language advocacy organization;
(8) One representative of a professional interpreter's organization;
(9) One representative of a bilingual referral service or program;
(10) One representative residing in the county of Hawaii who has an interest in language access;
the State in this regard, the department of labor and industrial relations plays a critical role.

All state agencies and other covered entities are required to establish a plan for language access to provide equal, meaningful access to essential government services, such as social services, job training, employment assistance, fair and impartial hearings, and emergency assistance, to all of Hawaii's diverse population.

As of December 2007, plans for 23 out of 25 state agencies and 40 covered entities were completed. As the implementation of the plans approaches, two major stumbling blocks hinder meaningful access to essential government services for persons who are limited English proficient. First, there is no comprehensive system in Hawaii to identify language interpreters and translators and to refer interpreters or translators to the state agencies and other covered entities seeking assistance. Second, there is a lack of trained and certified language interpreters and translators who can meet the demand to assist limited English proficient persons in a timely, meaningful manner.

The legislature finds that it is necessary to establish a statewide language access bank to act as a centralized resource to:

1. Compile and maintain a roster of available language interpreters and translators;

2. Coordinate training programs to increase the availability of qualified language interpreters and translators;

3. Match and refer qualified language interpreters and translators to the needs of state agencies and other covered entities seeking assistance;

4. Train state employees in positions of public contact that
are first to respond to limited English proficient customers who seek to access state-funded services, programs, and activities;

(5) Work toward developing in the long run the capacity and resources of the office of language access to assist state agencies with their language services needs in the future; and

(6) Work toward standardizing the testing and certification of language interpreters and translators to ensure the quality and accuracy of their services.

After its initial establishment, a statewide language access bank could become self-sustaining by collecting user fees, subscription and training fees, and support from the resources available to state agencies and other covered entities seeking language interpreter and translator assistance.

The purpose of this part is to appropriate funds to establish a statewide access language bank.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of $189,500 or so much thereof as may be necessary for fiscal year 2008-2009 for the department of labor and industrial relations to establish a statewide language access bank to ensure meaningful access by limited English proficient persons to state-funded services, programs, and activities.

The sum appropriated shall be expended by the department of labor and industrial relations for the purposes of this part.
PART III

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval; provided that section 4 shall take effect on July 1, 2008.
Report Title:
Language Access Definitions and Plans: Language Access Advisory Council

Description:
Clarifies definitions related to language access. Expands the language access advisory council from 11 to 15 members. Establishes a language access bank. Appropriates funds. (HB2575 HD1)
Jun and Dominic,

I would like to suggest an agenda item for our next advisory council meeting. As an ex-officio non-voting member of the council, I am not urging a particular council action, but this issue raises serious concerns for me.

Dating back to last August, I have been concerned that OLA staff were making presentations to non-profit covered entities which included express or implied reference to a legal requirement that non-profit organizations submit language access plans to OLA.

At the 1/14/08 House FIN budget briefing, in response to a question about how many covered entities were in "compliance" with the law, Jun responded that all but two state entities were in compliance (an endorsement that is a little strong in my opinion), but that "only 30 of 100" non-profits have submitted plans to OLA. Jun suggested that because the law requires development of a plan but imposes no deadline, that the law be amended to impose a statutory deadline for such submissions. This could have been misunderstood to mean that there is a statutory requirement for submission of a plan, and that only a deadline is missing, when the law requires only development but not submission of language access plans by non-profits.

This week I received a fax copy of a solicitation sent out to non-profits by "United Pacific Resources Language Access Management." The solicitation states in relevant part:

In order to meet the objective established in Act 290, the state required all state funded agencies and covered entities (non-profit organizations) to submit individual Language Access Plans for approval. However, the deadline for submitting plans was December 31, last year!

United Pacific Resources is in the process of assisting agencies and organizations develop a comprehensive language access plan that is designed to bridge the gap between LEP persons and needed services. Language Access for LEP persons is becoming an increasingly important component in the non-profit sector and should be affirmatively addressed as soon as possible or your organization may be at risk of securing future government funding.

The solicitation letter is unsigned, but lists an address, a phone number, and a website (which is "under construction"). I checked, and United Pacific Resources, Inc., is registered with DCCA, incorporated on December 18, 2007, by its agent Vicki Higgins.
I am concerned that OLA has expressly told non-profits that they are required to submit plans, made representations to the legislature implying that non-profits are required to submit plans to OLA, and now a private entity is using the threat of consequences for non-compliance with a non-existent statutory requirement to solicit business. Without knowing anything about the services offered, the solicitation is based on a misrepresentation, albeit one that might be based on the representations of OLA.

Under HRS Chapter 371 there is no authority for OLA to require non-profits to submit their plans to OLA for review.

It is clear that non-profits who receive state funds under POS or GIA are “covered entities” as defined under §371-32. As covered entities, they must comply with §371-33 and are obligated to provide oral and written language services under that section. Likewise, as a covered entity, they are required to establish their own language access plans under §371-34(a).

