

**Remarks of Chief Justice Mark E. Recktenwald**  
**9<sup>th</sup> Annual Hawai'i Conference on Language Access**  
**September 22, 2016**

Good afternoon and aloha.

I'd like to thank the Office of Language Access for sponsoring this annual conference, and for inviting me to speak today. It has been ten years since our state's language access law was enacted, so this is a fitting time to review the progress that has been made, and chart a path for addressing the many challenges that remain. I recall seeing that new law for the first time when I was director of the Department of Commerce and Consumer Affairs, and thinking that we had a lot of work to do to get where we needed to be. When I look today at all that OLA and the Language Access Advisory Council have done, and the strong community of partners and advocates that supports and furthers its mission, there is a lot of reason to take pride, and to be optimistic about the future.

I'd like to speak to you today from my perspective as chief justice. The judiciary is a large organization, with 82 full time judges and more than 1,800 employees statewide. In the last fiscal year, we had more than 100,000 cases filed in our courts statewide, excluding traffic cases. However, we do much more than decide cases. We provide a wide range of services that address the underlying causes and effects of what brought

those parties before the court in the first place. These services range from juvenile and adult probation supervision, to programs such as drug court and mental health court, to Kids First, which provides support to kids whose parents are going through a divorce, to our children's justice centers (where child victims and witnesses to crimes are interviewed).

According to U.S. Census data, 1 in 4 Hawai'i residents speaks a language other than English at home, and 1 in 8 is considered limited English proficient. So we know that the judiciary is going to interact with many people each year who will need language access services. Indeed, in fiscal year 2015, we provided free court interpreters to LEP persons in over 10,000 court proceedings, at a cost of over \$650,000.

The courts exist to provide equal justice to all. But that promise of equal justice rings hollow if people can't meaningfully participate in the judicial process because they don't understand what is being said or can't express their own thoughts. As the American Bar Association has recognized, "Access to justice is unattainable for those who are not proficient in English unless they have access to language services." To achieve justice, we must ensure that all people have meaningful access to the Judiciary.

This is why the Judiciary provides, free of charge, interpreters for everyone with a substantial interest in every type of court case, and to people who access the many other services that the judiciary provides. We are grateful to the hundreds of dedicated interpreters, many of whom are in the audience today, who assist us in that effort.

Our language services program is an integral part of our broader effort to reduce barriers to access to justice. One of those barriers is the inability of thousands of people who come before the courts each year to afford an attorney to represent them in civil cases, and who must accordingly represent themselves in a process that can be confusing and unfamiliar to a non-lawyer. To address that need, we have worked with our Access to Justice Commission, the Hawai'i State Bar Association and the legal aid society to provide "self-help" resources to people who can't afford an attorney to represent them in their civil cases. Recently, I heard an example of how the Judiciary's services came together to assist an LEP individual. An elderly woman, who speaks only Korean, went to the court's self-help center in Honolulu, where volunteer attorneys assist people who are representing themselves in court. The volunteer attorney discovered that this woman had been served with papers that instructed her to appear for a court proceeding. Because

the woman did not understand these papers, she had missed her court date. As a result, a collection agency had obtained a default judgment and was now bringing a collection action against her. Using an interpreter, the volunteer attorney was able to figure out what had happened, and explain her options, including a possible settlement. When the woman returned to follow up, an interpreter was again used to communicate with her and ensure that her issues had been satisfactorily resolved. This example shows how many resources - interpreters, volunteer attorneys, and AmeriCorps staffers at the self-help centers - came together to help a LEP individual achieve a fair and just outcome.

Our state Judiciary has recently been recognized nationally for its language access programs. This year, the Justice Index ranked Hawaii's Judiciary third among all states for access to justice, and first in the nation for its support for people with limited English proficiency. Our website was also recognized this year by the National Association of Court Managers for its improved communication and access to justice using web technology.

I am proud of these awards, which highlight the Judiciary's commitment to language access, and I am grateful for all the hard work they represent. In particular, the Judiciary's Office

on Equality and Access to the Courts (OEAC), led by Debi Tulang De Silva, has been the heart and soul of our efforts. Debi is going to be honored next month by the Hawaii State Bar Association for her great leadership, and that recognition is very well deserved. I thank Debi, Melody Kubo and the other members of their great team for their many accomplishments, including developing our Court Interpreter Certification Program, under which interpreters receive training on the court system, ethics, and modes of interpreting needed in court.

