



# CRLA

## LANGUAGE ACCESS AND LAW ENFORCEMENT IN KERN COUNTY, CALIFORNIA



Photo: Miguel Zafra



### A HEALTH IMPACT ASSESSMENT

## CRLA OFFICES

**ARVIN**

141 A Street, Suite D,  
Arvin, CA 93203  
(661) 854-3839

## COACHELLA

1460 6th Street,  
Coachella, CA 92236  
(760) 398-7261

**DELANO**

601 High Street,  
Suite C  
Delano, CA 93215  
(661) 725-4350

## EL CENTRO

449 Broadway St.,  
El Centro, CA 92243  
(760) 353-0220

## FRESNO

3747 E. Shields Ave.,  
Fresno, CA 93726  
(559) 441-8721

**MADERA**

126 North "B" Street,  
Madera, CA 93638  
(559) 674- 5671

**MARYSVILLE**

511 "D" Street,  
Marysville, CA 95901  
(530) 742- 5191

## MODESTO

1020 15th Street,  
Suite 20  
Modesto, CA 95354  
(209) 577-3811

## OAKLAND

1430 Franklin St.,  
Suite 103  
Oakland, CA 94612-3024  
(510) 267-0762

† Administrative office

## OXNARD

338 South "A" Street,  
Oxnard, CA 93030  
(805) 486-1068

**OAKLAND**

**Santa Cruz**

**Watsonville**

**Salinas**

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**San Luis Obispo**

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**Santa Rosa**

**Berkeley**

**OAKLAND**

**San Francisco**

**Oakland International Airport**

**San Francisco Bay**

**SALINAS**  
3 Williams Road,  
Salinas, CA 93905  
(831) 757-5221

**SANTA MARIA**

**SALINAS**

3 Williams Road,  
Salinas, CA 93905  
(831) 757-5221

## SANTA MARIA

2050 South Broadway,  
Suite G  
Santa Maria, CA 93454  
(805) 922-4564

## SAN LUIS OBISPO

175 Santa Rosa Street,  
San Luis Obispo, CA 93405  
(805) 544-7994

## SANTA ROSA

1160 N. Dutton Ave.,  
Suite 105  
Santa Rosa, CA 95401  
(707) 528-9941

## STOCKTON

145 E. Weber Avenue,  
Stockton, CA 95202  
(209) 946-0605

## VISTA

640 Civic Center Drive,  
Suite 108  
Vista, CA 92084  
(760) 966-0511

**WATSONVILLE**

21 Carr Street,  
Watsonville, CA 95076  
(831) 724-2253

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## CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

This is a community-driven research project analyzing the health impacts on Indigenous Mexican residents of Kern County, California when they do not have access to an interpreter who speaks their language during interactions with local law enforcement. Data gatherers interviewed 203 Indigenous Mexican residents from Kern County, California. This report concludes that no respondent received a qualified Indigenous language interpreter during interactions with Kern County law enforcement and that language barriers during interactions with law enforcement have far reaching consequences.

Photo: David Bacon



Photo: Miguel Zafra

## Executive Summary

“I think that if the police had asked me if I needed someone who speaks my language, I would have requested an interpreter. I couldn’t provide them all the details in Spanish.”

- Mixteco man from Lamont

## Introduction

Kern County sits at the end of the San Joaquin Valley in Southern California and is home to a thriving agricultural industry and, supporting it, a largely immigrant workforce. An estimated one-third of farmworkers in California are Indigenous Mexicans (Mines, Nichols and Runsten 2010). They are the original inhabitants of Mexico who had thriving civilizations, complex languages, and well-developed social structures prior to the arrival of Spanish-speaking Europeans. Present-day Indigenous Mexicans who survived genocide and forced assimilation retain distinct ethnic and cultural identities, and many still speak languages that have no linguistic similarity to Spanish. Adverse political, social, economic, and environmental factors have driven many Indigenous Mexicans away from their ancestral homes to seek safety and stability in Northern Mexico and California.



Indigenous Mexicans face targeted discrimination and marginalization in their home country and face the same dynamic in California, with an added challenge of being largely unknown to Californians who may not know of their existence. **In the United States, many Indigenous Mexican residents struggle to communicate at schools, workplaces, hospitals, public agencies, and other vital social service providers.** As our research suggests, many (but not all) Indigenous Mexicans speak at least a few words of Spanish, but many are not fluent in Spanish or English.

In Kern County, Indigenous Mexican residents report that if they have access to an interpreter at all during interactions with law enforcement, it is between English and Spanish and not the Indigenous language they speak fluently. This leaves both the resident and law enforcement struggling to get all the information they need. Language access is often minimized as a favor or service to the person who does not speak a dominant language, even though it is a legal mandate. Our survey results suggest that law enforcement officers are missing critical opportunities to gather facts and conduct investigations due to language barriers.

## Study Overview and Methods

This report evaluates the way in which interactions with select law enforcement agencies impact the health of Indigenous Mexican residents in Kern County. The methods we used to conduct the study include: a review of the existing literature on language access and policing in immigrant communities with Limited English Proficiency (LEP); an analysis over existing language access policies from three local law enforcement agencies; surveys of 203 Indigenous Mexican residents in Kern County; and, a review of existing scholarship related to Indigenous Mexicans who live and work in California.

## Legal Mandates

Under California and federal law, law enforcement agencies receiving federal or state funding are obligated to provide an interpreter, free of charge, to individuals with LEP who need to provide or receive critical information. The right to an interpreter in federal and California law is based on the prohibition of discrimination due to national origin, which includes language ability. Agencies are encouraged to develop written language access plans and regularly train staff on its contents to ensure compliance with these legal mandates so that individuals with LEP receive meaningful access to services.

## Key Survey Findings

**No survey respondent had access to a qualified Indigenous Mexican language interpreter provided by law enforcement when needed to communicate with law enforcement.**

67% (136) of 203 survey respondents had some interaction with the police in the last three years. 74% of respondents reported that they were most comfortable speaking their Indigenous language and, of those respondents, 77% would need an interpreter to understand Spanish. Only 4% of respondents reported that they spoke “a little” English. ***Not a single respondent received an interpreter from law enforcement who spoke their Indigenous language.***



Many, but not all respondents, communicated with an officer who spoke varying degrees of Spanish. For some residents an officer who spoke Spanish sufficed to communicate the issue at hand, if they also were fluent in Spanish. But for most, this language gap left them largely unable to communicate effectively with police.

### **Law enforcement agencies are using minors as ad hoc interpreters, contrary to legal mandates.**

33% of respondents used an “ad hoc” (meaning, untrained or unqualified) interpreter during interactions with law enforcement. For witnesses and victims of crimes who used a family member to interpret, 67% of the time it was a minor under the age of 18. Research shows that using minors to interpret risks harm to the minor and risks critical misunderstandings and inaccuracies. One respondent shared that she witnessed a murder and the police used her minor daughter to interpret her witness statement.

### **People who are most comfortable speaking their Indigenous Mexican language are overwhelmingly likely to be crime victims.**

90% of respondents who said that they had been crime victims reported that they are most comfortable speaking their Indigenous Mexican language and 74% of victims speak a little Spanish but would need an interpreter to communicate effectively. The survey responses, therefore, associate Indigenous Mexican language speakers and victimhood.

### **Language barriers during interactions with law enforcement negatively impact health.**

Indigenous Mexican residents in Kern experience negative health impacts in several ways, the most obvious connection being worsened physical injury due to language barriers and feelings of frustration and sadness resulting from being unable to communicate with law enforcement. In addition to the obvious connections to health, we discovered less obvious connections such as health impacts that are the result of financial loss.

### **Language barriers discourage Indigenous Mexican residents from reporting crimes.**

Language barriers prevent reporting crimes in obvious ways – a person who does not share a common language with a police officer and receives no interpreter will be unable to report a crime. But the research also shows that language barriers degrade trust between communities with LEP and law enforcement and can discourage reporting crimes independent of the actual language barrier. Our survey responses support this finding from the literature review. The most common reason that respondents gave for not reporting crimes was that they did not know how to report.

### **Language barriers prevent Indigenous Mexican residents from providing critical information to law enforcement.**

Survey respondents expressed frustration about not being able to provide all important details or clearly communicate information related to a crime or incident to law enforcement due to language barriers. Coupled with the heightened vulnerability of people who are most comfortable speaking their Indigenous Mexican language, communication barriers make Indigenous Mexicans the perfect target for crimes.

## **Indigenous Mexican residents view law enforcement favorably after law enforcement officers treated them with respect.**

Even where the result was a traffic ticket, respondents reported that they viewed law enforcement more favorably if law enforcement was kind or treated them with respect.

## **Law enforcement agencies in Kern County are not following their own language access policies.**

Both the Bakersfield and Taft Police Department have adopted written policies that require officers to offer language services to individuals with LEP. However, survey results and review of supporting documentation of the plans reveal that it is unlikely that law enforcement agencies in Kern County are working with qualified, trained Indigenous language interpreters when interacting with Mexican Indigenous residents. By not providing interpreters to individuals with LEP, Taft and Bakersfield Police Departments are not following the mandates of their own policies. The Kern County Sheriff's Office does not currently have a language policy and, based on our survey responses, they are not providing Indigenous Mexican language interpreters to residents who need language services.<sup>1</sup>

### ***To improve compliance with existing language access laws (and thereby improve health and build trust), law enforcement agencies in Kern County should:***

1. Proactively assess language needs of the community
2. Compare community language needs to existing resources and policies and create or update policies and resources as needed
3. Train all staff on Language Access Policies, language access laws, and unique needs of Indigenous Mexican Communities
4. Prohibit officers and staff from using minors as interpreters
5. Coordinate with community-based organizations on serving communities with LEP
6. Create data capture tools to track outcomes of providing language access to communities who are not fully proficient in English
7. Update language policies regularly
8. Conduct outreach to Indigenous Mexican residents
9. Inform residents with LEP about their right to an interpreter

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<sup>1</sup> Since the completion of this report and prior to its release, the Kern County Sheriff's Office has begun drafting a language access policy and taking steps to improve language access pursuant to a stipulated judgment entered into between the Kern County Sheriff's Office and the California Attorney General's Office. The author of this report is now a member of the community advisory committee required by the terms of the stipulated judgment and is providing guidance on the formation of the new language policy. The stipulated judgment is available at: <https://oag.ca.gov/sites/default/files/Judgment.pdf>



Photo: Miguel Zafra

## IN THEIR OWN WORDS

### **Excerpts of narrative responses from survey responses of Indigenous Mexican residents of Kern**

"I was thinking to go to the police and make a report but then, I was thinking what about what if they don't speak Spanish and my [Indigenous language] either. That's why I didn't do the report."

"I think the policeman didn't understand clearly what I saw. I saw my neighbor and her husband having a fight.... He got mad and got into his car and stepped on the gas to accelerate and he ran her over... I saw how my neighbor's bones had been broken, and she was dying. She died minutes later... About one hour later, the policeman came to my house to ask what had happened. He spoke English, and I couldn't talk to him, so I asked my [minor] daughter to interpret for me, and she explained to him what had happened."

"Someone tried to enter my house and broke the door. Then, I called the police and police arrived right away and arrested the guy... but I couldn't provide them all the details in Spanish."

### Authored By

Marisa Christensen Lundin, Esq.  
*California Rural Legal Assistance, Inc.*

### Contributors

Nora Ramírez  
*California Rural Legal Assistance, Inc.*

Fausto Sánchez  
*California Rural Legal Assistance, Inc.*

Alena Uliasz, MS  
*California Rural Legal Assistance, Inc.*

### Steering Committee

Austolia Lopez  
Mateo Lopez  
Carlos Martinez  
Anonymous Mixteco man from Kern County  
Anonymous Mixteca woman from Kern County  
Anonymous Mixteca woman from Kern County

### Advisory Committee

Rosa Lopez  
*ACLU Southern California*

Valentin Narvaez, Esq.  
*Greater Bakersfield Legal Assistance*

Carmen Burgos  
*Greater Bakersfield Legal Assistance*

Josth Stenner  
*Faith in the Valley*

Lorena Lara  
*Faith in the Valley*

Officer Carina Ortiz  
*Bakersfield Police Department*

Mary Malaver de Urbano  
*Visión y Compromiso*

### About CRLA

California Rural Legal Assistance, Inc. (CRLA) was founded in 1966 to be a world-class nonprofit law firm for those who cannot afford to pay a private attorney. Through 21 offices statewide, CRLA provides no-cost legal services and education to tens of thousands of low-income Californians and litigates cases that benefit even more people. We help our clients get fair pay for their hard work, find and stay in safe housing, access healthcare, ensure quality education for their kids, and more. CRLA's Indigenous Program began in 1993 to address the needs of Mexican Indigenous farmworkers who were routinely denied access to justice in California. Our vision is a rural California where all people are treated with dignity and respect, and guaranteed their fundamental rights.

### Funding

This project was made possible by funding from the Health Impact Project, a collaboration of the Robert Wood Johnson Foundation and The Pew Charitable Trusts, with support from The California Endowment. The views expressed are those of the authors and do not necessarily reflect the views of the Health Impact Project, The Pew Charitable Trusts, or the Robert Wood Johnson Foundation.

### Acknowledgements

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Finally, we are humbled to follow in the footsteps of the Mixteco Indígena Community Organizing Project (MICOP) and Frente Indígena de Organizaciones Binacionales (FIOB) and their long history of advocating for Indigenous Mexican and Latin American communities, especially for their work with law enforcement agencies to build community trust and improve services to Indigenous communities living in Ventura and Los Angeles Counties. Their tireless work has resulted in innovative collaborations with law enforcement and is an inspiration to us on this project. Special shout out to the Living with Love team from MICOP for their assistance in this project.

#### Contact Information

Marisa Christensen Lundin

[mlundin@crla.org](mailto:mlundin@crla.org)

661-854-3839

[www.crla.org](http://www.crla.org)





Photo: Rafa Rodriguez

## Introduction

This report summarizes a two-year study that investigated how Indigenous<sup>2</sup> Mexicans who live in Kern County, California are impacted when they do not have access to an interpreter during interactions with the police. Most law enforcement agencies in California are aware that **Federal and State laws require that they provide a qualified interpreter<sup>3</sup> to any individual who is not fully proficient in English.** In Kern County, this often means providing access to Spanish speaking residents. However, many agencies and service providers do not know that Kern County is also home to Indigenous Mexicans who speak languages that have no linguistic similarity to Spanish. These people are the descendants of the original inhabitants of Mexico and had thriving cultures for thousands of years prior to the arrival of Spanish-speaking Europeans. As this report demonstrates, Indigenous Mexicans living in Kern County do not always have the Spanish or English fluency to communicate effectively with law enforcement. At best, they are interacting with a bilingual (English and Spanish) officer and at worst, are entirely unable to communicate with law enforcement. Children are called upon when available to interpret, contrary to legal mandates, and the subject matter can be traumatic, embarrassing or frightening. We end this report with recommendations for local law enforcement agencies to meet their federal and state legal obligations and build trust with Indigenous communities.

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<sup>2</sup> For the purposes of this report, “Indigenous” refers to the original inhabitants of Mexico unless otherwise stated and should not be confused with the indigenous peoples of the Kern County area who pre-dated the arrival of European colonialists.

<sup>3</sup> See Appendix 7 for a list of common definitions of language access terminology.



## About This Report

California Rural Legal Assistance, Inc. (CRLA) launched this project to address the paucity of information related to interpreter access (or lack thereof) and health impacts outside of the healthcare system, specifically for those who speak languages that are not commonly spoken in the United States. A Steering Committee comprised of Indigenous Mexican residents of Kern County selected law enforcement agencies as the subject of the study and selected three agencies specifically to analyze. The project spanned early 2018 through early 2020.

This project substantially followed a **Health Impact Assessment** framework:

Health Impact Assessment is a process used to identify how a project, policy or program might influence health. Health Impact Assessment (HIA) uses a combination of procedures, methods and tools to systematically judge the potential—and sometimes unintended—effects of a proposed project, plan or policy on the health of a population and the distribution of those effects within the population. The HIA also produces recommendations to enhance the health benefits of the project/policy/program and to mitigate potential harms.<sup>4</sup>

To learn more about the HIA process and for more detail about how each phase of our project aligns with the HIA framework, see **Appendix 1**.

We selected the HIA framework for this study because language is an important yet often overlooked **social determinant of health**.<sup>5</sup> “Social determinants of health are conditions in the environments in which people are born, live, learn, work, play, worship, and age that affect a wide range of health, functioning, and quality-of-life outcomes and risks.”<sup>6</sup> Scholarship around language as a social determinant of health – specifically for people living in the United States who do not speak, understand, read or write English fluently – is still an emerging area. Preliminary research shows that people with LEP, including Spanish speaking people of Latin American descent in the United States, suffer worse health outcomes than those who face no language barriers.<sup>7</sup> Given the increased number of Spanish speaking providers and Spanish language interpreters available in the U.S. as compared to providers and interpreters who speak Indigenous Mexican languages, one can expect that health outcomes for monolingual Indigenous language speakers are significantly poorer. Too often the concept of language access is regarded as a “favor” extended to the person who does not speak the dominant language of the community instead of a basic need that benefits (at a minimum) the community member and the service provider.

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4 Society of Practitioners of Health Impact Assessment, What Is HIA, Retrieved from: <https://hiasociety.org/What-is-HIA>

5 Office of Disease Prevention and Health Promotion, Social Determinants of Health, retrieved from: <https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-of-health>

6 *Id.*

7 “A study that examined self-reported health status, health behaviors, access to care, and timeliness of care among the U.S. Hispanic adult population found that Hispanic people who chose to respond to a survey in Spanish were more likely to report worse health status, lack health insurance, not have a personal doctor, and postpone seeing a doctor because of the cost of care, compared to Hispanic people who chose to respond in English.” *Id.* at Language and Literacy, retrieved from: <https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/language-and-literacy>

## Stakeholders

The goal of this report is to inform law enforcement agencies and other stakeholders in Kern County of the needs of Indigenous Mexican residents so that they create or update their language access plans to comply with the law, consistently implement such plans, and develop training for officers about how to better serve these communities.

This project was the collaborative effort of the Project Team, Steering Committee and Advisory Committee.

The **Project Team** spearheaded this report and convened the supporting committees and community engagement. The Project Team included the author and other staff from California Rural Legal Assistance, Inc. (CRLA), including two staff members who are from the Mixteco community in Kern County. While CRLA is a statewide organization, members of the Project Team who developed, implemented and wrote this report all live and work in Kern County.

The **Steering Committee** was comprised of six Indigenous Mexican individuals from three different Mixteco communities and one Triqui community. Having a Steering Committee made up of members of the communities we were studying was an integral part of the project and reflects our deep commitment to a community-driven process. From the inception of the project, we wanted to ensure that we were tailoring all research topics and recommendations to the needs of the community, as they were articulated and shaped by representatives of members of Mexican Indigenous communities in Kern County. Steering Committee members were involved at all critical steps in the project and provided valuable input on selecting the topic of this HIA and designing the survey instruments.

We also convened an **Advisory Committee** comprised of representatives from various community-based organizations and an officer from the Bakersfield Police Department. The Advisory Committee elevated suggestions to the Steering Committee and the Steering Committee was the final decisionmaker with the CRLA project team. The Advisory Committee members were selected for their familiarity with Indigenous residents of Kern County, their interest in the topic of language justice, and their prior involvement in advocacy around matters related to policing in Kern County. We extended invitations to join the Advisory Committee to the chiefs of police from the Taft and Bakersfield Police Departments and the Kern County Sheriff's Office.

Although a community driven project is more time intensive and requires more resources and logistical considerations than a traditional "top down" research project, we felt that any other approach would be doing a disservice to the communities involved in this study. We also believed that research findings and recommendations are more accurate and feasible when they are developed in close collaboration with the people most affected by the issues at hand.