However, the additional obligations under paragraphs 371-34(b) and (c) expressly apply only to “state agencies.” The use of “covered entity” in 371-34(a) and “state agency” in (b) and (c) have to be given meaning. OLA has no authority to compel non-profit covered entities to file their plans pursuant to 371-34(b) and (c).

My concerns are two-fold:

1. OLA cannot create a non-existent statutory requirement for non-profits to submit language access plans. It is appropriate for OLA to offer technical assistance in preparation of such plans, but should make it clear that there is no submission requirement. There should be no characterization of non-profit submissions as “compliance,” inferring that those who do not submit are somehow in non-compliance with the law.

2. The discussion of imposing submission requirements on non-profits inappropriately shifts emphasis away from the obligation of state agencies. To date, first steps have focused on development and submission of language access plans by state agencies, which is appropriate. However, I would suggest that compliance is not established by submission of the plans, but in the provision of services to LEP persons. It seems to me that there is too much emphasis on the “safe harbor” aspect of the language access law, and not enough on the provision of services mandated under Title VI, E.O. 13166, and HRS chapter 371, part II. The focus of OLA should be on meaningful and effective implementation of language access in compliance with the law, vindicating the rights of LEP persons. State agencies can and should work with their non-profit service providers who receive state-funding, and can do so through RFP, GIA, and POS contractual requirements.

It is not appropriate to direct OLA’s focus away from the State’s obligations to those of the non-profits. Simply put, the State should get its act together before shifting the focus to its non-profit service providers.
I am strongly in favor of OLA offering technical assistance to non-profits in development of language access plans, with the express qualification that non-profits are not required by law to submit their plans to OLA. To engage in or allow misrepresentation of what the law requires will only diminish OLA’s credibility, which is crucial in accomplishing its mission.

As I noted in my earlier email, I cannot attend the February 13 advisory council meeting, because it conflicts with a DLIR administrators meeting called by Director Ching. In my absence, I ask that this matter be placed on the agenda and my email distributed to the members for discussion.
OpenPoint
UIPA and Sunshine Law: Pointers and Guidelines

Steps Boards Should Take to Comply with the Sunshine Law when Participating in the Legislative Process

PREPARING TESTIMONY

DO list on the agenda the topic of each legislative idea that will be discussed at a meeting.

Before a board may discuss legislation or taking any position on it, the board’s agenda must first provide sufficient notice of the general subject matter of the legislation to be considered at the board’s meeting.

DON’T just list on the agenda an item that reads “Legislation” or “Legislative Report.”

This would not allow the board to consider any action relating to legislation. Instead, it would only allow a board to hear an informational report (usually by staff) on legislation on which the board does not expect to take any action to support or oppose.

DO provide enough detail to allow the public to reasonably understand the general subject matter of the legislation to be considered and decide whether to attend and participate in the meeting.

For example:

1. Proposed Legislation:
   (a) Amend definition for “public housing project” under HRS chapter XX to allow police traffic enforcement at the Villages of Kapolei
   (b) Governor’s Affordable Housing Initiatives
   (c) Proposal to split HCDCH into two agencies

TESTIFYING

DO assign a group of less than a quorum of board members to testify at the Legislature or to discuss the board’s position on legislation.

DO define each member of the legislative group’s authority at a meeting beforehand.

The permitted interaction under section 92-2.5(b), HRS, provides that two or more members, but less than a quorum, may be assigned to “[p]resent, discuss, or negotiate any position which the board has adopted at a meeting of the board;” provided that the board assigns the members and defines the scope of each member’s authority at a prior meeting.

Even where a board has already adopted a position on a bill as introduced, OIP strongly recommends that a board use this permitted interaction to testify before the Legislature or to discuss that position with individual legislators or other concerned parties.

Because amendments to proposed legislation are typically considered, it is likely that testimony or discussion may expand to include discussion of changes to the legislation that may be considered by the board at an upcoming meeting.

DON’T have discussions between more than two members when no legislative group is assigned.

One member, or two members under the two member permitted interaction, may also discuss the board’s position in the event the board does not have time to assign members to do so.

If two members participate in the discussion, however, they must then be careful not to discuss the same matter with other board members outside of a properly noticed board meeting.

Office of Information Practices
Paul T. Tsukiyama
Director
Address: No. 1 Capitol District Building
250 S. Hotel St., Suite 107
Honolulu, Hawaii 96813
Phone: (808) 586-3400 Fax: (808) 586-1412
Internet: www.hawaii.gov/oip E-mail: oip@hawaii.gov
Language-Specific Introduction to Court Interpreting Workshop

Chuukese

Language-specific workshops conducted in Chuukese, Marshallese, and English will introduce interested people to court interpreting.

At the workshop, be ready to:
- Get involved in group discussions on language, culture, ethics, professionalism, and skills development as it affects court interpreting;
- Practice interpreting in common court situations;
- Take a practice oral exam that tests your simultaneous interpreting;
- Share, have fun, and learn together.