I'd also like to extend my thanks to the many other people in the Judiciary and the community who have worked so hard to expand our language assistance services, including Justice Sabrina McKenna, Judge Gerald Kibe, Judge Linda Luke, the Committee on Equality and Access to the Courts (CEAC), the Committee on Court Interpreters and Language Access (CILA), the Joint Title VI Subcommittee, and the judiciary's administrative staff.

However, we have much work to do, and the road we are on has had its challenges. In September 2013, we learned that the U.S. Department of Justice would be reviewing our state Judiciary's language access programs. Although the DOJ review required the Judiciary to dedicate significant time and resources responding to requests for information, we decided to

**embrace** the process as an opportunity to improve. The DOJ closed its review after just 18 months, and a positive, lasting partnership was formed. Deputy Assistant Attorney General Vanita Gupta commended the Judiciary's proactive language access efforts, and its collaborative and cooperative approach. We took many positive steps including revising our language access policy, implementing an awareness campaign to increase the public's knowledge about how to access our language services program, and making it easier for court users to raise concerns about our services, among others.

Collaboration plays a large role in the Judiciary's language access efforts. For example, when the DOJ review began, we reached out to others in the community to learn more about their programs. As a result, we saw the multilingual emergency information cards developed by State Civil Defense, and were given permission to use those cards as the basis of our own language ID Cards. The Judiciary's language ID cards are now available in 14 non-English languages frequently encountered in our courts and services.

The language ID cards are small, yet make a huge difference to court and service users. The card identifies the language the individual speaks and states, "Please find someone who can speak my language so we can talk to each other." The cards are

in English on one side and the non-English language on the other.

Through federal grant funding, our language ID cards have been printed and are now available at every courthouse in the state. LEP court users can simply show the language ID card to Judiciary staff, who have been trained on how to provide appropriate language services.

We also partnered with the Hawaii Access to Justice Commission, which developed a brochure on "How to Request an Interpreter" and translated it into six non-English languages frequently encountered in the Hawaii State Courts. This important information is also posted on the Judiciary's website. The Access to Justice grant also enabled us to train attorneys from the West Hawai'i Bar Association on how to effectively work with an interpreter.

In addition to being the beneficiary of others' expertise and assistance, we have also sought ways to share both our experiences and our resources with others. Language ID cards are being adopted by the City and County of Honolulu, and our "How to Use a Court Interpreter" brochure is being adapted by the Arizona State Courts for their use. Our OEAC director, Debi Tulang De Silva, has trained judges and court staff from Guam, Saipan and Palau on how to develop a court interpreter

certification program. Debi also provided language access training for the State Department of Labor and Industrial Relations.

The Legislature has played an instrumental role by supporting the Judiciary's requests for language access funding. In 2012, we received more than \$200,000 to expand court interpreter services to all civil and administrative proceedings. We are grateful for the legislature's support, and I would especially like to acknowledge Senator Suzie Chun Oakland, who is retiring from the Senate later this year.

A cornerstone of our efforts has been providing language access training to Judiciary staff and judges. Language access policies and services are **only** effective if the staff and judges are aware of and use them. In 2014, OEAC staff, including Debi and Melody, implemented mandatory training on language access services and conducted more than seventy 2-hour trainings statewide. Debi and Melody trained Judiciary staff on how to identify LEP individuals, as well as how to provide appropriate language services. Debi also trained judges on language access laws and services to assist LEP individuals in the courtroom. OEAC was able to accomplish all of this with only five staff members. As Melody characterized this effort, "It can be

accomplished so long as you have commitment from the top down and training from the bottom up.”

Providing meaningful and appropriate language access is a legal mandate. But it is more than that -- it is the right thing to do. Even though we have made significant strides at the judiciary, we continue to work every day to strengthen our services, increase the number of qualified interpreters, and ensure that our staff and judges receive appropriate training.

Language access is not a luxury. It is a matter of fundamental justice that goes to the heart of who we are as a state and a nation. Through your efforts, we will ensure that everyone, including LEP individuals, will be able to fully participate in our democratic system of government.

Thank you, and aloha.