## Focus of Study

The Steering Committee selected the **Bakersfield Police Department (BPD)**, **Taft Police Department (TPD)** and the **Kern County Sheriff's Office (KSCO)** as the focus of this study. The Steering Committee selected the *specific* law enforcement agencies in Kern because of the Indigenous Mexican communities living in their service areas and anecdotal reports from community members about interactions with these agencies.

Respondents also spoke of interactions with the Arvin Police Department, California Highway Patrol, Shafter Police Department, Delano Police Department and McFarland Police Department. The information gathered about these other law enforcement agencies is not excluded from this report because we concluded it could be useful for those departments and helps paint a general picture of the need for language access in Kern County law enforcement at large. The Steering Committee chose to focus on law enforcement because they felt that members of their communities were more affected by lack of an interpreter during interactions with law enforcement and the stakes were higher than with other public agencies. This concept is also reflected in federal and California language access laws, which place a higher burden on emergency service providers and law enforcement given the potential for great harm when communication breaks down (discussed in greater detail in this report).

## Survey Methodology

Data collectors conducted one-on-one surveys with 203 Indigenous Mexican residents of Kern County over a three-month period from June, 2019 – September, 2019.<sup>8</sup> See **Appendix 2** for a copy of the survey. The data collectors are proficient in several variants of Mixteco, Spanish, and English. Given low literacy rates among Indigenous farmworkers, the data collectors orally asked the survey questions in a confidential setting and transcribed the responses.

All survey participants were asked preliminary questions that gathered demographic information and screened respondents for interactions with the police within the last three years either as a victim or witness to any crime, or a third catch-all category labeled “other police encounters” that encompassed incidental interactions with police and interactions as a suspect, perpetrator, or individual pulled over for a traffic offense. If the respondent did not have an interaction in the last three years with police in one of these categories, the data collectors ended the survey and did not solicit additional information.



Figure 1: Participants interested in joining the Advisory Committee gathered for a training at the Padre Hotel in Bakersfield on July 7, 2018.

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8 Since many Indigenous Mexicans do not write their languages, our data collectors sight translated the surveys from Spanish into Mixteco and then transcribed responses from participants into English or Spanish. Our data collectors have been specifically trained in the skill of sight translation. Our data collectors gathered survey responses from Indigenous Mexican people at churches, Know Your Rights outreach events, festivals, parades, Quinceañeras, baptisms, birthday parties, family parties, community group meetings, and walking on the street or waiting outside of check cashing stores. They visited Walmart and approached shoppers who were speaking Indigenous languages and posted notices on Facebook. Our data collectors reached out to former CRLA clients and announced the survey on the radio. They also contacted local Farm Labor Contractors and got permission to speak with employees before and after work shifts in the fields. This speaks both to the creativity of our team and to how many Indigenous Mexican people live in Kern County.

If the respondent answered “yes” to having an encounter with law enforcement in the last three years as either a victim, witness, or other police encounter, the data collectors then moved on to one of three separate surveys tailored towards victims, witnesses, or other police encounters.

In addition to the surveys, research for this report came from a literature review over the following areas: Mexican Indigenous communities living in California; language access and language justice; best practices for interpreting and translation; policing in immigrant communities; use of child interpreters; and, the state of Indigenous language interpreting in California.



### **Records Requests from Law Enforcement**

We sent Public Records Act Requests<sup>9</sup> to BPD, TPD, and KCSO. We requested the written language access policies of each agency as well as any local data used to develop their language access plans (named “Limited English Proficient Services” by TPD and BPD). To investigate if the policies are being followed, we requested invoices that reflect payments made to interpreters (remote or in-person) as well as any outreach materials developed in non-English languages. We requested documentation of hiring announcements that reflect a preference for bilingual or multilingual candidates as well as documents reflecting any bilingual staff and bilingual bonuses paid to staff. In requesting these documents, we sought to establish which policies were in name only and which policies were being followed by the agencies.

Results from both the surveys and the record requests will be discussed in detail in the Findings section. See Appendix 3 for the Limited English Proficient policies for BPD and TPD.

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<sup>9</sup> Pursuant to California Government Code § 6250, *et seq.*



Photo: Miguel Zafrá

## Who Are Indigenous Mexican Communities?

### Indigenous Mexicans in California

In recent decades, Indigenous immigrants from Southern Mexico<sup>10</sup> have become a growing segment of California's agricultural workforce and part of the fabric of communities across the state. "Indigenous Mexicans" is the umbrella term for the original inhabitants of Mexico who had thriving cultures prior to colonization by Spanish-speaking Europeans, though, as mentioned earlier in this report, the term encompasses many different communities with very unique and different languages and cultures.

In California's Indigenous Farmworkers, Mines et al., (2010) estimate that 165,000 Indigenous Mexican farmworkers and their children live in rural California and of these, 80 percent have roots in Oaxaca and a large majority speak one of three Indigenous languages, Mixteco, Zapoteco, or Triqui. Mercado (2015) explains that estimating the Indigenous immigrant population is difficult because they are undercounted by official surveys, but she uses data from the Oaxacan state government and the Binational Front of Indigenous Organizations (FIOB) to estimate that there are over 400,000 Indigenous Oaxacans in California.

### Indigenous Mexicans in Kern County

Various estimates exist about the population of Indigenous immigrants in Kern County. Mines et al. (2010) found that a third of California's Indigenous Mexican farmworkers reside in the Central Valley, which includes Kern County at its southernmost end. Overall, Kern County has a total of 884,788 residents and of these, 53 percent are people of Latin American descent, 48 percent are Mexican, 44 percent speak a language other than English at home, and 20 percent are foreign

<sup>10</sup> Although we believe there are other Latin American Indigenous immigrants living in Kern County, our connections with those populations are limited and contact virtually nonexistent, so we are focusing this report on the Indigenous Mexican communities with whom we have had more frequent contact.





Figure 2: Images of indigenous communities. Photos: Rafa Rodriguez

born (U.S. Census Bureau, 2016a). Pérez, Vásquez, and Buriel (2016) cite census data marking the population of Indigenous Latinos in Kern County at 6,783 in 2010, an increase of 65 percent since 2000. This estimate is likely low because Indigenous Mexicans are typically undercounted on the U.S. census (Kresge, 2007).

In 2014, local Indigenous leader Héctor Hernández estimated that 8,000-10,000 Indigenous Mexicans live in Kern County, mostly from Oaxaca (Camacho, 2014). Kresge (2007) explains that most Indigenous Oaxacans in Kern County speak Mixteco or Zapoteco and reside in Bakersfield, Arvin, Lamont, and Taft. While conducting surveys for this study, our team also found individuals from the Triqui community living in Bakersfield and members of various Mixteco communities also living in McFarland, Shafter, Wasco, and Delano. Our team also found members of the Chatino community in Wasco. (See Fig. 3).



Figure 3: Map reflecting Indigenous Mexican survey respondents' home zip. Our team encountered Indigenous Mexican residents in Arvin, Lamont, Taft, Bakersfield, Shafter, Wasco, McFarland and Delano.

Source: Google Maps, 2019

### Establishing Baseline Data of Indigenous Mexican Communities in Kern County

We contacted various service providers and agencies from the healthcare, education, social services, legal and labor industries to attempt to establish a baseline number of Indigenous Mexican immigrants living in Kern County.

Results varied significantly, demonstrating how low awareness or imperfect data capture methods can paint an inaccurate picture of community demographics. Comparing the data below to the estimates given by Mines et. al. and local Indigenous leaders, it is apparent that there is a



significant gap. More information about our method collecting baseline data is available at Appendix 4 as well as a detailed list of languages captured during specific timeframes and from which service providers. Many service providers said they did not track primary languages or interpreter requests. Fig. 4 below is the number of Indigenous language speakers identified by multiple service providers over varying periods during the last 10 years (we were unable to gather information during a uniform time period due to varying practices in how local agencies gather data):

Mines et al. (2010) found that a third of California’s Indigenous Mexican farmworkers reside in the Central Valley, which includes Kern County at its southernmost end.

HEALTHCARE	EDUCATION	SOCIAL SERVICES	LABOR	LEGAL
1 Mixteco speaker requested an interpreter in 2010 (out of multiple hospitals and clinics polled)	79 Mixteco speaking English Learner students reported across 49 districts in the 2016-2017 school year	0 Mexican Indigenous language speakers reported from Kern Department of Human Services	2 Mixteco speakers reported from Labor Commissioner in 2018	111 Indigenous language speakers reported from Kern County Superior Court between 2013-2018

Figure 4: Baseline data of Indigenous language speakers in Kern County.

The data above, in combination with CRLA’s professional experience, confirms that Mexican Indigenous language speakers are enrolling their children in school and interacting with the Superior Court, though our experience and other data suggests it is in much higher numbers than those listed above. Various sources who do not wish to be named report that some courts in Kern County are searching for Indigenous language interpreters on a weekly basis. It is not clear why greater numbers of Indigenous language speakers are not reflected in the remainder of the industries polled or to a greater degree in those industries that did identify some speakers. From CRLA’s experience, the factors most likely responsible include: lack of awareness by service providers of the existence of Mexican Indigenous language speakers (and therefore, a lack of an accurate language identification tool); Indigenous language speakers’ fear or reluctance to identify themselves; inconsistent language identification practices for all languages; low availability of qualified interpreters; or, intentional discrimination. Reasons for not flagging language needs of Indigenous language speakers can be complex and involve threads of targeted anti-Indigenous bias or be as innocuous as the lack of an appropriate box to check showing the speaker’s language.

### Language Diversity

In Mexico, there are 364 languages and language variants, many of which are in danger of disappearing as Indigenous people move away or are driven away from their ancestral homelands and increasingly only speak Spanish.<sup>11</sup> These are the distinct languages that were spoken by the native people of Mexico for thousands of years before Spanish-speaking Europeans arrived. Most Mexican Indigenous immigrants do not read or write their languages. Whether or not a Spanish

11 Instituto Nacional de Lenguas Indígenas, *Las 364 Variantes De Las Lenguas Indígenas Nacionales, Con Algún Riesgo De Desaparecer*: INALI, retrieved from: <https://www.inali.gob.mx/comunicados/451-las-364-variantes-de-las-lenguas-indigenas-nacionales-con-algun-riesgo-de-desaparecer-inali.html>

speaker can converse with an Indigenous language speaker entirely depends on the Indigenous language speaker's fluency in the Spanish language. While many Indigenous languages have "borrowed" some Spanish words for concepts that do not exist in their language, Spanish has no linguistic connection to the Indigenous languages found in Mexico. Many Indigenous language speakers speak at least a small amount of Spanish, though most Indigenous individuals in Kern County who we surveyed need an interpreter to understand interactions beyond very basic communication. Another survey discussed in more detail below from Ventura County had similar conclusions about language proficiency among Indigenous Mexican immigrants.

Although Mexico is incredibly linguistically diverse, communities receiving Mexican Indigenous immigrants in the United States are usually home to only a few distinct linguistic variants. Local agencies will not have the need for 364 different Indigenous language interpreters. Many Indigenous people migrate and settle in the United States as communities, so most Indigenous language needs in a given area will be restricted to a handful of languages and variants, even if the overall number of Indigenous Mexican residents is sizeable. For example, in Kern County, we have encountered fewer than 7 different Indigenous Mexican languages, with most of the Indigenous language speakers speaking two different variants of Mixteco. ***Language needs are fluid and always changing as residents move in and out of service areas, which is why providers should regularly update plans and re-evaluate community needs.***

## DEFINING INDIGENOUS

It is important to note that the term "Indigenous Mexican" is a somewhat fluid concept, since most modern-day Mexicans have Indigenous ancestry and membership into an Indigenous community has more to do with language, culture, and lived experience than DNA.

"To be indigenous in Mexico encompasses identification with one of a huge variety of languages, groups and customs" (Mines, et al. 2010).

While many Indigenous language speakers speak at least a small amount of Spanish, our surveys clearly show that most Indigenous individuals in Kern County that we surveyed need an interpreter to understand interactions beyond very basic communication.

## Oppression and Discrimination

Indigenous Mexicans experience a strange dynamic of both targeted oppression by some and total invisibility to others. In Mexico, they experience much of the discrimination, disenfranchisement, and economic oppression that many native peoples everywhere face.

They are often perceived by non-Indigenous Mexicans as intellectually and socially inferior and excluded from educational and professional opportunities. Although many Indigenous Mexican communities are losing their languages as they integrate (willingly or unwillingly) into the larger Mexican culture, there are still large numbers of Indigenous language speakers living in Mexico and now in the United States. Little data exist about rates of monolingualism among California's Indigenous Mexican population, though advocates recognize that monolingual Indigenous language speakers are more vulnerable than those who are fluent in Spanish and/or English.

Many of the dynamics present in Mexico are replicated in the United States, with an added layer of invisibility due lack of awareness about Indigenous Mexicans from people living in the United States. **It is not uncommon for agencies and service providers in the United States to serve numerous Indigenous Mexicans every day and not be aware that the people they are serving have a distinct ethnic and cultural background from non-Indigenous Mexicans.** As this report will reveal, this invisibility can cause great harm to Indigenous communities.

### Language Fluency Varies Among Indigenous Individuals

Language proficiency exists on a spectrum, from speaking a few words to full fluency and everything in between. The present study predominantly focuses on Indigenous Mexican immigrants who speak only their Indigenous language or have limited proficiency in Spanish and/or English, though we included some responses from participants who consider themselves fluent in Spanish and/or English. The Mines et al. (2010) study included only immigrants from hometowns where an Indigenous language is spoken and asked respondents about language use within families but did not gather specific data about proficiency in Indigenous languages, Spanish, and English. Maxwell et al., (2015) surveyed Indigenous Mexican immigrants in Ventura County, California and found that 54 percent spoke Spanish and Mixteco, 23 percent spoke only Mixteco, eight percent spoke only Zapoteco, eight percent spoke only Spanish, and seven percent spoke English and at least one other languages. Additional research on a larger scale than Kern County is needed.

**It is inaccurate to say that Indigenous languages are “dialects” (or, dialectos) of Spanish, and in fact, referring to them as such is offensive.** The use of the word “*dialecto*” in Latin America carries negative connotations, even though it is widely used and the most recognizable way to refer to Indigenous languages. The term “dialect” also feeds into the mistaken impression that Indigenous languages are dialects of Spanish and that a Spanish language interpreter will be able to understand an Indigenous language speaker and vice versa. An Indigenous language is no more of a dialect of Spanish than Navajo is to English.

Many Indigenous Mexicans might refer to their own languages as “dialects” because this is how they have been described inaccurately for many years. Agencies and service providers should not use “dialect” to refer to Indigenous languages.

Whether or not an Indigenous Mexican person speaks Spanish is dependent on many factors: poverty, access to government-funded education, gender, hometown, rural vs. urban locale, age, etc. Many Indigenous people speak some degree of Spanish, though that can vary from a handful of words and phrases to full fluency. This means that often Indigenous Mexicans living in the U.S. disappear into the larger Mexican-American population and are not always recognized as individual ethnic groups. In the context of language access, agencies who might have the best intentions can mistakenly provide an Indigenous language speaker a Spanish interpreter and not realize that they have failed to meet the individual’s language needs. At best, Indigenous Mexican people receive a Spanish language interpreter and at worst, they do not receive an interpreter at all or rely on an untrained (and often underage) ad hoc interpreter.



Photo: Fausto Sanchez

## Language Access Laws in the United States and California

Language laws offer the strongest protections where the risk of harm is greatest: healthcare, emergency services, law enforcement, education and the courts. Below is a summary of language-related legal obligations under California and Federal law as they apply to law enforcement who receive federal and/or state funding. Some cities have created more expansive language access ordinances that impose a higher standard on agencies and service providers, but Kern County nor any of the cities in Kern County have any such ordinances. Each of the protections discussed below are “unfunded mandates” and it is up to the agencies and service providers who fall under the mandates below to work the cost of compliance into their existing budget process.

### **Federal and California laws require meaningful access to government services**

Language access laws address the communication needs of people who primarily use a non-dominant language, which in the United States refers to any language other than English. Language access is governed by a tangle of federal, state, and local policies that Chen, Youdelman, and Brooks (2007) describe as a “haphazard patchwork of legal obligations which vary from state to state, from language to language, from condition to condition, and from institution to institution” (p. 363-4). The legal landscape remains poorly understood by both the agencies it regulates and the people it protects.

The main federal legal mandate for language access as it pertains to law enforcement comes from Title VI of the Civil Rights Act of 1964 and its implementing regulations.<sup>12</sup>

12 42 U.S.C. § 2000d et seq and implementing regulations available at 45 C.F.R. Part 80; Guidance to federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited Proficient Persons, 67 Fed. Reg. 41455 (2002).

Law enforcement agencies receiving federal funds are also subject to language access mandates from the Omnibus Crime Control and Safe Streets Act of 1968.<sup>13</sup> California law governing language access as it pertains to law enforcement comes from California Government Code section 11135 (and its implementing regulations<sup>14</sup>) which broadly regulates government conduct and the Dymally-Alatorre Bilingual Services Act, which requires that state agencies employ a sufficient number of bilingual persons to meet local office needs.<sup>15</sup> For the purposes of language access obligations to Indigenous language speakers in Kern County, we primarily focus on Title VI and California Government Code Section 11135, since Dymally-Alatorre is triggered only when minimum population thresholds are met, which likely exceed the number of Indigenous residents living in Kern County (though this is likely not be the case for other areas in California with higher Indigenous Mexican populations, such as Ventura County).

### Constitutional Protections

The right to an interpreter is not written explicitly in the U.S. Constitution. However, interpreting is implicitly required when applying constitutional protections to individuals with LEP, since their protections are rendered useless if they are unable to communicate with law enforcement. The right to an interpreter is strongest when a fundamental constitutional right is involved such as when Miranda warnings are recited incidental to arrest and questioning<sup>16</sup> and as needed to consent to a search under the Fourth Amendment.<sup>17</sup> The government's failure to provide an interpreter may violate an individuals' constitutional rights, and may risk prosecutorial efforts if evidence is improperly obtained or not obtained at all. Machine based translations, such as Google Translate, have not satisfied constitutional requirements.<sup>18</sup>

### Title VI of the Civil Rights Act of 1964

Title VI provides the broad legal requirement for language access under federal law. It expressly prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance, which includes local law enforcement.

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13 34 U.S.C. § 10101 et seq.

14 Cal. Gov. Code § 11135

15 Cal. Gov. Code § 7290, et seq

16 In a landmark decision in 1966, the Supreme Court of the United States held that a suspect who has been arrested or is being questioned has the constitutional right under the Fifth and Sixth amendments to be apprised in an understandable manner about their rights. *Miranda vs. Arizona*, 384 U.S. 436 (1966). A key rationale in *Miranda* is that, for an individual to be properly advised of their rights, there must be an "effective and express explanation" of the right. *Id.* at 473. U.S. and California courts have consistently held that inaccurate translations of *Miranda* warnings can fail to give defendants an "effective and express explanation" of their rights, thus resulting in excluding confessions or other evidence gathered subsequent to the flawed recitation of the *Miranda* warning. See *U.S. v. Botello-Rosales*, 728 F.3d 865, 867 (9th Cir. 2013)(mis-translation of the word "free" as it pertained to an attorney provided at no charge to defendant failed to comply with *Miranda* requirements); *U.S. Perez-Lopez*, 348 F.3d 839, 848 (9th Cir. 2003)(the court determined that telling the defendant he had the right to "solicit" an attorney suggested it was discretionary and not an automatic right and therefore invalid).