Instructions:
- **By January 4, 2008, Complete and Submit:**
  - Language-Specific Workshop Form, and Indicate:
    - Marshallese – Sat. and Sun., Jan. 12 & 13, 2008, or
  - Workshop Fee $15

If you have any questions, please contact the Office on Equality and Access to the Courts at (808) 539-4860 or oeac@courts.state.hi.us

Funded in part by the Office of Language Access, State of Hawai’i.
Basic Orientation Workshop

Fee Waiver Application

Fee waivers are available that may reduce up to 75% off of the $100.00 2-day Basic Orientation Workshop fee for applicants. Fee waivers will be awarded on a case by case basis according to court need.

All of those seeking financial aid to attend the Basic Orientation Workshop are encouraged to apply.

Instructions:

• By January 4, 2008, Complete and submit:
  • Fee Waiver Application Form;
  • Certification Application Form; and
  • Basic Orientation Workshop Registration Form.

If you have any questions, please contact the Office on Equality and Access to the Courts at (808) 539-4860 or oeac@courts.state.hi.us

Funded in part by the Office of Language Access, State of Hawai‘i.

Basic Orientation Workshop Fee Waiver Application Form

First Name: _______________________ M.I. ____ Last Name: _______________________

Address: ________________________________

Work Phone: ___________________ Cell Phone: __________________ Home Phone: ___________________

Email Address: ________________________________
# Tiers of Court Interpreter Designation

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<tr>
<th>Spoken Interpreter Tier of Designation</th>
<th>Scores Needed to Achieve Tier Designation for Spoken Exam</th>
<th>ASL Interpreter Tier of Designation</th>
<th>Fee Schedule</th>
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<td>Consul Face 70% 70% 70% at least 65% for each Sight Translation subpart</td>
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*In languages where a Consortium oral exam exists, interpreters cannot opt to take the recognized alternative credential oral exam.*

## Optional

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<th>Two-Day Basic Orientation Workshop</th>
<th>Registered Attendance</th>
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**Mandatory for all Tier Designations**

Interpreting assignment preference will be based on highest interpreter designation levels available in each language.
## THE JUDICIARY • STATE OF HAWAI‘I
## COURT INTERPRETER CERTIFICATION PROGRAM
## COURT INTERPRETER REGISTRY
### External Distribution

January 1, 2008

Court interpreters who meet mandatory requirements for interpreting in the state courts under the Hawai‘i State Judiciary Court Interpreter Certification Program are published on this Registry. Requesting parties are responsible for further determining the qualifications and competence of the interpreters they hire.

If you have any questions about the Registry, please contact the Office on Equality and Access to the Courts at 808-539-4860.

* Please refer to the Hawai‘i Rules for Certification of Spoken and Sign Language Interpreters Appendix A for the list of tiers and tier requirements.

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<td>AMERICAN SIGN</td>
<td>Oahu</td>
<td>6</td>
<td>HALLET, KATHERINE A.</td>
<td>(612) 251-9501(C), <a href="mailto:katherine.hallet@gmail.com">katherine.hallet@gmail.com</a></td>
</tr>
<tr>
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<td>LAMBERCHT, LINDA Y.</td>
<td>393-9861(T) Text Only, 734-9154(B), <a href="mailto:astleal@mac.com">astleal@mac.com</a> or <a href="mailto:lambercht@hawaii.edu">lambercht@hawaii.edu</a></td>
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<td>KROE-UNABIA, SUSAN L.</td>
<td>393-8067(B), <a href="mailto:susankroe@auol.com">susankroe@auol.com</a></td>
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<td>JACKSON, DEBBRA L.</td>
<td>239-6163(H), <a href="mailto:deightjackson@hotmail.com">deightjackson@hotmail.com</a></td>
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<td>FRIED, JAN L.</td>
<td>734-5889(H), 734-9154(B), 734-9893(F), <a href="mailto:jfried@hawaii.edu">jfried@hawaii.edu</a> or <a href="mailto:janfried@hotmail.com">janfried@hotmail.com</a></td>
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<td>381-8378(C), <a href="mailto:kennedyclm@yahoo.com">kennedyclm@yahoo.com</a></td>
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<td>TRUJILLO, TARA M. W.</td>
<td>557-1616(C), 934-0827(H), <a href="mailto:tarawolf@hotmail.com">tarawolf@hotmail.com</a></td>
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<td>LINDSTROM, EVA R.</td>
<td>737-3821(H), 735-4874(B), 728-3089(C), <a href="mailto:erepollo@yahoo.com">erepollo@yahoo.com</a></td>
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<td>226-3729(C), <a href="mailto:rmnikou@hotmail.com">rmnikou@hotmail.com</a></td>
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<td>French</td>
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<td>MILLER, STANLEY FRANCOIS</td>
<td>923-9079(H)(B), 922-8309(F), <a href="mailto:francois@lava.net">francois@lava.net</a></td>
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<td>497-0091(C)(B), <a href="mailto:bcalaycay@gmail.com">bcalaycay@gmail.com</a></td>
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COURT INTERPRETER CERTIFICATION PROGRAM  
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