17 The Fourth Amendment prohibits unreasonable searches and seizures. U.S. Const. amend. VI. For a warrantless search to be valid, the individual subjected to the search must give consent. *Schneckloth v. Bustamonte*, 412 U.S. 218, 219 (1973). The government has the burden of proof that consent was "freely and voluntarily given." *Id.* at 222. Reviewing courts examine the totality of the circumstances to determine whether the language barrier prevented consent from being "freely and voluntarily given." *Id.* at 227, 232-33, 249. This generally involves calling professional interpreters to provide expert testimony to evaluate phrasing and word choice of any critical phrasing used to gather consent.

18 In an important case that addresses the over-reliance on machine-based translations, a federal district court in Kansas recently evaluated whether inevitable errors from using Google Translate could warrant a good-faith exception to the fourth amendment requirement for consent to a warrantless search. *United States v. Cruz-Zamora*, 318 F. Supp. 1264 (D. Kan. 2018). Notably, the court held "...The court finds that the good-faith exception does not apply as it is not reasonable for an officer to use and rely on Google Translate to obtain consent to a warrantless search, especially when an officer has other options for more reliable translations." *Id.* at 1272.



Well-established case law interprets a denial of language access as an actionable form of national origin discrimination.<sup>19</sup> Executive Order 13166 provides specific requirements for how government funded agencies should develop and implement language access plans to comply with Title VI.<sup>20</sup> Federal guidance for law enforcement agencies from LEP.gov (n.d.) cautions that language barriers can “put cases and lives at risk by impeding communications with LEP victims, witnesses, suspects, and community members,” as well preventing people who are not fully proficient in English from understanding their rights, following the law, and having meaningful access to law enforcement services.

For these reasons, agencies are encouraged to assess their jurisdiction’s language needs and to create language access policies and plans that cover hiring and training multilingual staff, contracting professional interpreter services, and translating vital documents (LEP.gov, n.d.). According to LEP.gov (n.d.) and the National Association of Judiciary Interpreters and Translators (2006), such plans should include strict standards for bilingual staff and interpreters to ensure that people employed to bridge language barriers have adequate training and skills.

The policy guidance released by the Department of Justice on Executive Order 13166 provides a four-factor analysis that instructs federally funded organizations on how to comply with Title VI’s language access requirements<sup>21</sup>. The four-factor analysis requires agencies to consider population size or proportion of individuals with LEP and their frequency of access to the program or service with the cost of providing services and the importance of the service being provided. However, the importance of the service provided can outweigh the factors of population size and cost. Clearly, traditional law enforcement activities are considered extremely critical services that will weigh heavily as compared to the factors of cost and population size/proportion.

One prominent and practical requirement is that federally funded agencies and programs develop a written language access plan and appoint a language access coordinator. The Department of Justice’s guidance on Executive Order 13166 should be reviewed carefully by law enforcement agencies and their counsel to ensure that their language access policies comply with Title VI. Plans should be updated regularly and include on-going, thorough assessments of the language needs of the local community. Department of Justice investigators not only review language access plans, but also look for evidence that staff have been trained on the contents of the plan and are familiar with how to make use of resources available therein.

If a community member is denied language access during interactions with law enforcement, they can file a Title VI complaint with the Department of Justice, who will then open an investigation into the matter. Federally funded agencies can lose their federal funding if they are out of compliance and fail to make appropriate corrections. The Department of Justice has created a website with ample resources, including a page of materials specifically selected for law enforcement agencies, available at <https://www.lep.gov/resources/resources.html#LawE>.

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19 *Lau v. Nichols*, 414 U.S. 563 (1974), holding that denial of language access to Limited English Proficient students violated Title VI of the Civil Rights Act of 1963 under a disparate impact theory of national origin discrimination.

20 Executive Order 13166 by President William Clinton, *Improving Access to Services for Limited English Proficient Persons*, retrieved from: <https://www.govinfo.gov/content/pkg/FR-2000-08-16/pdf/00-20938.pdf>

21 Department of Justice Policy Guidance Enforcement of Title VI of the Civil Rights Act of 1964 - National Origin Discrimination Against Persons With Limited English Proficiency, retrieved from: <https://www.govinfo.gov/content/pkg/FR-2002-06-18/pdf/02-15207.pdf> at 41459.



If an individual can prove intentional discrimination (as opposed to unintended discrimination that still has a harmful impact to members of a protected class) then they can file a lawsuit in federal court and skip the Department of Justice complaint process.

### *Omnibus Crime Control and Safe Streets Act of 1968*

Many law enforcement agencies across the United States receive federal funding from the Office of Justice Programs (OJP) under the Omnibus Crime Control and Safe Streets Act of 1968.<sup>22</sup> The funds from OJP cover many different programs and purposes,<sup>23</sup> and OJP includes guidance for entities receiving funds about the requirement to serve individuals with Limited English Proficiency.<sup>24</sup> The guidance refers back to the requirements laid out under Title VI of the Civil Rights Act of 1964 and its implementing regulations.<sup>25</sup>

### *California Government Code § 11135*

Cal. Gov. Code § 11135 is California's statutory counterpart to Title VI, prohibiting discrimination based on national origin (and other characteristics beyond the scope of this analysis). The Department of Fair Employment and Housing recently gained jurisdiction over § 11135 complaints and the Fair Employment and Housing Council is currently drafting regulations that will provide further instruction on compliance. Individuals who have been discriminated against based on characteristics protected by § 11135 are able to file a complaint with DFEH and need not wait until the regulations are finalized and adopted.

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22 Codified at 34 U.S.C. § 10101 et seq.

23 Department of Justice, Office of Justice Programs Current Funding Opportunities, retrieved from <https://www.ojp.gov/funding/explore/current-funding-opportunities> (n.d.).

24 Department of Justice, Office of Justice Programs Civil Rights Requirements Associated with OJP Awards, retrieved from <https://www.ojp.gov/funding/explore/legaloverview2019/civilrightsrequirements#3> (released May, 2019).

25 *Id.*



Photo: Miguel Zafra

## Review of Previous Research

The direct research on language access and law enforcement and the connection to health is limited and presents an opportunity for further scholarship. Where there are gaps in existing research connecting health impacts to language access during interactions with law enforcement, we have included research on the health impacts of providing or denying language access in healthcare.

### **Language barriers negatively impact health in medical settings**

The public health and biomedical literature about language access in medical settings provides solid evidence that language barriers are both pervasive and harmful. For example, Flores (2006) found that interpreters were not used in 46 percent of emergency room visits involving LEP patients. Timmins (2002) and Flores (2005) each completed systematic reviews of biomedical studies about language barriers in healthcare and consistently found that LEP patients face problems in three areas -- access to healthcare, quality of care, and health outcomes. Examples of research about each area are discussed below.

### ***Language barriers impact access to healthcare***

Multiple studies demonstrate the relationship between language and access to healthcare. For example, Russell and Ordoñez-McCammon (1995) found that Latinxs consider the lack of bilingual healthcare providers and Spanish materials as the greatest barriers to accessing care. Rew (1998) found that language barriers prevent Latina women from seeking cancer screenings and reproductive and mental healthcare. Sherraden and Barrera (1996) found that language barriers decreased access to prenatal care and Flores, Abreu, Olivar, and Kastner (1998) found that language barriers were the most frequently reported barriers to pediatric care.

### *Language barriers impact quality of healthcare*

The literature shows that language barriers have a detrimental effect on the quality of healthcare. Fortier, Strobel, and Aguilera (1998) explain that a lack of adequate language access “can lead to inappropriate or unnecessary testing, clinical inefficiency, misdiagnosis, negative outcomes, and malpractice” (S82). Multiple studies show that poor communication between LEP patients and providers leads to the increased use of expensive diagnostic tests (Hampers, Cha, Gutglass, Binns, and Krug, 1999), decreased use of preventive care and increased use of emergency services (Juarbe, 1995), poor patient satisfaction (Carrasquillo, Orav, Brennan, and Burstin, 1999), and diminished patient follow-up (Hunt, de Voogd, Akana, and Browner, 1998). LEP patients without access to interpreters ask their doctors fewer questions, receive less information about the side effects of medications, and report a poor understanding of their diagnosis and treatment plan (Timmins, 2002; Flores, 2005). Moreover, Timmins (2002) argues that language access is a critical part of cultural competency, which is integral to high quality care. Patients who interact with providers lacking cultural competency may feel disrespected and misunderstood, which can decrease their willingness to use the healthcare system in the future.

Research has established that a common practice that corrodes quality of healthcare is the use of ad hoc interpreters rather than trained professional interpreters. Ad hoc interpreters are “apparently bilingual” family members, friends, untrained staff, and strangers who mediate communication between providers and patients (Timmins, 2002). Flores (2005) and Timmins (2002) present findings that ad hoc interpreters frequently misinterpret or omit physicians’ questions, commit errors with clinical consequences, do not mention medication side effects, and ignore potentially embarrassing information, especially in the case of child interpreters. The use of ad hoc interpreters also raises serious ethical concerns about confidentiality (Timmins, 2002).

### *Language barriers result in worse health outcomes*

Research suggests that the diminished access to and quality of healthcare described above results in adverse health outcomes for individuals with LEP. For example, Pérez-Stable, Napoles-Springer, and Miramontes (1997) found that patients with doctors who don’t share a common language had poorer functioning on three health scales. Flores et al. (1998) found that the language barriers resulted in misdiagnosis and inappropriate medication and hospitalization, concluding that “language problems can result in adverse health consequences for some children” (1119).

### *Language barriers negatively impact Indigenous Mexicans*

As the population of Indigenous immigrants in the U.S. grew in the 1990s, the press began reporting severe injustices such as medical misdiagnoses and wrongful convictions that occurred when “speakers of indigenous languages were provided with either no interpreter, a Spanish interpreter or an untrained and incompetent indigenous language interpreter” (Mikkelsen, 1999: 365). These language barriers limit access to healthcare, with a binational study of Oaxacan Indigenous women finding that language is a “critical barrier to healthcare” (McGuire, 2006: 373), Maxwell et al. (2015) revealing that only 57 percent of Mixteco and Zapoteco immigrants in Ventura County have access to healthcare, and Maxwell, Young, Moe, Bastani, and Wentzell (2017) finding that Mixteco and Zapoteco women in Ventura County identified inconsistent access to interpreters as a major barrier to healthcare. In Maxwell et

al.'s (2017) study, one respondent explained, "Sometimes they provide me an interpreter and other times not. I speak and understand a little bit of Spanish. So many times, I speak a little bit of Spanish and they start talking to me in Spanish so they don't send me an interpreter" (3). With respect to healthcare quality, Holmes' (2013) ethnography revealed a pattern in which Triqui farmworkers seeking care at migrant clinics were never offered interpreters, struggled to communicate with providers, and received serious misdiagnoses and inappropriate treatment that compromised their health.

### *Language barriers for Indigenous Mexicans are complex*

Scholars attribute these severe language barriers to several factors. First, many providers in the U.S. lack awareness that some Mexican immigrants may not understand Spanish and may not realize that numerous distinct Indigenous languages exist. Thus, Indigenous immigrants are regularly assigned interpreters who speak Spanish rather than someone who speaks their language (Beaton-Thone, 2015). A second challenge is that patients often do not request interpreters and indicate that they understand more Spanish (or English) than they really do. This may be done in order to appear respectful to healthcare providers (Maxwell et al., 2017) or to avoid "outing" themselves as Indigenous and thus protect themselves from anti-Indigenous bias (Mines et al., 2010). Numerous scholars argue that a third problem is the shortage of trained Indigenous language interpreters (Mines et al., 2010; Beaton-Thone, 2015; Barret, Cruz, and García, 2016).

### *Communication challenges for Indigenous Mexicans are not easily remedied*

Even when Indigenous immigrants have interpreters, communication challenges persist. Mines et al. (2010) explain that Indigenous healthcare interpreters struggle to bridge communication barriers because Indigenous understandings of disease and healing are distinct from the Western biomedical model and there are often no words in Indigenous languages to describe certain diseases and medical procedures. Maxwell et al. (2017) interviewed an Indigenous interpreter who explained that many healthcare providers lack patience for interpreters to communicate difficult concepts in Indigenous languages, saying, "They will want us to summarize an entire visit in three minutes, but that is not how our interpretation works. There are many words that are lost in translation that we have to find a way of explaining to patients. In my point of view, it [the translation] is not 100%. It is a big help but not a full understanding'" (5). Similarly, Barret et al. (2016) describe how radically disparate cultural norms between Indigenous clients and social service providers breed miscommunication.

### *Language barriers are compounded by other social and economic factors*

Lastly, language barriers should be understood in the context of the interlocking disadvantages impacting the health of Indigenous Mexican immigrants. For example, 90 percent of Indigenous Mexican immigrants live in poverty and Indigenous students face severe discrimination at school (Pérez et al., 2016). Indigenous farmworkers are the lowest paid in California, making an average of \$13,750 annually as compared to \$22,500 for non-Indigenous farmworkers, and report housing discrimination and living in crowded trailers and apartments (Bacon, 2013). Holmes (2013) describes how agricultural labor hierarchies locate Indigenous migrants at the bottom, where they are subject to harsher conditions than non-Indigenous Mexicans. Agriculture is recognized as one of the most hazardous industries for workers (Villarejo, 2010) and immigrant Latinx workers have nearly double the occupational injury rate of the U.S. labor

force (Walter, Bourgois, Loinaz, 2004). Because California leads the world in pesticide use, the state's farmworkers face an elevated risk of exposure to chemicals tied to numerous cancers, birth defects, and endocrine disorders (Galt, 2014). In this way, Indigenous Mexican immigrants face disadvantages related to employment, education, and housing that compound the impact of language barriers on their health and well-being.

### **Overcoming language barriers improves health for Individuals with LEP**

The literature also documents the benefits of providing language access in healthcare settings and recommendations about how to achieve it. Flores (2005) found that "optimal communication, the highest patient satisfaction, the best outcomes, and the fewest errors of potential clinical consequence occur when LEP patients have access to trained professional interpreters or bilingual healthcare providers" (296). Research shows that patients with access to trained interpreters receive significantly more preventive services, make more office visits, have more prescriptions filled, and have high satisfaction with care (Jacobs et al., 2004; Bell, Braston, Newcombe and Barton, 1999; Kuo and Fagan, 1999). Recommendations for addressing language access gaps include hiring bilingual healthcare providers, hiring trained professional interpreters, contracting with remote interpreting services, training volunteer community interpreters, and sharing costs with other agencies by participating in interpreter pools (Timmins, 2002).

### ***Providing sufficient language access "pays for itself" in healthcare***

Finally, the literature addresses concerns about the cost of providing language access in healthcare settings. While agencies often claim that cost is a barrier to hiring trained professional interpreters, some studies suggest that the use of professional interpreters actually reduces costs. For example, Rader (1988) found that using untrained staff members as interpreters costs more than hiring professional interpreters. Similarly, Timmons (2002) argues that the cost of hiring interpreters may be offset by the reduction in costs associated with having no system to provide language access, such as increased use of diagnostic tests and lost productivity when bilingual staff are pulled away from regular duties to interpret. Language access also increases the use of preventive services, which may lower the overall cost of care (Jacobs et al., 2004).

### **Existing research suggests language barriers during interactions with police do impact health**

The language access problems described above impact the physical and mental health of non-dominant language speakers. First, language barriers are an obstacle to calling the police for help and receiving appropriate police protection when crimes are reported, thus increasing the likelihood that people with limited English will remain in abusive situations where their physical and mental wellbeing is at risk (Spence, 2010). Language barriers also contribute to negative encounters with the police, which erodes the precarious trust between law enforcement and immigrant communities. The more people mistrust and fear the police, the less likely they are to seek healthcare services, with Martinez et al. (2015) explaining that immigrants "may refrain from seeking vital services, including medical services, from any local government or private agency—even agencies unrelated to law enforcement—for fear of exposing themselves or their family members to legal sanctions or harassment" (p. 966). Furthermore, Rhodes et al. (2015) found that when local law enforcement agencies participate in immigration enforcement through programs like section 287(g) and the Secure Communities program,



Latinx immigrants report being less likely to use healthcare services, including delaying prenatal care and sacrificing their own health and the health of family members. Research also shows that immigration-related stress, including fear of the police, impacts the mental health of adults and children, including increasing the incidence of anxiety, depression, and post-traumatic stress disorder (Martinez et al., 2015; Ayón and Becerra, 2013; Hacker et al., 2011).

The denial of language access in law enforcement activities is a critical component of the exclusion and fear experienced by immigrants with limited English. Ayón and Becerra (2013) argue that taking steps toward the inclusion and safety of immigrants who speak non-dominant languages is critical, explaining that, “If a community is marginalized and people are excluded from meaningful participation in society, then not only will health and safety issues persist, but residents will never be able to achieve self-actualization” (p. 222). In this way, improving language access in law enforcement is one step that can be taken to improve relations between the police and immigrant communities, which will in turn improve community health and safety.

### **Many law enforcement agencies are not using best practices to overcome language barriers**

The available research suggests that law enforcement agencies rarely use professional interpreting services to overcome the problems described above, instead relying on bilingual colleagues and ad hoc interpreters. For example, Lewis and Ramakrishnan (2007) surveyed police in California “immigrant destination cities” and found that when interacting with a victim or witness who doesn’t speak English, 69 percent would ask the department to send an officer who shares the person’s language, 14 percent would ask a bystander to interpret, and only seven percent would call a professional interpreting service. The National Association of Judiciary Interpreters and Translators (NAJIT, 2006) argues that law enforcement is best served by providing qualified interpreters to people with limited English, explaining that bilingual personnel and ad hoc interpreters without professional training frequently do not possess the linguistic proficiency needed to interpret accurately, lack knowledge about interpreter ethics like impartiality, and are often unfamiliar with specialized legal vocabulary.

### *Language barriers negatively affect quality of police work*

Over the last two decades, research has documented how language barriers undermine the quality of police work. For example, Bondavilli and Bondavilli (1995) found that linguistic differences contribute to miscommunication in police encounters with residents. Similarly, Herbst and Walker (2001) studied interactions between police and Spanish speakers in a Midwestern city, finding that officers “muddled through” interactions without utilizing formal language services (p. 336). **They found that language barriers resulted in time delays in the delivery of police services in 86.6 percent of calls, officer frustration in 73.3 percent of calls, and conflict between police and Spanish speakers in 26.6 percent of calls.** Many officers explained that the outcome of calls would have been different without a language barrier, giving the example of a Spanish speaking man who was arrested after an auto accident because the officers could not effectively explain to him how to take a breathalyzer test, even though the officers did not know if he had been involved in the accident. An officer said, “Now see, if I could have spoke with him, he probably wouldn’t be going to jail” (Herbst and Walker, 2001: 355). **Seventy-five percent of officers in the study felt that language barriers negatively impacted**

**police work and most felt that police departments should take steps to bridge communication, with an officer explaining, "...there is nothing more frustrating than not being able to communicate; it limits your ability to do things" (Herbst and Walker, 2001: 337).**

### *Using unqualified interpreters jeopardizes cases*

The use of unqualified interpreters also increases the likelihood of serious legal breaches that impact cases once they reach the courtroom, especially with regard to informing suspects of their constitutional rights. In 1978, an appellate court in *United States v. Martinez*<sup>26</sup> reasoned that if Miranda warnings are given in a language that a suspect cannot understand then a waiver of those rights would not be valid. The reasoning of the *Martinez* case was used in *State of Ohio v. Alejandro Ramirez*<sup>27</sup> in which a murder conviction against a Spanish speaking defendant was reversed and remanded because the law enforcement official who interviewed the defendant used an administrative assistant as an interpreter who had limited Spanish proficiency and no experience with legal terminology. This ad hoc interpreter's rendering of the Miranda warning was found to be "'insufficient to adequately apprise Ramirez of his rights'" (Wrightsmen and Pitman, 2010: 105). Such problems are commonplace, with Rogers et al. (2009) finding that a substantial number of Spanish translations of Miranda rights contain omissions and substantive errors that could result in the suppression of a suspect's incriminating statements.

By following the Federal and State mandates for language services and using professional interpreters and/or properly trained bilingual employees, evidence is safer for use in criminal trials, saving resources, time, and emotional investment of personnel and victims.

### *Wrongfully Convicted of Murder: The Case of Santiago Ventura Morales*

As demonstrated previously, the legal protections requiring an interpreter are ample. However, our research finds that Kern County law enforcement often did provide an interpreter or bilingual employee to interact with Indigenous residents of Kern County; they just gave them an interpreter in the wrong language. The catastrophic consequences of providing an interpreter for the wrong language are illustrated by the case below of a farmworker from Oregon who was wrongfully convicted of murder in 1986. Procaccini (2011) presents the disturbing case of Santiago Ventura Morales, a Mixteco man from the community of San Miguel Cuevas in Oaxaca, Mexico:

Morales was a farmworker in Oregon and was 18 years old in 1986. He was not fluent in English or Spanish and only spoke Mixteco fluently. A fellow farmworker was found murdered in the fields where Morales worked and Morales was arrested along with other members of the crew who were seen near the scene of the crime. At no stage of the investigation nor the trial was Morales provided with a Mixteco interpreter.<sup>28</sup> "To the extent that investigators and court personnel were aware of this language comprehension problem, they largely ignored it." (Procaccini, 2011). Repeatedly, Spanish language interpreters tried to note that Morales and other witnesses were not speaking Spanish. Regardless, Morales was convicted and sentenced to life in prison.

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26 *United States v. Martinez*, 588 F. 2d 1227 (1978).

27 *State v Ramirez*, 732 N.E.2d 1065 (Ohio App. 11th Dist. 1999).

28 Procaccini (2011) also notes that there was a significant miscommunication during the investigation phase, where the officer interviewing Morales misinterpreted Morales' avoiding eye contact as an indication of guilt. In reality, avoiding eye contact in the Mixteco culture is a sign of respect. Without appropriate cultural context, something as innocuous as avoiding eye contact can be misconstrued as a sign of guilt.

It was another four years before Morales' defense team was able to have the jury's verdict overturned. Apart from the cataclysmic impact this had on Morales' life and the life of his victim's family (the actual murderer escaped justice until Morales' case was reviewed), Morales' case demonstrates the incredible long term financial cost of denying the interpreter at the earliest stages of a police encounter.<sup>29</sup>

### *Complying with language access laws is economical*

While federal and state language access laws mandate the bare minimum of effort, many agencies and service providers have discovered that extending language access aligns with many of their organizational and agency goals and that the services end up "paying for themselves." The costs of providing professional interpreting and translation services in healthcare, for example, are offset by the savings related to increased efficiency, reduced errors, fewer miscommunications and smoother interactions with patients. (Rader, 1988; Timmins, 2002; and Jacobs, Shepard, Suaya, and Stone, 2004). And of course, providing language access on the front end avoids costly lawsuits and investigations that not only incur attorneys' fees and costs of suit, but could result in the loss of state or federal funding.

### *Language barriers deter survivors of domestic violence from reporting crimes*

Another key area of concern is the impact of language barriers on survivors of domestic violence. Bauer, Rodriguez, Quiroga, and Flores-Ortiz (2000) found that language barriers are a major obstacle for seeking help among Latina and Asian women survivors of domestic violence and Ammar, Couture-Carron, Alvi, and Antonio (2013) found that language barriers deterred Muslim women experiencing domestic violence from calling the police. If they do call for help, survivors with limited English often receive inappropriate police services, with Orloff, Dutton, Hass, and Ammar (2003) finding that in two thirds of domestic violence calls from Spanish speaking women, the police officers who responded did not speak Spanish or use an interpreter. In another study, women with limited English who reported domestic violence to the police said that law enforcement officers dismissed them and/or spoke only to their abuser, who was more likely than they were to speak English (Wolf, Ly, Hobart, and Kernic, 2003). Thus, police officers who refuse or are unable to provide appropriate language assistance may be unable to understand the situation and fail to take action to protect domestic violence survivors and their children (Orloff et al., 2003).

### *Language barriers deter survivors of sexual violence from reporting crimes*

Similar issues affect survivors of sexual violence. Human Rights Watch (2012) describes cases in which immigrant farmworkers are targeted by sexual violence and receive little help when they report to the police, such as a young Mixteco speaking woman who called 911 after being raped. The police interviewed the survivor and the perpetrator in the same room and said in their report that they could not do anything to help her because "'the girl doesn't know how to speak Spanish'" (Human Rights Watch, 2012: 39). Similar issues have recently made headlines, such as the story of Dora Mejia, a Spanish speaking sexual assault survivor who won a lawsuit against the City of San Francisco because police arrested her instead of the perpetrator after refusing to provide her with an interpreter when she reported the crime (Mark, 2018).

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<sup>29</sup> Morales's case garnered national attention and changed the way that courts in Oregon handle language access. Morales went on to graduate from University of Portland and pursue a long career advocating for the legal rights of Indigenous farmworkers.

## *Language barriers and fear of police negatively impact the community's trust in law enforcement*

The negative impact of language barriers on police interactions with immigrant communities has been well known for a half century. In 1962, the U.S. Commission on Civil Rights noted that police non-responsiveness in the provision of protection and services to communities of Latin American descent is due to language barriers (Kuykendall, 1970). In 1963, the California State Advisory Commission to the U.S. Civil Rights Commission argued that language barriers were a problem for police relations with Latinx communities because if someone “does not understand the [police] officer’s questions and commands, an ordinary contact can escalate into a more serious situation” (U.S. Commission on Civil Rights, 1970: 66-67). In 1970, the U.S. Commission on Civil Rights cited a pattern of police misconduct against Latino/a people in the Southwest, including excessive use of force, discriminatory treatment, and inadequate protection.

### **Using untrained, ad hoc interpreters risks harm to individuals with LEP**

For cash-strapped agencies and service providers, using an untrained bilingual friend or family member who can step in and provide free language support is very tempting. Many times, individuals with LEP show up ready to use such a person, so the provider might even feel they are following the wishes of the individual. Using an ad hoc interpreter gives the appearance of saving the provider time and money. **However, prior research shows that using an untrained interpreter risks critical misunderstandings, threatens confidentiality (which then erodes trust)<sup>30</sup> and in the law enforcement context, could taint critical evidence and even jeopardize an entire investigation.<sup>31</sup>** Even worse, when minors are used (which happens very frequently since minors might be the only fully bilingual member of the household), these risks are even more pronounced.<sup>32</sup> The convenience is not worth the risk nor does it satisfy legal obligations under Federal and California law; agencies should be familiar with current interpretation and translation best practices. Plainly stated, using untrained bilingual family members or friends is illegal and ineffective.

### *Using untrained bilingual staff also risks harm to individuals with LEP*

Research on using interpreters in the healthcare context show that using untrained staff members as interpreters costs more than hiring professional interpreters (Rader, 1988); that the cost of interpreters may be offset by avoiding the unnecessary costs of unneeded diagnostic tests and lost productivity caused by language barriers (Timmins, 2002); and that providing language access improves use of preventative services, thereby reducing overall the cost of healthcare (Jacobs et al., 2004). **So, not only does using untrained bilingual staff risk harm to the individual with LEP, but it is inefficient and wasteful for the provider.** Although not directly analogous, these conclusions are useful in imagining how agencies should view their investment in interpreters as just that: an investment. By providing sufficient language access,

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30 Bondavilli and Bondavilli (1995) and Herbst and Walker (2001)

31 Evidence gathered in violation of an individual’s Fourth Amendment rights, such as when an individual can’t give consent to a search due to language barrier, could result in the wholesale exclusion of that evidence. “Under the exclusionary rule, evidence in violation of the Fourth Amendment cannot be used in a criminal proceeding against the victim of the illegal search or seizure.... The exclusionary rule is a judicially created remedy that generally prohibits the use of evidence obtained in violation of the defendant’s Fourth Amendment rights.” 29 Am. Jur. 2<sup>nd</sup> Evidence § 595.

32 Finlay, Dunne, and Guiton, 2017.

agencies also avoid the cost of litigation from individual lawsuits and lengthy investigations by the Department of Justice and/or the Department of Fair Employment of Housing for failing to comply with language laws.

### *Legal interpreting requires specialized skills and training*

The field of legal interpreting encompasses interpreting for any legal proceeding, including trials, attorney-client meetings, and law enforcement activities (Bancroft, Bendana, Bruggeman, and Feuerle, 2013). Court interpreting is a subcategory of legal interpreting that refers to interpreting in the courtroom for an official legal proceeding like a hearing, deposition, or trial during which the interpreting is preserved on the record or transcript of the proceedings (Framer, Bancroft, Feuerle, and Bruggeman, 2010). In California, the Judicial Council sets the requirements for court interpreters, which are often considered more stringent than the standards in other fields. Interpreters for California courts can become “Certified Court Interpreters” by passing a rigorous oral and written exam, though this is only available to interpreters of 15 languages used frequently in the courts. Interpreters of other languages can become “Registered Court Interpreters” by passing a written exam in English (Judicial Council of California, 2017), thus excluding interpreters of Mexican Indigenous languages who are fluent in their Indigenous language and Spanish, but not in English. **When a certified or registered court interpreter cannot be located, which is frequent in cases involving Mexican Indigenous languages, California courts may use “provisionally qualified” or “temporary” interpreters, for which there are few requirements (Judicial Council of California, 2018).** Thus, even in the courts, Indigenous language speakers are routinely assigned untrained interpreters. Note that just because an Indigenous language interpreter might not be court certified in their language, that they should still receive formal training.

### *Interpreting for law enforcement is a gray zone between legal and community interpreting*

Legal interpreting that takes place outside of the courtroom is considered a “gray zone” in which legal and community interpreting overlap (Bancroft et al., 2013). Interpreters in settings like legal aid clinics and law enforcement activities face a range of challenges. For example, the majority of interpreters in these settings are community interpreters who often lack training in legal terminology as well as specific legal risks. One such risk is that anything they say to a client that could be construed as legal advice could constitute a crime called “unauthorized practice of law” (Bancroft et al., 2013: 111). On the other hand, legal interpreters are usually trained specifically for the courtroom where their role is narrowly defined and no intervention by interpreters is allowed to address communication problems. As a result, legal interpreters are often unprepared to intervene appropriately during communication breakdowns in non-court settings, a need that arises frequently. Bancroft et al. (2013) explain, “The lack of specialized training for non-courtroom legal interpreting has become a critical concern in providing effective and appropriate legal interpreting and in ensuring equal access to services for those with limited language proficiency” (p. 98).





Photo: Rafa Rodriguez

## Survey Results

### Demographic overview

The survey team conducted one-on-one interviews with 203 Indigenous Mexican residents of Kern County. Some survey participants had a preexisting relationship with CRLA, but the data gathering team met most participants in public locations or by word of mouth and most participants had no previous relationship with CRLA.

### Demographic snapshot

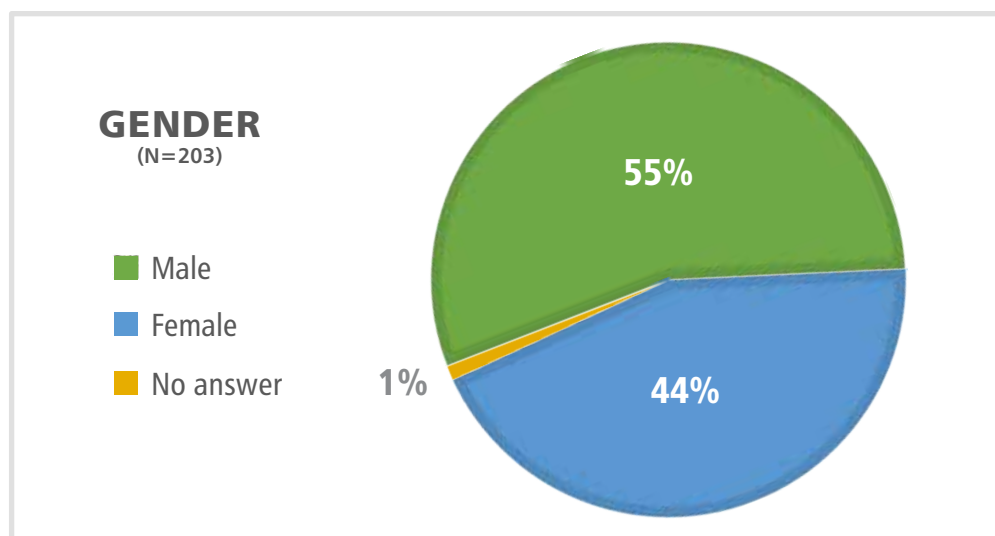


Figure 5: Gender breakdown of survey participants

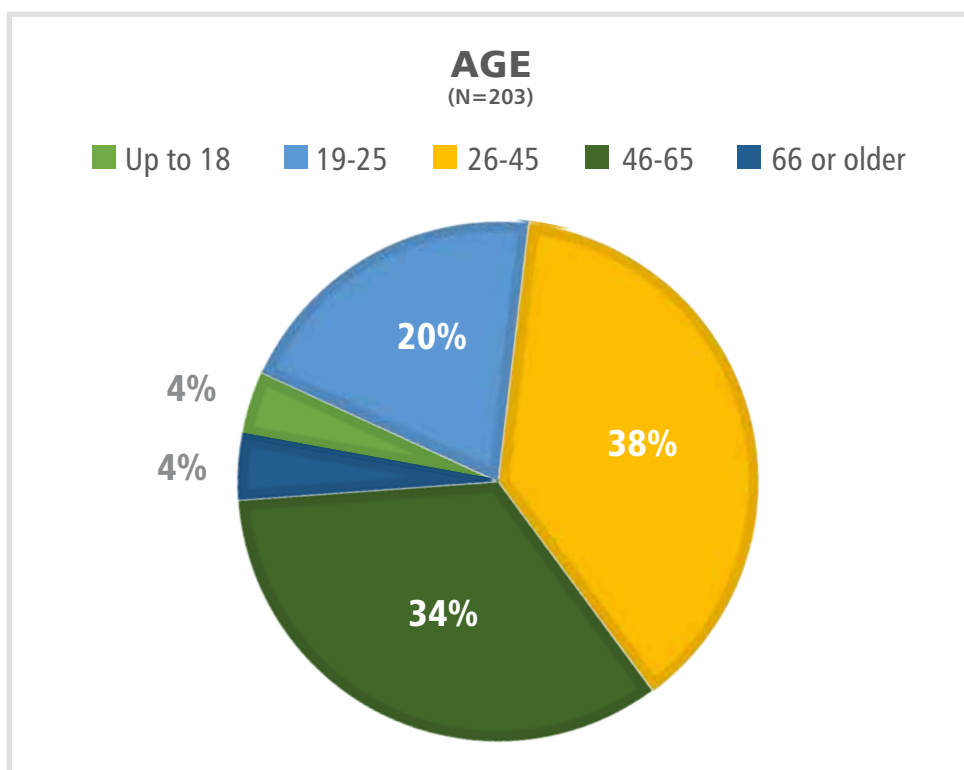


Figure 6: Age breakdown of survey participant

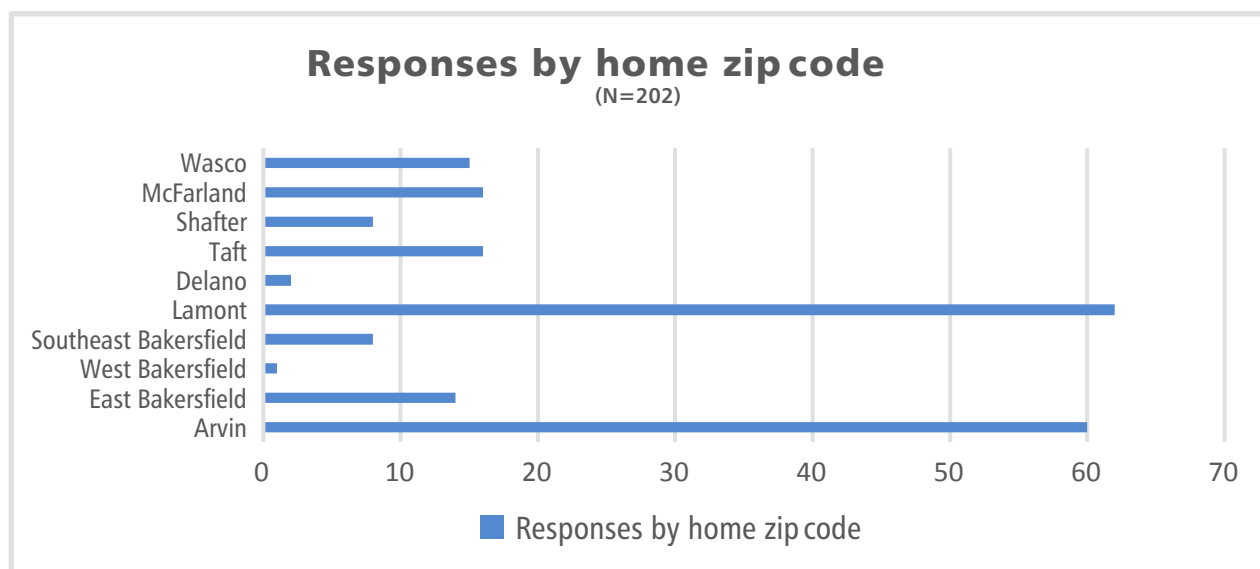


Figure 7: Responses breakdown by participants' current home zip code.

## Language data from survey responses

*Most Indigenous residents we surveyed are not fluent in English or Spanish*

To compile data about the language needs of Mexican Indigenous residents in Kern County, especially as it pertains to interactions with law enforcement, we posed a question that would capture a range of language fluency:

#### 4. Languages spoken and proficiency

- Language most comfortable with \_\_\_\_\_
  - (List one)
- Understand and can speak fluently in conversation, at the doctor, during interactions with police, or any other situation with no communication barriers:
  - (List all languages that apply) \_\_\_\_\_
- Understand and speak a little but need an interpreter during more complicated interactions:
  - (List all languages that apply) \_\_\_\_\_

We aimed to capture language data that revealed which language survey participants were the most comfortable speaking; which languages they spoke fluently in addition to their language they felt most comfortable speaking; and any languages they spoke a little of, but not fluently. The purpose for gathering information about this range of language fluency was to capture an approximate need for Indigenous Mexican language interpreters. There is a common assumption that most Indigenous Mexicans speak enough Spanish that they can “get by” with Spanish interpretation, but the results of our survey demonstrate that is not the case.

The next charts illustrate that the majority (74%) of Indigenous Mexican residents of Kern County are most comfortable speaking their Indigenous language (Fig. 8). Taken in conjunction with the responses summarized in Fig. 9, showing that 64% of Indigenous Mexican language speakers need an interpreter when communicating in English or Spanish, language access is a clear need in these communities. This finding is positive in that it demonstrates that Indigenous Mexicans are retaining their linguistic heritage. However, it also underscores the urgent need for public agencies and service providers in Kern County to plan how to meet the language needs of Kern’s Indigenous Mexican population and that providing Spanish language services is not sufficient to meet that need.

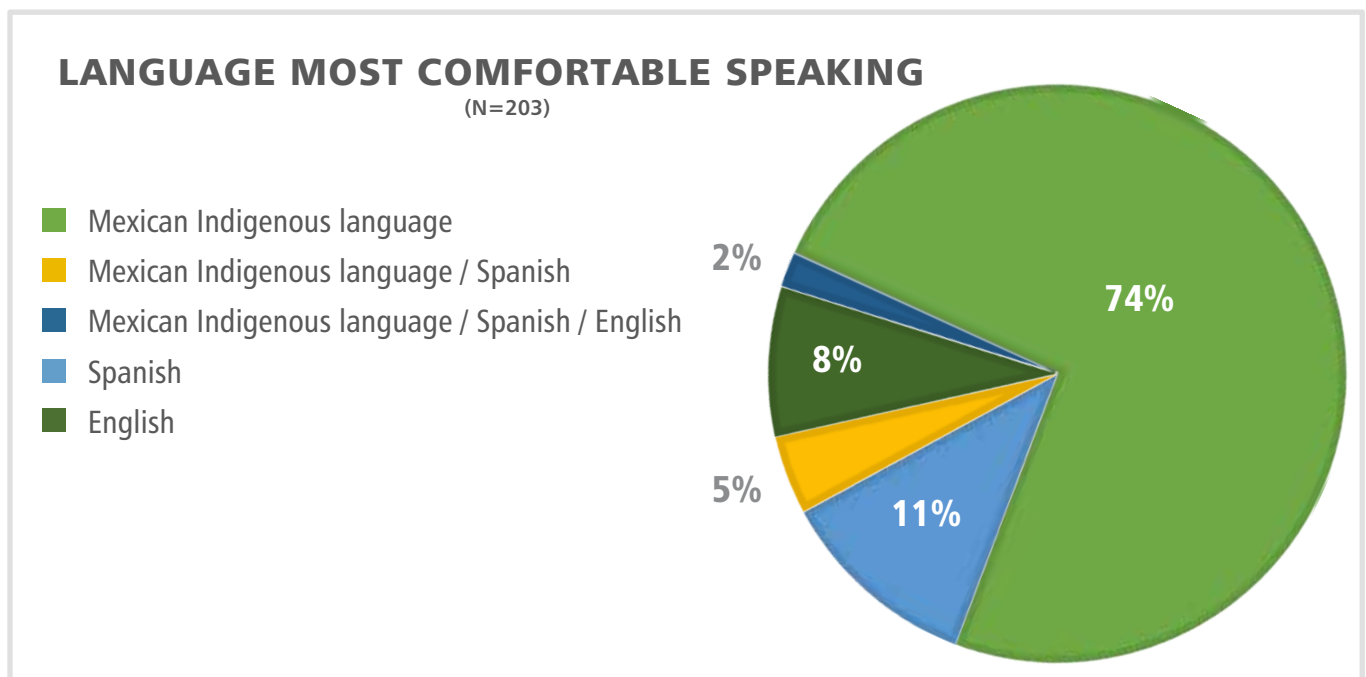


Figure 8: Compiled language most comfortable speaking (choose one).

## LANGUAGES YOU SPEAK A LITTLE OF, BUT NEED AN INTERPRETER TO FULLY UNDERSTAND

(N=203)

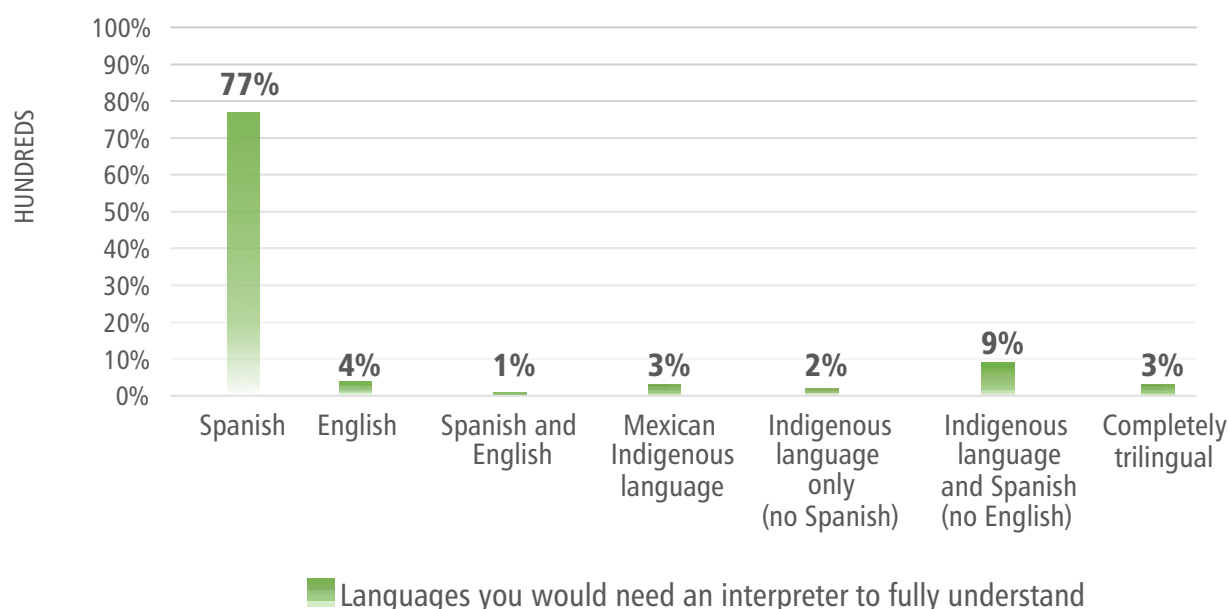


Figure 9: Languages spoken by respondents where an interpreter is needed to fully comprehend.

We encountered four different variants of Mixteco, one variant of Triqui, one variant of Chatino and one variant of Zapoteco during our survey gathering. From CRLA's current outreach efforts, we are aware of an additional 1-2 variants of Zapoteco spoken in Kern County.

The data gathered in Fig. 9 below exceeded what the Project Team hypothesized about Spanish language fluency among Indigenous residents based on our nearly 20-year presence in Kern County serving Indigenous Mexican communities. **58% of respondents reported that they need an interpreter to effectively communicate in Spanish.** We did not compile information that connected specific variant spoken to the survey responses (so as to provide assurances about anonymity), so it is unknown if there are entire communities with noticeably higher or lower rates of Spanish- or English-language fluency. This could be an opportunity for further research or data gathering for local public agencies or service providers who draft language plans.

### *English and Spanish fluency among Indigenous Mexican residents is associated with age*

The same information from Fig. 9 above broken out by age reveals what CRLA has observed anecdotally: that proficiency in English or Spanish becomes less prevalent in older Indigenous Mexicans. See Fig. 10 for more detail:

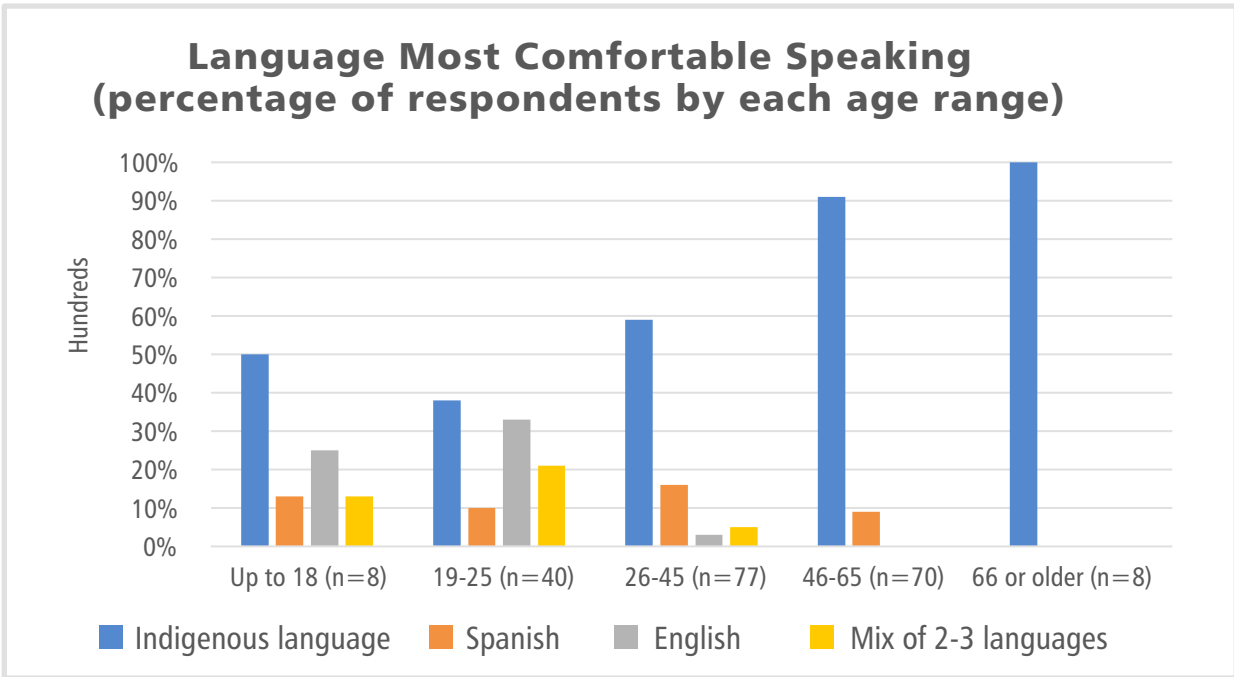


Figure 10: Language most comfortable speaking, responses broken out percentage of respondents for each age range.

In Fig. 10 above, the graph reflects the percentage of respondents answering for each language, grouped by age range. So, for example, 100% of respondents aged 66 or older were most comfortable speaking their Indigenous Mexican language, whereas less than 40% of respondents aged 19-25 were most comfortable speaking their Indigenous Mexican language.

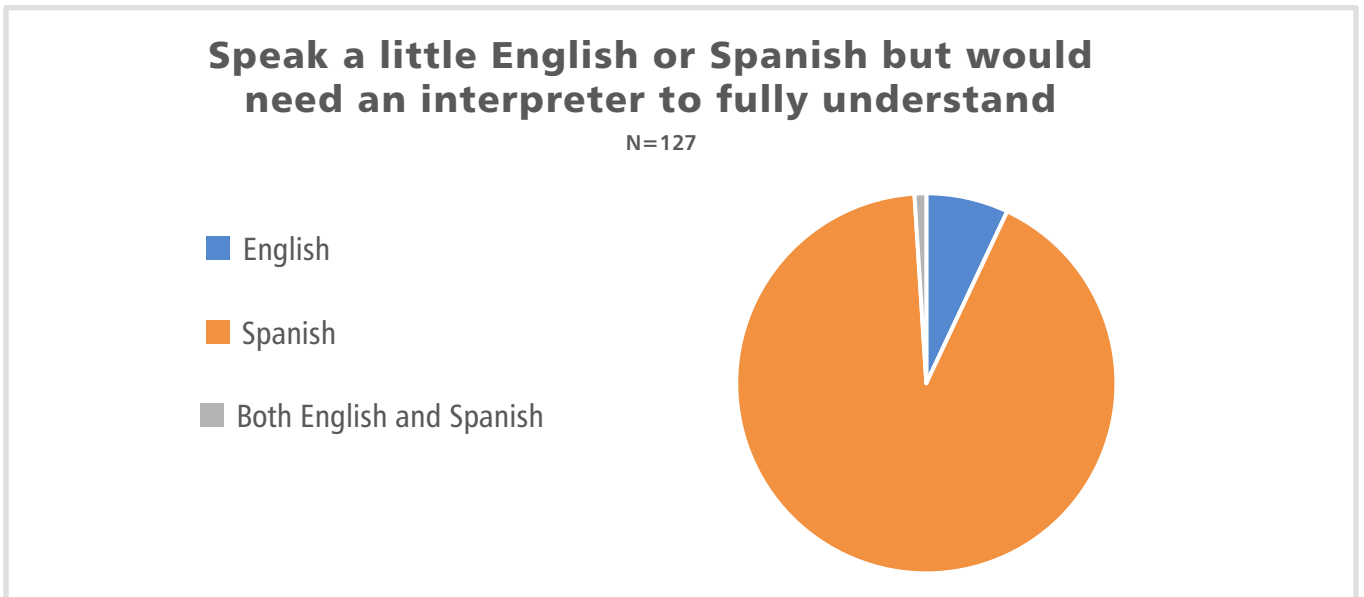


Figure 11: Speak a little English or Spanish, but would need an interpreter to fully understand, broken out by age range. Indigenous language selected as most comfortable speaking.

Fig. 11 above provides insight into a common scenario: an Indigenous Mexican language speaker walks into a police station and begins speaking Spanish. The front desk person assumes that the individual speaks Spanish and asks a Spanish-speaking staff person to step in. The Spanish-speaking staff person gathers information, noticing perhaps that the individual is not providing much detail or making grammar errors but fails to realize or ignores that the individual speaks another language as their primary language, believing that providing interpreting in Spanish is sufficient.



The data gathered in these surveys are noteworthy; not much research exists about language fluency among Indigenous Mexican residents of California. However, this data comes from a relatively small sample size and further study is needed to better understand indigenous language fluency. Even with the large number of people surveyed who would need an interpreter who spoke their Indigenous language, our data collectors also suspect that some Spanish and English proficiency was overstated by survey participants to the data gatherers. The data gatherers hypothesized this because they observed survey participants struggling with some Spanish terminology and speaking only in the present tense in Spanish (an indication that an individual might not be fluent), yet still claiming full Spanish proficiency. This is not surprising, given that many Indigenous people are subject to ridicule for not being fluent in Spanish or for speaking Spanish as a non-native speaker.

#### *Indigenous Mexican women are more likely to lack English or Spanish fluency*

Spanish language fluency is slightly more common among men (38%) than women (32%). 76% of Indigenous Mexican women in our study are most comfortable in their Indigenous language. 65% of Indigenous Mexican women speak a little Spanish but feel they need an interpreter to communicate effectively beyond basic topics. Only 33% of Indigenous Mexican women said they spoke enough Spanish to communicate comfortably at the doctor or during interactions with law enforcement.

#### **Type of police encounter**

We created three separate surveys based on the type of interaction an individual had with law enforcement in Kern County within the last three years: as a victim of a crime, a witness to a crime, or some other police encounter (including being the perpetrator or suspect in a crime, being pulled over for a traffic offense, being present while a companion was detained, accessing information at the police station, etc.). If an individual had no interaction with law enforcement within the last three years in any capacity, we concluded the survey after gathering demographic information.

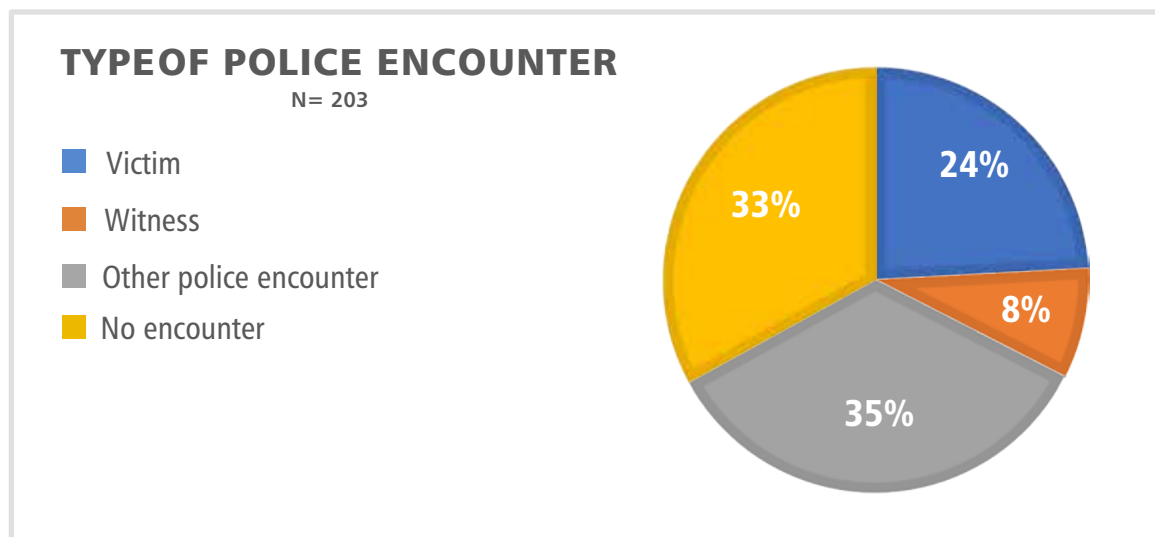


Figure 12: Type of police encounters experienced by respondents within the last 3 years.

Most of the interactions that fell under the “other police encounter” category involved a simple traffic stop or fine imposed for traffic law violation and accounted for 35% of interactions with law enforcement in the last three years. 8% of respondents had been the witness to a crime and 24% of respondents had been the victim of a crime. 33% of respondents had no interaction with law enforcement at all within the last 3 years.



Photo: Rafa Rodriguez

## Key Findings

### **No survey respondent received a qualified Indigenous Mexican language interpreter during any interactions with law enforcement.**

Out of 203 respondents, no survey participant reported receiving a trained, qualified interpreter in the Indigenous language they are most comfortable speaking. Our data shows that most respondents spoke to a bilingual officer (English-Spanish) during their interaction. If both parties are fluent in Spanish and proficient enough to fully comprehend what is being said and able to fully express themselves without misunderstandings, then meaningful access is achieved and there is no need for an interpreter. However, as our data shows, 78% of Indigenous Mexican residents in Kern County speak some degree of Spanish but need an interpreter in their Indigenous language to fully understand Spanish and 5% of Indigenous Mexican residents speak a little bit of English but need an interpreter in Spanish or their Indigenous language to fully understand English. What is clear is that either lack of awareness, indifference, or lack of resources and guidance for law enforcement personnel is resulting in the denial of meaningful access to police services for Indigenous Mexican residents.

The chart below demonstrates how Indigenous residents of Kern are receiving language services, if at all:

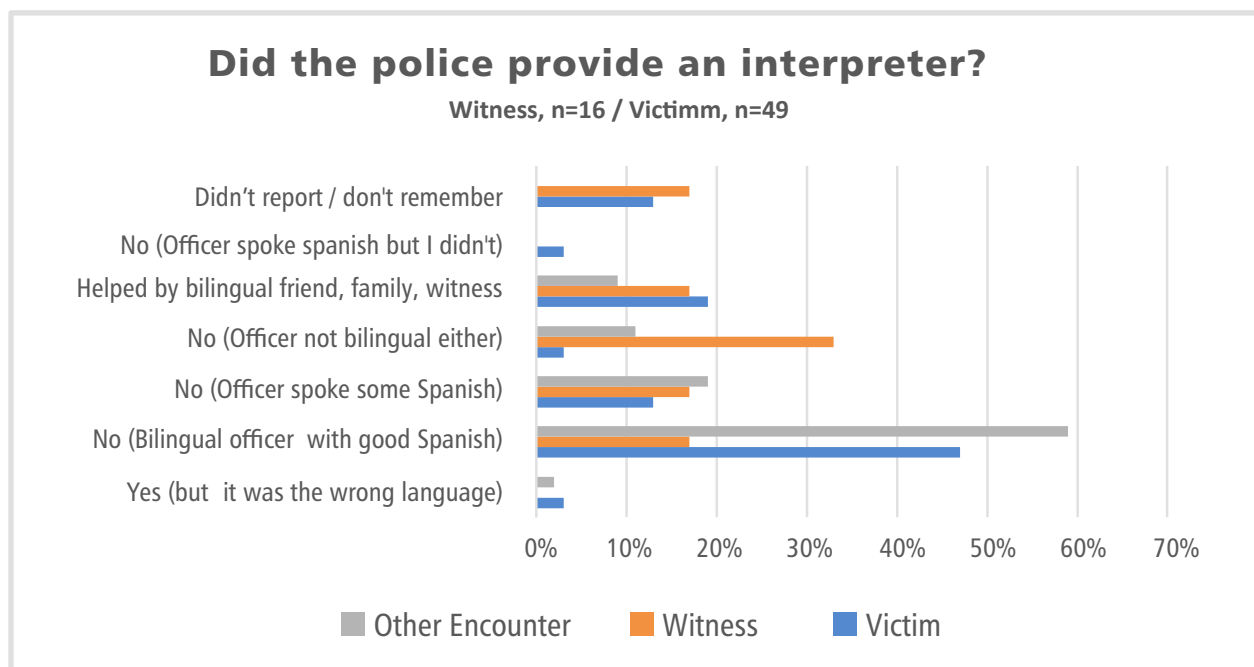


Figure 13: Responses to whether or not police provided an interpreter and who interpreted the encounter.

### Minors are being used as ad hoc interpreters

While no survey participant received a trained Indigenous language interpreter, 33% of Indigenous Mexicans surveyed who had some interaction with law enforcement used an ad hoc interpreter. Most of the time, the ad hoc interpreter was a minor child or an adult child of the individual.

The use of ad hoc interpreters, especially minors, in police interactions is especially troubling. In Herbst and Walker's study (2001), various officers said that they would use school-aged children as interpreters and in 2018, police in Pennsylvania reported that they increasingly rely on children to help them bridge communication barriers with immigrants and refugees (Knoedler, 2018). Such reports are concerning because research shows that children are often unable to provide accurate interpretations because they may lack fluency in both languages and have little knowledge of specialized terminology such as legal terms (Finlay et al., 2017). As one child quoted by Finlay et al. (2017) explained, "'I hate interpreting for my parents. I don't always know the proper words so I just make it up.'" Furthermore, child interpreters may withhold information, particularly if they perceive it to be embarrassing, and parents may withhold information that they don't want their children to know (Finlay et al., 2017). Obligating children to interpret is perceived to place an undue burden on them because they are often exposed to serious and potentially traumatic subject matter, forced to give bad news to their parents, and asked to maintain serious issues in confidence (Finlay et al., 2017).

**Victims who provided their own interpreter used their child in 100% of survey responses.** 63% of respondents said the child was under the age of 18 and the remaining 37% used adult children to interpret. Of combined responses from **victims, witnesses and other police encounters**, 41% of the time a respondent provided their own interpreter, it was a minor

under the age of 18. One witness shared a horrifying example using her daughter (a minor under the age of 18) to interpret for her after the survey respondent witnessed a neighbor's murder:

*"I think the policeman didn't understand clearly what I saw. I saw my neighbor and her husband having a fight. They were arguing, and he wanted to take the washing machine with him, or something like that, and the lady didn't let him. He got mad and got into his car and stepped on the gas to accelerate and he ran her over. He then backed up her car and again he stepped on the gas and ran her over again. Then he drove away. **I saw how my neighbor's bones had been broken, and she was dying. She died minutes later.** When the police arrived, I went inside my house. About one hour later, the policeman came to my house to ask what had happened. **He spoke English, and I couldn't talk to him, so I asked my daughter to interpret for me, and she explained to him what had happened.** The lady had underage children. I believe the policeman only talked to the children; I don't know if that's right. I believe the policeman shouldn't talk to the children about what had happened, because they are kids, and they were already crying when they saw what happened. The children were there, and they saw everything."*

The same woman who gave the above quote reported that her daughter experienced fear and sadness after serving as the interpreter for her mother giving the eyewitness account of a murder.

Such reports are very concerning. As the research in the section above demonstrates, children are unreliable interpreters and are placed in unfair, stressful situations when they are asked to interpret in situations beyond their maturity level (Finlay et al., 2017). In many instances, using the child as the interpreter also jeopardizes their safety and physical health such as when police ask a child to interpret when responding to domestic violence calls and the child is forced to "choose" between sending one parent to jail or protecting another parent. When the police leave, the child may be left to answer to the abuser about what they said to police or deal with the guilt and confusion of playing a part in sending a parent to jail. The quote below from the surveys demonstrates that law enforcement officers use family members to interpret in response to domestic violence calls:

*"I had problems with my husband, and he beat me. When he was beating me, my oldest daughter saw and she called the police but they sent the sheriff. Before sheriff arrived, my husband left and ran away. When sheriff arrived, my daughter who speaks Spanish and English explained to the sheriff that my husband was drunk when he came home and for nothing started beating me. The sheriff made the report and later, the court put a restraining order against him, so now, he can't come back."*

Use of children, family and friends of the LEP individual except for in emergency situations runs contrary to the policies of the Bakersfield<sup>33</sup> and Taft Police Departments,<sup>34</sup> especially when the minor who serves as interpreter is related to the suspect. Even though the above quote has a positive result (i.e., the abuser has been removed), the risk of familial discord or retaliation, and attendant adverse psychological effects still exists.

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33 Bakersfield PD LEP Services Policy § 368.3.5: Except for exigent or very informal and non-confrontational circumstances, the use of an LEP individual's bilingual friends or family members, particularly children, are generally not recommended and department personnel shall make case-by-case determinations on the appropriateness of using such individuals.

34 Taft PD LEP Services Policy § 368.3.6: While family and friends of an LEP individual may frequently offer to assist with interpretation, officers should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in emergency or critical situations. Further, the nature of the contact and relationship between the LEP individual and the individual offering services must be carefully considered (e.g., victim/suspect).

## People who are most comfortable speaking their Indigenous Mexican language are overwhelmingly likely to be victims of crime

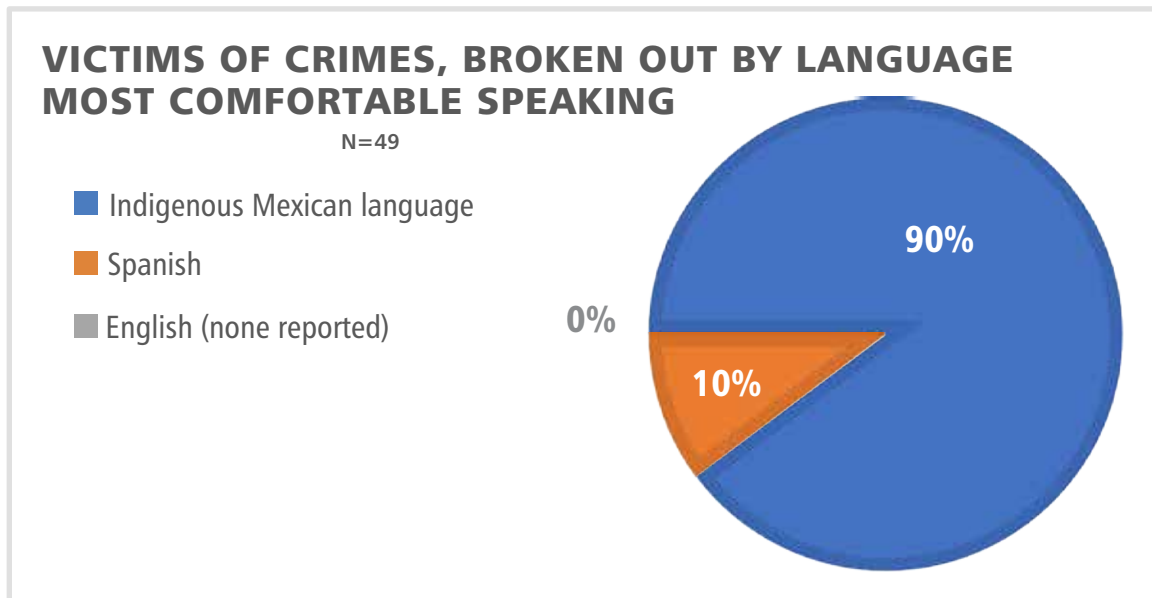


Figure 14: Victims of crimes, broken out by language most comfortable speaking.

**90% of victims** reported that they are most comfortable speaking their Indigenous language and 74% of victims speak a little Spanish but need an interpreter to communicate effectively and 4% spoke no Spanish at all. These data suggest that there is a relationship between language fluency and victimization. Language most comfortable speaking was the single greatest common factor among victims we surveyed. Even age and gender did not reveal a significant disparity as much as language ability. This would be a good area for further research.

### Language barriers during interactions with law enforcement negatively impact health

#### *Language barriers exacerbate physical injury*

Very clear incidences of the connection between health and language barriers during interactions with the police emerged in our survey data:

*"I was a passenger in a friends' car. When we were coming back from work, we stopped at a four-lane intersection on Fairfax Road near Lamont. As we were waiting for our turn, a car hit us from behind. **At the moment of the accident, I didn't feel any pain but minutes after I realized that I was bleeding from my forehead.** My friend didn't suffer any cuts. When we got out of the car, we both pushed the car to the side of the road and the person who hit us did the same. My friend was very angry and almost got in a fight with the other guy because he said that it was my friend's fault. They both began to argue until police came. The officer asked me how bad the injury was and asked me if I wanted to go to the hospital. I told him that it was not that bad and that I just needed to put a band aid on it. **I couldn't tell the police that I was feeling a lot of pain because I don't understand enough Spanish.** At the same time, I was afraid if called the ambulance because I have heard that if you don't have insurance, the ambulance will charge you \$1000. If*



*I go to the hospital, there will be nobody to help me communicate with the doctors in my language. **I missed almost a week of work because of the pain in my back and the front of my head.***"

Federal and constitutional liability is an added consideration for law enforcement agencies who fail to respond to requests for medical assistance from people with Limited English Proficiency in custodial situations.<sup>35</sup> Although we received few survey responses from individuals who had committed a crime,<sup>36</sup> one individual shared a story that illustrated how a language barrier could have severe consequences:

*I was drunk and hit my wife; she called the police and they arrived. I was watching TV and they turned off the TV, but they did it so hard that it broke down. They handcuffed me. The policeman was telling me some things, but I told him that I don't speak English. After I arrived at the jail a policewoman came, and she spoke Spanish. **While I was in jail, my blood pressure rose, and my sugar went up to 500. I tried to explain to the policeman that I wasn't feeling good, but he didn't understand me.** Only when the policewoman came, I could tell her, and she took me to the doctor. I was in the Bakersfield jail for four nights, and then they sent me to Lerdo to stay there another 20 days. I got out, but only after I paid a \$500 bail. I believe it was a fine rather than a bail. Since then I don't trust them; you can't talk to them.*

Law enforcement agencies are responsible for responding to medical emergencies for people in jail, since they are unable to access care for themselves. If an incarcerated or detained person is requesting medical assistance but is unable to make themselves understood, then it could put the guards or law enforcement officers on duty at risk for legal liability for any harm that ensues.

### *Language barriers create health impacts due to financial loss*

We received a number of responses that demonstrate a connection between language barriers and health. Survey respondents incurred financial loss by **being the target of crimes** that were caused by or exacerbated by language barriers and by incurring penalties and fines due to **lack of understanding about traffic laws and constitutional rights**.

Many respondents reported confusion about the status of the investigation of crimes that involved a financial loss committed against them due to language barriers:

*"I don't feel comfortable around police officers because they don't understand me, and I can't explain the things that happened to me. **I feel they didn't take the theft I suffered seriously because I couldn't explain what happened and I didn't understand what they told me regarding what they were going to do with my theft report.** Somebody broke into my house and stole my jewelry and my money. After that I have never spoken with the policeman again. They don't do anything. I don't know if they did anything about the crime I suffered, or not."*

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35 42 U.S.C. § 1983: Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

36 Out of 203 respondents, five reported having been arrested. Four of the five arrests were related to driving without a license or driving under the influence and one incident involved domestic violence.

*"Someone broke my car window and stole my purse. In my purse, I had my mica [or, "green card"], money and many important documents, so I went to the sheriff/police to make the report. **Since I don't understand Spanish so much, my daughter who speaks Mixteco, Spanish and English helped to make the report.** She explained to the police when, where and how it happened. The police officer took the report and told us that if he finds out something, he will let us know. **I didn't know that I can request an interpreter; that's why I went with my daughter. I felt bad about what happened because I spent a lot of money to renew my documents.**"*

*"I went to work and when I came home, I saw that the door of the mobile home that I rent was open. I checked if something was missing and saw that the money that I had put in a cabinet was gone (\$200). **The money was meant to buy food.** I went to the office to talk to the owner and told him that I wanted to call the police to make a report, but he said no because he already knew who the person was who took my money. He said that it was a person living next to me and that he was going to kick him out. No one called the police and I did not recover my money. A few days later I saw that the person who the owner suspected no longer lived there. Since then I have not had any other problems. **I felt sad because that's one week worth of work.**"*

The theft of personal property discussed in the quotes above demonstrates an inherent problem with the way that crimes involving theft are prioritized: by monetary value. A person experiencing theft in a low-income area will likely have a lower overall financial loss, because they will not possess as many items of high dollar value as another person from a higher income community. An individual with lower income might experience the same impact of the crime (or a bigger impact), but since the penalty is higher for higher dollar theft, the crime against the lower-income person might not be investigated or pursued. And as the previous section discusses, individuals who are most comfortable speaking their Indigenous Mexican language make up 90% of the people who identified as victims. Based on these two factors, low-income Indigenous Mexican residents who are most comfortable speaking their Indigenous language will face incredible challenges in getting any recourse or relief from crimes where they have suffered financial loss.

We hypothesize that language barriers have a significant role in low awareness of constitutional rights during traffic stops and civil penalties, though our survey questions did not capture this information exactly. One woman recounted an incident where her husband was pulled over "as a matter of routine" and because her husband could not relay that his wife could come pick up the car, the car was towed:

*"My husband was going to the store, and right on the corner the police pulled him over. He called me and I was there in minutes. The policeman didn't speak Spanish, and I talked to him. **He says he pulled my husband over as a matter of routine** (to make sure the car wasn't stolen, and that he had his license). My husband didn't have a license, so I asked the policeman if I could take back the car because I do have a license. He said no, that it was too late because he had already called the tow truck. **If the policeman had cancelled the tow truck, I wouldn't have had to waste my time recovering my car. I lost \$600 to recover it.**"*

Prior research connects financial loss to health impacts. Filippidis, Gerovasili, Millett and Tountas (2017) found that the medium-term impact of economic instability resulted in an increase in mortality rates from illness-related causes, a drastic increase in suicide, a decrease in the access to medical care and a decrease in reported quality of life. Negative health impacts are especially pronounced in countries where there is high income inequality (Prag, Mills, Wittek, 2014). Most Indigenous Mexican residents in Kern County, especially those with limited English or Spanish fluency, find work as farmworkers in Kern's agricultural fields. Benach, Vives, Tarafa, Delclos and Muntaner (2016), found an association with unstable or flexible work (such as, farm labor) and negative health impacts stemming from unstable or insufficient income and poor or hazardous working conditions. All of these factors culminate in material deprivation, which is the key driver of negative health impacts. Not surprisingly, financial instability is strongly associated with mental health issues (Benach, 2016).

The short-term financial loss experienced by the survey respondents above also has health impacts. A report from the Federal Reserve in 2017-2018 found that 41% of adults would be unable to cover an unexpected \$400 expense from cash or its equivalent (meaning, credit card that could be paid off the following cycle) (Board of Governors of the Federal Reserve System, 2018). This sort of precarious financial stability has health implications, as healthcare costs are often de-prioritized behind fixed immediate costs like housing, food and fuel. "Among those with family income less than \$40,000, 39 percent went without some medical treatment in 2017" (Board of Governors of the Federal Reserve System, 2018, p.2). For families who are already on a financial precipice, loss from theft can have significant consequences.

### *Language barriers possibly impact mental health, but results warrant further study*

One of the more challenging aspects of the project was developing survey questions about mental health that were culturally accessible to Indigenous Mexican communities. We know from conversations with our steering committee and project team that discussing mental health is taboo for many Indigenous Mexican communities. Key mental health terminology might not have an analogous word or concept in an Indigenous language. To bridge this cultural and linguistic gap, we brainstormed words and concepts with our steering committee to pinpoint where and how stressful encounters were physically perceived. It is likely our surveys did not completely overcome this communication challenge, since a number of respondents answered that they were not impacted at all in a question about how their health was affected but then reported in the qualitative section that they felt sad, mad, or frustrated by not being able to communicate with the police. One of our data collectors (an Indigenous Mexican woman and community worker for CRLA) reflected on the challenges about the survey questions on mental health and reported: "People did not connect the concept of 'sadness' with mental health. They did not think of 'scared' as something to do with mental health or trauma."

### *Interview with MICOP's Living with Love Staff*

We interviewed four staff members<sup>37</sup> of the Mixteco Indígena Community Organizing Project (MICOP) who work in the Living with Love program (LwL), to explore the disconnect between experiencing negative emotions and connecting it to mental health.

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<sup>37</sup> Dulce Ma. Vargas (LwL Program Manager), Leticia Galicia (LwL Promotora), Teresa Santos (LwL Promotora), and Irisela Contreras (LwL Evaluation Coordinator).

From the LwL webpage:

Living with Love (LwL) is a direct Prevention and Early Intervention mental health program that was developed to address issues of depression, anxiety, domestic violence, and (socio-cultural and linguistic) isolation for Mexican immigrants, specifically the Latino indigenous communities, by decreasing mental health stigma, improving knowledge about mental health issues, and increasing knowledge/awareness/access to mental health services (including domestic violence support resources).<sup>38</sup>

The staff members we interviewed have direct contact serving Indigenous Mexican residents in Ventura County and work to de-stigmatize mental health issues, with a special focus on families who are experiencing domestic violence. We note here that the LwL staff emphasized that they are working with people from various Indigenous Mexican communities and that the following discussion is a broad summary that can vary among communities and individuals.

We explained to the LwL staff that our surveys yielded inconsistent results when participants were asked if their mental health was impacted by not having access to a qualified interpreter. LwL staff confirmed that the concept of mental health was challenging: “In our community, Indigenous community, with Indigenous language and traditions, the concept of mental health is not very well known.” LwL staff further explained that frequently stress, anxiety or other mental health conditions are associated with fear, or a bad spirit (“Tabayuco”) that has frightened the individual and it is the spirit that is causing the problem or bad feelings.

When asked how the lack of trained interpreters impacted mental health, LwL staff responded:

“I heard your question, about lack of interpreters’ impact on the mental area. I can tell you, obviously they will answer no. Why? Because, first of all they don’t identify the negative effects and how they make them feel, but we who work in this subject know there was a negative impact. **Just the impotence of being unable to communicate what caused a trauma in your life, that has the greatest effect.**”

Anecdotally, the CRLA project team has observed Indigenous Mexican clients in our law office relaying traumatic events with little visible emotional upset, which can be confusing to officials investigating crimes or complaints. LwL staff commented on this phenomenon:

“In our community, people will listen to you and will tell you, ‘yes, you’re right’ but if they don’t trust you they won’t share. Also, if they are living in a difficult situation, they will tell you about it, talk about it, but if they won’t trust you they won’t open their feelings, they won’t feel relief. **They will think, ‘I have shared my problems with her, I will cry alone later.** That’s our culture.”

The interviews with the LwL staff shed light not only on the cultural barriers that exist when discussing mental health issues from a culturally inaccessible viewpoint, but also about how culture and lack of trust can impact the way an Indigenous Mexican person is perceived by outsiders. An example of this: “Like here in the U.S., when a person looks at you in the eye, it’s a sign that I’m telling the truth. But if we look down, it’s a sign that you are lying. But we know that in our communities, looking down is a sign of respect. This is something that people

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38 Mixteco Indígena Community Organizing Project, *Living with Love, California Reducing Disparities Project*, retrieved from: <http://mixteco.org/programs/research-evaluation/living-with-love-california-reducing-disparities-project/>

here don't know." If an officer is taking a statement from a witness or victim and there is already a language barrier impeding communication, how will the officer assess an individual's credibility if they are avoiding eye contact and looking down? Without proper cultural context, the officer could believe this means the individual is not being truthful, when in reality, that is how the individual is showing deference and respect.

Although our surveys yielded inconsistent results about the mental health impact of being denied access to an interpreter, interviews with the LwL suggest that there might have been a flaw with the way we phrased questions that warrant additional research. Beyond the phrasing of the question, there appears to be an understandable reluctance among Indigenous Mexican residents in Kern to open up about the topic of mental health to a stranger.

### **Language barriers discourage Indigenous Mexican residents of Kern County from reporting crimes to law enforcement**

Prior research shows that language barriers make people less likely to report crimes and degrade police-community relations. For example, Skogan, Steiner, Dubois, Gudell, and Fagan (2002) found that non-dominant language speakers are less likely to call the police for help or to participate in community policing initiatives and Davis, Erez, and Avitabile (2001) found that language barriers were the primary hardship preventing immigrants from reporting crimes and participating in court cases. This is reflected in narrative responses from our surveys:

*"Someone left the door open and a thief came in. He was trying to open my bedroom door when a family member arrived and confronted him. They had a fight and my family was able to take him out of the house. Thank God that nobody was injured and nothing was stolen. **We didn't call the police because we don't know how to do it and because we don't speak English.**"*

*"I worked with a Farm Labor Contractor for almost a week; the work was done and I asked him for my wages, he told me that he will pay me next Friday. Friday, a week after the work was done, I called him and asked him for my wages. He told me that he has no money and that once he gets it, he will contact me. Another week passed and he didn't call me, so I called him again but he didn't answer. It happened almost a year ago, and I haven't been able to talk to him. I don't have his address, just his phone number and now it looks like it was disconnected. **I didn't do any report to the police or other agencies because I don't know how to do it and because I don't know too much Spanish.**"*

The connection between not reporting due to lack of awareness about how to report and language barriers seemed to overlap based on what was reported in the narrative responses.

### *Indigenous residents are not reporting crimes in Kern because they do not know how*

One surprising finding was that **the majority of crimes were not reported by Indigenous residents because they did not know how to contact police or make a report**. Based on the narrative responses we gathered, the lack of awareness about how to contact police or make a report is connected to language barriers (see above).



## Combined Victim and Witness Reasons for Not Reporting Criminal Acts

n=65

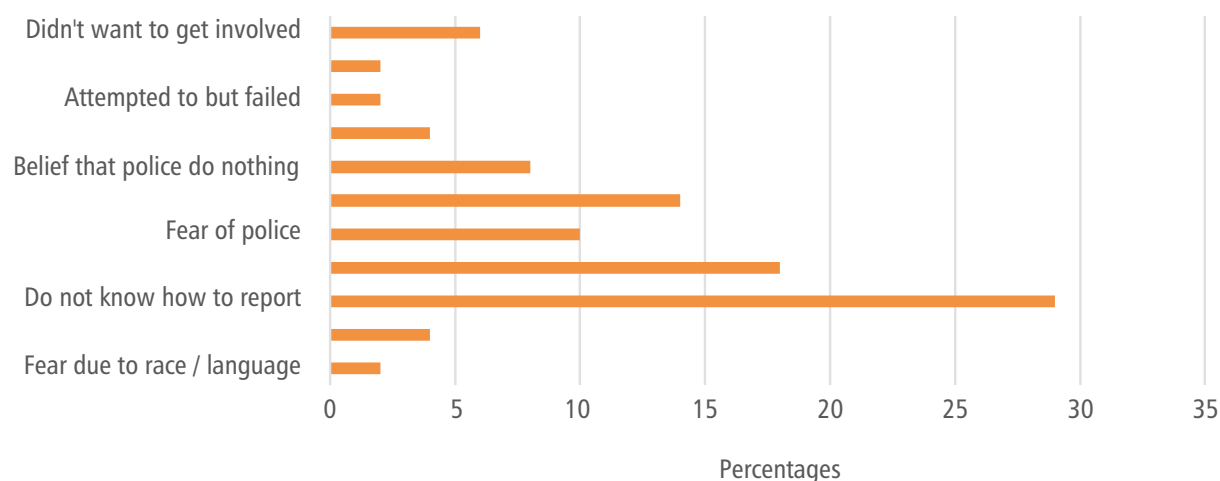


Figure 15: Combined victim and witness reasons for not reporting criminal acts.

Although we can speculate that language access plays a role in whether an individual knows how to make a report, we did not have questions on our survey that connected that data. It could be an interesting area for future study.

Survey respondents provided detail about language barriers in reporting in two different places in the survey. One, in the question with prepopulated answers (reflected in Fig. 15 above) and two, in a narrative question that asked respondents to provide any additional information they found pertinent. Some examples of narrative responses discussing barriers to reporting (in addition to quotes used in previous sections):

*"I just moved to a new home that week and one day, when I wanted to turn on my car, it didn't start. So, I opened the hood and I saw that the cables were cut. I was very angry and didn't know what to do. I was thinking to go to the police and make a report but then, **I was thinking what about what if they don't speak Spanish and my [Indigenous language] either. That's why I didn't do the report.**"*

*"**If police had told me that I can talk to someone who speaks my language**, perhaps I would have reported the incident, but since I didn't know, I didn't report it."*

*"I didn't report it because I don't know how to do it and because **I think that officers just speak English** and that they won't help me."*

Language barriers do not just affect the individual with LEP; they ripple throughout the community. They affect the individual's ability to report suspicious or concerning activity involving others:

*"I found a little girl (3-4 years old) walking in a street near my house. It was very cold and she didn't have a sweater. She had a little puppy and was crying. I went to her and asked her where her mom was and she said something but I couldn't understand her because she spoke English. People were passing and I asked them if they know her and nobody responded. Then, the little puppy started running, and I took the girl and*

*followed the dog. I walked about two blocks away and the dog stopped by a door and started barking and a man opened the door. He looked like he was under the influence of a drug. He then started screaming at me in English and grabbed the baby from my hands and went inside. I was very scared, I didn't know what he was saying. **Then, I went back to my home and I didn't call police because I didn't know how to do it and I didn't know if that was a good idea or not.***"

All of the respondents who selected "do not know how to report" or "I was afraid because I don't have papers" as a reason for why they did not report the crime did not indicate that language barriers were a factor in not reporting on a question that directly asked for that information, though their narrative responses clearly indicate otherwise. Language access plays a key role in familiarity with reporting procedures and comfort accessing police services, though further study is needed.

And from a respondent who directly cited the language barrier as a reason for not reporting:

*"Somebody stole my bicycle. I left my bicycle outside my mobile home and somebody stole it. I would usually put it in a small shed but one day I just left it out and someone took it. I felt bad, I didn't report it to police because I didn't know how to do it. **Moreover, I only speak Mixteco and thought that no one from the police department would be able to understand me.** I felt sad and worried because the bicycle was a gift from one of my sons. Even though I did not report it to the police my attitude towards them has not changed because I might need them one day."*

### **Language barriers prevent Indigenous Mexican residents of Kern County from providing key information to law enforcement**

Communication is integral to policing in terms of both receiving and conveying messages. Gathering evidence and reconstructing an event for the purposes of building a case requires an attention to detail and appreciation for nuance. Speaking in limited Spanish, where one or both parties are not fluent in Spanish, makes it significantly harder for police officers to carry out their duties and for Indigenous Mexican residents to relay critical information to law enforcement. The importance of clear communication and how it affects policing is confirmed by research cited in the sections above, in our survey results, and in the LEP Services Policies (the language access plans) provided by the Taft Police Department<sup>39</sup> and Bakersfield Police Departments<sup>40</sup>. When a community member does not have access to interpreter services, in whatever language they speak fluently, they won't be able to relay critical information, as illustrated by the excerpts below from survey responses:

*"A person came to my house screaming. We called the police and they arrived. We tried to explain to them what had happened, **but we weren't able to explain everything.**"*

*"When the person entered in my property, **I was very afraid.** Someone called the police and when police officer arrived, I tried to explain to him what happened but I couldn't because he mostly speaks Spanish and I speak Mixteco. **So, I couldn't explain all of what I wanted.**"*

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39 TPD LEP Services Policy § 368.4.3 FIELD ENFORCEMENTS AND INVESTIGATIONS: [I]t is important that an officer is able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action taken with an LEP individual.

40 BPD LEP Services Policy § 368.4.3 (Identical to above).

*"Someone tried to enter my house and broke the door. Then, I called the police and police arrived right away and arrested the guy. The police officer spoke only English and I couldn't communicate with him, so he called someone who speaks Spanish and English and that person interpreted [for] me. I think that if police had asked me if I would need someone who speaks my language, I would have requested one. **I couldn't provide them all the details in Spanish.**"*

*"**I couldn't give them all the information they needed** because the interpreter was not fluent in Spanish."*

*"I could have given them more information about how the situation happened but since they don't speak Spanish very well and I struggle to speak Spanish, **neither of us could communicate very well.**"*

When Spanish or English-speaking officers arrive on a scene and rely on other Spanish or English speakers to describe what happened, they are allowing one witness or one suspect to craft the narrative. One respondent described how this impacted him after a car accident:

*"I feel like the police department blamed me for the accident, even if it wasn't my fault, because I could not defend myself, and couldn't explain to the policeman what had happened. That's why they believed the person who hit me. That's why they blamed me for the accident: **I couldn't communicate with the policeman and that resulted in them misunderstanding what happened and believing the other person.**"*

These experiences described in survey responses are consistent with our team's experiences. CRLA staff have heard many examples of Indigenous language speakers standing by powerlessly as someone who speaks more Spanish or English interacts with the police, employer, healthcare provider, educator or other authority figure and dominates the narrative, resulting in poor outcomes for the Indigenous language speaker in almost every instance. It is interesting that many people view an individual with LEP's powerless silence as guilt or complicity and not as vulnerability.

### **Indigenous Mexican residents of Kern County view law enforcement favorably when law enforcement treat them with respect**

One bright spot that emerged from the data is that some Indigenous Mexican residents responded that their trust in the police improved when police officers treated them with respect and treated their issue seriously, regardless of whether or not the underlying crime was solved and even when the resident had to rely on their own interpreter.

And some residents reported no change in their level of trust in the police, suggesting they did not have a negative view prior to the police understanding:

*"I was coming home from a party, and I had had a few beers. I was driving the car, and the policeman was hiding, and before I realized he pulled me over, and since it's not good to run away, I stopped at the side of the road. The policeman approached and asked for my driver's license and registration, and asked me if I had been drinking, and I said yes, since I didn't want to lie. He arrested me and took me to jail. I got out 72 hours later, and he took my car. **I had to fight a lot to get my poor car back, but they were just doing their jobs. They treated me well. The policeman spoke***

**Spanish and he is a very good man.** *If I could have had somebody who speaks Mixteco, it would be great, but I can't complain; he explained things to me very well. I always tell my coworkers not to run away from the police, just to pull over, because if you try to run away things get worse."*

*"I was driving on Hwy 166, I was going to Cuyama and I was speeding at 84 miles per hour in a 65 miles per hour limit. Police pulled me over, asked in Spanish for my license and car registration and I gave it to him. **He was a nice guy, he was not rude and I didn't feel uncomfortable.** He gave me a ticket; I haven't received it yet so I don't know how much I will pay. Also, I don't know if they will allow me to do traffic school or not."*

## From respondents who reported that their trust in police increased after interaction ....

### Arvin Police Department

An elderly Mixteco man was physically assaulted by gun point but officers responded quickly and he has since applied for a U-visa.

***"They helped me through the process. They explained everything. It would have been better if they would have given me a Mixteco interpreter, some of the Spanish words they used were difficult to understand."** Mixteca woman from Arvin who reported her son missing.*

### Bakersfield Police Department

A man who was physically assaulted and had his wallet stolen received quick help from the police, resulting in a conviction of his attacker.

A couple who found themselves stuck in the middle of traffic when pulling a trailer with a truck was relieved when police arrived and helped them move out of traffic, but gave the driver a ticket: ***"[my husband] was not mad with police, on the contrary he was happy that police moved his pickup."***

### Kern County Sheriff's Office

Two women who had been the victims of domestic violence were thankful for the Sheriff's assistance and removal of the abuser from the home.

An elderly Mixteca woman reported the following:

***"I live in a mobile home and the door is not that strong, that's why I think that it was very easy for thieves to open it.... In total, they stole about \$250. I called the police and the sheriff arrived. The officers spoke some Spanish but very little. My granddaughter was the person who spoke to them and told them what had happened. I tried telling the officer that this was the second time that they had stolen my hose but that it was the first time that they went inside. The police said that they were going to make a report and talk to the neighbors to see if they saw something or if they have been robbed too. They told me that they will contact me if they find something and also told me to make sure that I lock the door and windows. I felt good about the sheriff because they were nice people and treated me well, with respect and all."***

### Indigenous Mexican residents struggle to trust law enforcement, which deters reporting

The “fear” categories (fear because of immigration status, general fear of police, fear of perpetrator or retribution, fear of racism) account for a combined 44% of responses to why Indigenous Mexican witnesses and victims do not report crimes.

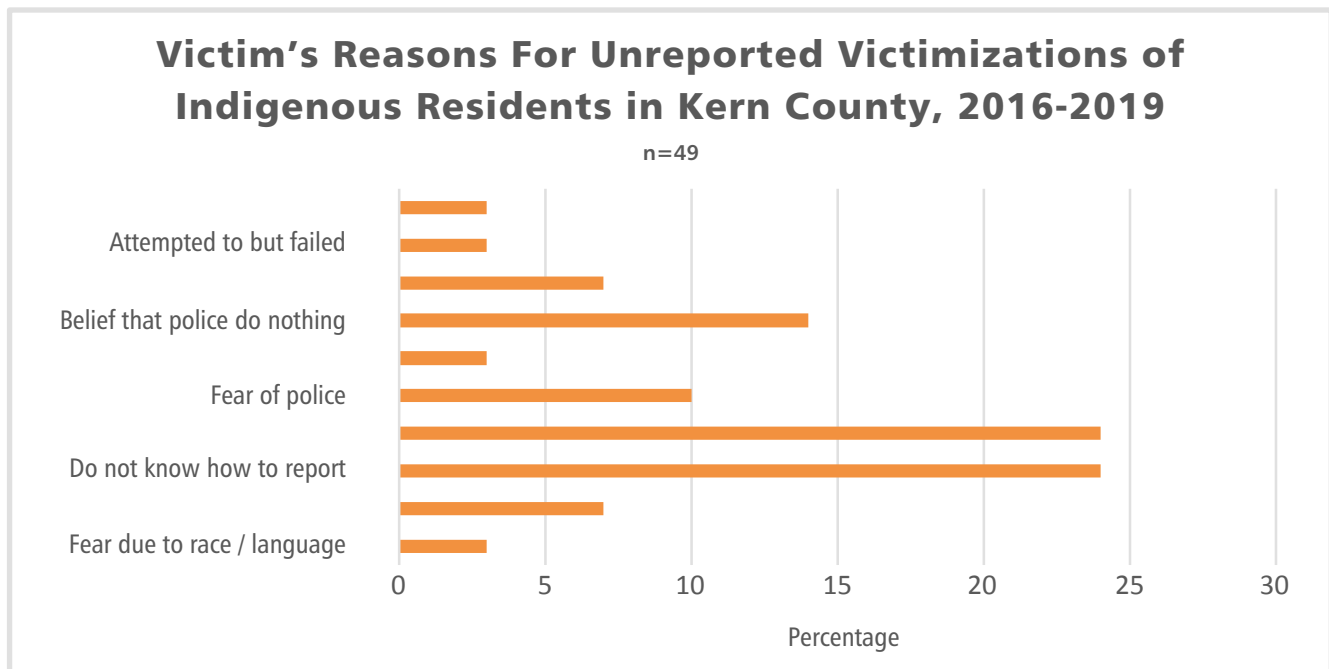


Figure 16: Victims' reasons for not reporting criminal acts to law enforcement.

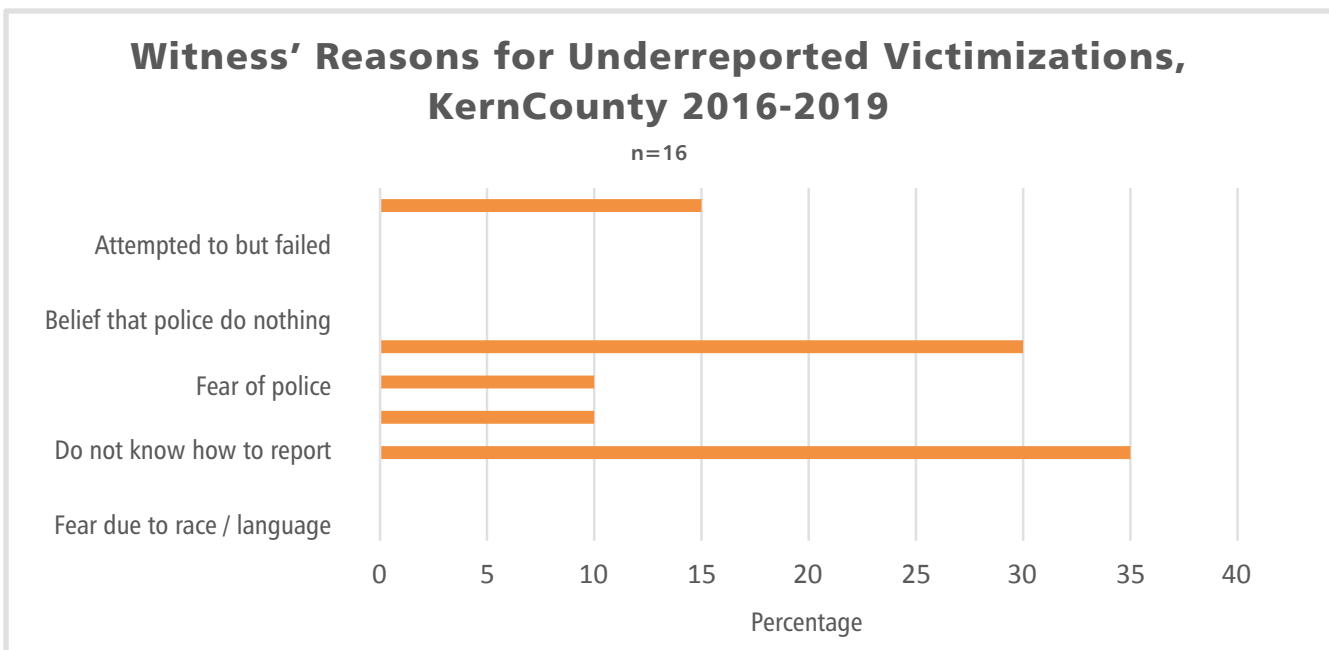


Figure 17: Witnesses' reasons for not reporting criminal acts to law enforcement.

The excerpts below illustrate responses in these categories.

*"I got home and saw the lock in the gate was broken and realized they had stolen some of my things. They took some bicycles, and a machine to pump air into the*



car. In total they took around \$300-\$400. **I didn't report it because I don't have identification papers, and because the police are truly racist.**"

"I live in a mobile home park that's located in the middle of the field. Most of the people that work there are field workers which means that during the day there is nobody there. Thieves have stolen my things, they are usually things that I leave outside. They have taken shovels, bicycles, shoes etc. the last time they managed to enter my house and stole my tv. I didn't report this to the police because the items they took don't cost that much money. **I didn't report it either because I am afraid that the police will ask for identification and since I don't have one they might call immigration on us. I don't trust the police that's why I don't really report issues.** I just try not to leave things outside and I also put chains on the door so no one can get in."

"In the workplace, my co-workers were telling jokes between them and one of them got angry and they started to fight. They fought for some minutes until one of them fell down. Workers around just were looking, some were afraid, **I was very afraid because if the police come, probably they will call immigration too.**"

"I was at home and I heard a noise outside, and when I looked out the window, I saw two gangsters who were taking a bicycle and other things the neighbors had outside. I tried not to make any noise so they wouldn't realize I was there. **I didn't tell anybody because I was afraid I would get the blame, or that the gangsters would do something to me if they find out it was me who filed the complaint.**"

"I was making a stop when someone crashed his car behind my car. It was not that hard, only a few scratches to the other car that hit my car but the guy told me in Spanish that it was my fault. He asked me if I have a license and insurance, I told him that I don't have any. Then, he told me that he would call the police, unless I pay him \$500. **When he said that, I became very afraid because I have no license and I have no legal documents, so I told him that I will pay him the \$500.** He followed me to where I lived and I gave him \$200 and told him that next day I will take him the rest. The next day, I went to his house with my son who speaks Spanish and we asked him if he could reduce the amount and he became very agitated and said that if I don't want to pay the \$300, then I will have to rent a car for him while his car is repaired and that I will assume all the costs. So, we better pay. **I became sad about what happened, I think that he took advantage of me because I don't speak enough Spanish.**"

"I saw when a guy beat up another guy early in the morning. After the fight, people said that the guy that was beat didn't pay transportation to the other one, that's why that guy got mad and beat him. **I was afraid, many other workers were afraid because if the foreman or supervisor had seen, they could call the police or fire us from work.**"

"I live in the trailers and saw two men were fighting in the night. They were screaming and say words in Spanish and I became very afraid. **I didn't call the police because I didn't know how to do it and because I speaks only some Spanish and was afraid that if they asked me for my information, address and what's going**

***on, perhaps I wouldn't be able to give them that information. That's why I didn't make the report."***

*"I was at work and the foreman's brother started harassing this girl; I call her girl because she is very young (18 years old). He was making inappropriate comments, and it was evident she didn't like it. **I didn't say anything because it was the foreman's brother, and they would fire me if I called the police or reported them.**"*

Fear as a deterrent to reporting to police appears to be in line with nationwide trends: agencies and service providers are observing that immigrants are not reporting crimes due to fear of immigration consequences.<sup>41</sup> Immigrants are also less likely to cooperate with law enforcement, making the prosecution of crimes that are reported more difficult.<sup>42</sup> The lack of trust between immigrant communities and law enforcement is not new, though in recent years it does appear to be increasing.<sup>43</sup> As we explored above, the research demonstrates that immigration-related stress (which includes fear of the police and is oftentimes inextricably connected to immigration-related fear) impacts the mental health of adults and children, including increasing the incidence of anxiety, depression, and post-traumatic stress disorder (Martinez et al., 2015; Ayón and Becerra, 2013; Hacker et al., 2011).

Culver (2007) researched police-Latinx relations in Missouri, finding that most officers perceived the language barrier as the most important issue that should be addressed in order to improve relations with the Latinx community, with one officer explaining, **"It's kind of like a marriage or a relationship. If two people cannot communicate what they want or their feelings, they can't trust one another... when officers and Hispanics can't communicate to each other, they can't develop that trust."** (59). This officer's comment reflects the way that language barriers widen the well-documented chasm of trust and understanding between police and immigrant communities (Barboza-Salerno, 2012).

Language barriers impacted trust even when the overall result in the case was positive:

*"One morning, I went to check yard sale and I saw something that I liked. So, I wanted to buy it and I gave the white lady a \$100 bill and she didn't want to return my change. I could hear her saying that she was going to call immigration. So, I called the police. When the police arrived, he and the seller shook hands and started talking and then spoke to me. **I tried to explain to him what happened and he said that he would contact me later.** After a month or so, then he brought my \$100 to my house."*

*"They helped me through the process. They explained everything. **It would have been better if they would have given me a Mixteco interpreter.** Some of the Spanish words they used were difficult to understand."*

And where there was a negative interaction with police, language barriers added to the confusion of the situation, further eroding trust:

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41 Rodriques, R., Husain, A., Couture-Carron, A., Ammar, N. (2018). *Promoting Access to Justice and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2019 National Survey*. National Immigrant Woman's Advocacy Project. Retrieved from: <http://niwaplibrary.wcl.american.edu/wp-content/uploads/Immigrant-Access-to-Justice-National-Report.pdf>

42 *Id.*

43 American Civil Liberties Union. (2018). *Freezing Out Justice: How immigration arrests at courthouses are undermining the justice system*. Retrieved from: <https://www.aclu.org/report/freezing-out-justice>

*"I have two sons and we live in a small mobile home/trailer. One night, I heard noises outside and then someone knocked really hard on the door and when I opened, it was the sheriff, there were about 4-5 of them. **One of them asked if I speak Spanish, I told them that I speak a little.** So, they asked me for the name of my younger son and I told them that he was sleeping. They told me to wake him up and bring him to them. I went to wake up my son and he came and he spoke to the sheriff. I don't know what they were talking but they spoke about 5-10 minutes then they put the handcuffs on his hands and took him with them. I asked the sheriff what's going on and he told me that they were looking for criminals. I wanted to ask more but the sheriff didn't take the time to talk to me, he just told me to go to court to ask. The next day, I went to court, but they told me that they don't have information about my son yet, they don't know what the accusation was, and they don't know when the hearing will be. **I felt sad because I don't know why they took my son to jail and feel bad about the sheriff because he didn't explain to me why they took him with them.**"*

*"We were going to Oxnard to visit a relative who was ill. In the car there were four babies; the youngest one was three months old. I was driving, but I had a bad headache, so I asked my brother-in-law to drive. Some minutes later the highway patrol pulled us over. When he got to the window, he asked for the driver's license and the registration **(in English, that was what I understood)**. My brother-in-law didn't have a driver's license, but I did, so I told the policeman that the car was mine and that I did have a driver's license. I told him all the car's papers were in order. The policeman then asked all of us to get out of the car because he was going to take the car away. I asked him why, given that the car was mine and I had a driver's license. He said he didn't care, because the driver didn't have a license. I told him he couldn't do that, because we had four kids with us, and that we had our things in the car. I told him we didn't have anybody to come to pick us up, nor any means to get back home. He said that wasn't his problem. He pulled us over on highway 5, there weren't any stores or houses or anything there, only a field where they were spraying pesticides. **While all of us were standing by the side of the road, it was very cold, and they were spraying pesticides.** After about 20 minutes of waiting standing there the tow truck arrived and took the car away, and the policeman left. We had to walk several miles to get to a gas station (carrying the children and the things) and there I was able to phone my cousin to pick us up. He had to leave his job and had to make two trips to take us home. **The children got sick, and my dad, who was with us, ended up in the hospital because he caught pneumonia from being out in the cold. Only after 30 days I was able to recover my truck, and they charged me \$2000 to get it out.** The lady at the counter told me that what the policeman did was illegal because we had children with us. I know not all policemen are racist, but he was. I don't know why he did that to us, moreover since we had children with us. This happened close to El Tejon, Sebastian St."*



Photo: Miguel Zafra

## Language Access Plan Findings

In 2019, we requested the written language access plans of the Taft Police Department (TPD), Bakersfield Police Department (BPD), and Kern County Sheriff's Office (KCSO) and supporting documentation detailing their efforts to provide language access to LEP communities.

When we requested the language access plans from TPD, BPD, and KCSO, we also requested invoices paid to language vendors to determine the languages that were being used for telephonic or in person interpretation services. Often, public agencies have a language access plan that can be quite comprehensive, but it is not being implemented or is inconsistently implemented. Although both TPD and KCSO referenced telephonic phone interpretation in their language access plans as a tool they use to meet language needs, only BPD turned over invoices reflecting actual use of telephonic interpreter services. None of the languages listed on the invoices from BPD are Indigenous Mexican languages and we did not receive any invoices reflecting payments made to contract telephonic interpreters or on-site Indigenous language interpreters. One possibility based on conversations with other emergency responders in Kern County is that law enforcement personnel are dialing back into 911 when they face an urgent situation involving an individual with LEP and using the 911 dispatch system to connect them to the state contract for telephonic interpretation services provided by California Office of Emergency Services.

Like many law enforcement agencies, BPD and TPD contract with Lexipol for their written language access policies. While this outsources the burden of crafting a legally compliant plan and can conserve resources, unfortunately it also outsources familiarity with the contents of the language access plan if agencies are not proactively reviewing its contents, providing training, and complying with its mandates. No matter what the language access plan contains, it is rendered useless if staff are unaware of the contents and do not know how or are reluctant to make use of language resources.

Title VI policy guidance documents suggest law enforcement agencies appoint a Language Access Coordinator to lead updating the plan, making language resources known and available to staff, and coordinating training for employees. The role is further explained from this excerpt from LEP.gov, the Federally maintained interagency website that maintains resources for public agencies and programs that must comply with Title VI:

This individual is responsible for ensuring that the agency adheres to its language access plan, policy directives, and procedures to provide meaningful access to LEP persons. The language access coordinator should report to a high-ranking official within the agency. The coordinator is responsible for language assistance services and may delegate duties but should retain ultimate responsibility for oversight, performance, and implementation of the language access plan.<sup>44</sup>

The Language Access Coordinator role requires an investment of time and unless a staff member has their duties reorganized to accommodate the additional responsibilities of being a coordinator, it is unlikely they will be successful in the role.

### **Taft Police Department**

TPD has a written language access policy (entitled “Limited English Proficiency Services”)(available at Appendix 3) but it is unclear from the records request whether they have trained any of their officers on the contents of the policy or whether TPD has taken any steps towards implementation. TPD responded to our Public Records Act Request and provided a copy of their Limited English Proficiency Services Policy, among other documents, showing the telephonic interpreter service available for 911 calls (under the California Office of Emergency Services 911 statewide contract with CyraCom) and various outreach materials in English and Spanish. Similar to BPD, TPD is using Lexipol to generate their Limited English Proficiency Services policy and the policy is substantially similar to the policy that BPD is using. In response to a request for all documents used to create the language access plan, TPD referred back to the Lexipol policy as their provider who created the plan. We interpret this to mean no documents exist that reflect TPD’s local language access planning and we have no reason to believe that TPD has modified the Lexipol policy in any way to meet local needs. Section 368.3(f) of the TPD Limited English Proficiency Services Policy calls for the Language Access Coordinator / LEP Coordinator (term used interchangeable in language access law literature and policies) to use demographic data and local resources (such as information from community-based organizations) when creating its language policy. It is also unclear who the LEP Coordinator at TPD is, since that person is not named in the policy or in the records request.

The lack of local input means that the language access policy will not reflect local language needs nor will it take into consideration local factors, such as local interpreter and/or translation resources. We asked for additional documentation in our Public Records Act request from each agency so that we could see some evidence of implementation of the language access plans, but TPD did not have information about past trainings of officers<sup>45</sup> on the language access plan nor any local data they used to create or update their language access plan.

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44 Limited English Proficiency: An Federal Interagency Website, retrieved from: [https://www.lep.gov/faqs/faqs.html#FiveQ\\_A](https://www.lep.gov/faqs/faqs.html#FiveQ_A)

45 Taft PD LEP Policy § 368.15: TRAINING: “To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources...Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Training Supervisor shall all maintain records of all LEP training provided, and will retain a copy of each member’s training file in accordance with establish records retention schedules.”



TPD included a document reflecting instructions on how to access the Voiance telephonic interpreting service that California Office of Emergency Services (Cal OES) has contracted to provide to the entire state. Similar to KCSO, it appears from the records request that TPD is relying on Cal OES' statewide contract with CyraCom for 911 calls as a telephonic interpreter service. Based on a review of the CyraCom contract<sup>46</sup> and personal communication with Cal OES personnel, it is our understanding that law enforcement agencies can only bill for 911 or similar emergency calls under the Cal OES statewide contract. Therefore, TPD has not demonstrated whether or not they have a contract with an interpreting services provider for non-emergency calls such as those needed for custodial interrogation, bookings, investigations, or other activities.

Given the large number of Spanish speaking residents in Kern County, it appears that TPD is meeting most or at least some Spanish language needs through the use of bilingual (Spanish and English speaking) staff. 63% of survey respondents who interacted with TPD said they interacted with a bilingual officer who spoke "good Spanish." However, 50% of those respondents said that they only speak a little Spanish and need an interpreter to understand Spanish beyond basic concepts. So, in these instances, a lack of awareness of local language needs resulted in a mismatch of language resources to language need. What is especially dangerous about the mismatch is that it creates a false impression for law enforcement that they are providing language services, which can completely obscure the need. This underscores the critical importance of training and collection of local data and language needs. It also brings up an important question: how is TPD serving LEP individuals who do not speak a language spoken by their staff?

### **Bakersfield Police Department**

BPD responded to our Public Records Act Request by providing a copy of their Limited English Proficiency Services Policy along with a number of other responsive documents that reflect use of professional interpreters through invoices for services as well as a memorandum issued by Bakersfield Police Chief LD Martin informing BPD officers and staff about the language policy and where staff could find language access resources (see Appendix 5).

Similar to TPD, BPD is using Lexipol to generate language access policies. We asked for additional documentation in our Public Records Act request from each agency so that we could see some evidence of implementation of the language access plans. From BPD we received a number of documents: the memorandum referenced above from the Chief of Police about implementing the language access plan; invoices going back for a year with "Telanguage," a telephonic interpreter service; a "point to your language" poster; a language list from Voiance and Telanguage; and various other documents reflecting contracts with telephonic interpreter services and outreach materials in other languages (that do not include any Latin American Indigenous languages). We did not receive any documents detailing which data were used to come up with a list of local language needs nor any documents capturing when officers have been trained on the contents of the language access plan. There is no evidence either from the response from BPD or from survey respondents that any Indigenous Mexican individuals are receiving services in their language.

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<sup>46</sup> Available at:

<https://caloes.ca.gov/PublicSafetyCommunicationsSite/Documents/SignedStandardAgreement,STD213andSoWexecutedMarch7,2018.pdf>

It should be noted that responses from BPD demonstrate tangible steps towards implementing and using their language plan and language services and that BPD showed early interest in this report by sending a BPD officer to join the Advisory Committee.

### **Kern County Sheriff's Office**

KCSO responded to our Public Records Act Request for a copy of their language access policy with the following response:

: The Kern County Sheriff's Office does not have a specific document labeled or identified as "Language Access Plan" or the like. However, the Kern County Sheriff's Office has access to an participates in the State Office of Emergency Services' contract with CyraCom for the interpretation services via telephone. The Kern County Sheriff's Office also has bilingual employee certified by the County of Kern who can communicate in languages other than English.

The "State Office of Emergency Services' contract with CyraCom for interpretation services via telephone" referenced above is the Cal OES 911 Foreign Language Interpretation Services contract entered into between CyraCom (dba Voiance Language Services, LLC). As stated previously, the contract only provides for interpreting for 911 or related emergency calls. The contract does not extend services for custodial interrogations, bookings, investigations, taking police reports or other phases of policework. Therefore, each agency must make efforts to contract for their own interpreter services, both telephonic or video interpreting and in-person interpreting services.

KCSO also supplied a list of bilingual employees who have been certified by the county to provide interpreting and/or translation services, though it is not clear for which languages those employees interpret.

Without a written language access plan to compare to, it is not possible to determine what policies KCSO has around language access and whether or not they are following whatever informal language policies they have (or if any such informal policies exist). A written plan is not sufficient evidence by itself of an agency's compliance with Title VI, but the absence of a plan does strongly suggest that KCSO is not meeting the minimum threshold of responsibilities to LEP individuals under Federal law.

As noted at the beginning of this report, since the conclusion of this study and prior to its release, KCSO has entered into a settlement with the California Attorney General's Office related to a number of issues, including language access. KCSO is currently creating a language access policy and taking steps to improve language access. The author of this report is involved through a community advisory council that was required in the settlement agreement.



Photo: Miguel Zafra

## Recommendations

The evidence from our survey results, Public Records Act requests, baseline data review and literature review demonstrate that Kern County law enforcement agencies are not granting access to Indigenous Mexican language speakers and are likely out of compliance with Federal law and California law as a result. Our research and survey results demonstrate that there are negative health impacts associated with language barriers faced by LEP communities and that language barriers erode trust between community members and law enforcement.

Although language access plans are not on a set schedule to be updated, the law enforcement agencies mentioned in this report and elsewhere in Kern County should regularly review their language access plans and training practices to ensure that they are prepared to meet the needs of Indigenous Mexican residents of Kern County and speakers of other non-dominant languages. Spanish is spoken by a large number of residents in Kern County and resources for Spanish speakers are more common. However, it is notable that even Spanish speakers do not always receive services in their language.

To comply with Federal and California language access laws and better serve Indigenous Mexican communities in Kern County, local law enforcement agencies should:

1. Proactively assess languages spoken in Kern County service areas
2. Evaluate existing language access plans and language resources to ensure they meet the needs of the community
3. Ensure that all staff are trained on language access plans and how to work with interpreters and follow the policies and procedures laid out in the written language access plans

4. Commit to never using minors as interpreters except to determine the language spoken by the adult with LEP when no other option is available
5. Coordinate with community-based organizations to increase awareness within law enforcement agencies of how to work with communities with LEP
6. Develop data capture tools to identify language needs of the community and track outcomes for individuals with LEP and use that information to update language access plans and resource needs
7. Regularly update language access plans so they comply with Federal and California language access laws, are informed by local data, and contain information supplied by local community-based organizations
8. Both law enforcement and community-based organizations should inform residents with LEP about their right to an interpreter
9. Conduct outreach to Indigenous Mexican communities and other communities with LEP about police services and procedures

We go into detail on each recommendation below:

### **1. Proactively assess languages spoken in Kern County service areas**

As the results of our survey reveal, there are languages being spoken by residents in Kern County that law enforcement agencies are unaware of and are not equipped to serve. Agencies will not be able to plan for which languages to accommodate if they aren't aware of the language needs they are likely to encounter. This is particularly true for languages that are not commonly spoken in the U.S. or languages for which there is a shortage of trained and qualified professional interpreters (such as Indigenous languages).

Officers who are responding to urgent and life-threatening situations will benefit from having a policy in place that ensures they will have access to the interpreter they need in a timely manner.

This recommendation is already reflected in Title VI guidance documents and the language access policies of BPD and TPD. BPD and TPD's policies include provisions tasking both agencies with identifying a Language Access Coordinator, whose responsibilities include, among other things: "Annually assessing demographic data and other resources, including contracted language services utilization data and community-based organizations, to determine if there are additional documents or languages that are appropriate for translation."<sup>47</sup> From the evidence we have reviewed thus far, it does not appear that this is happening.

As discussed above, there are many challenges to gathering demographic data on Indigenous Mexican communities from traditional sources and passive data collection is not sufficient to establish the language needs of the communities that agencies serve. By following the mandates of their own policies and being aware of the shortcomings of traditional sources of demographic data, agencies can create a more accurate approximation of local language needs. Community based organizations who have committed to a model of language access or language justice can be an important partner in gathering language data. Please note that

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<sup>47</sup> TPD and BPD LEP Services Policies § 368.3(f).

no single community-based organization is the authority about a community. Similar to law enforcement agencies, community-based organizations typically have strongest connections with communities that share a language with the organization's staff and might not be following best practices for language access themselves. Law enforcement agencies should seek feedback from multiple sources in order to deepen their understanding of local marginalized communities.

More resources on strategies for compiling local language data are available in Appendix 4.

## 2. Evaluate existing language access plans and language resources to ensure they match needs of the community

Once local language data are gathered, agencies should compare the resources listed in the language access plans to ensure the resources match the languages spoken in the community. This involves both checking resources that facially appear to meet language needs (i.e., checking the list of available languages) and making an inventory of languages spoken by local interpreters and interpreting agencies. For example, reliance on Voiance / CyraCom alone could result in not having an accurate interpreter match for Latin American Indigenous languages. While Voiance lists some of the Voiance's more common Latin American Indigenous languages as being available for telephonic interpretation (see Appendix 6), they do not list the language variants and use an outdated and inaccurate nomenclature for Mixteco (ie, "Mixteco Alto" and "Mixteco Bajo" – this does not yield enough information for an accurate language match). Indigenous languages are frequently challenging to match to a compatible interpreter based on language name alone.

There are 84 variants of Mixteco, many of which are so different from each other that speakers of different variants of Mixteco cannot understand each other. The best way approach is to match speakers with interpreters from the same region. See the box below for more information about finding a language match for Indigenous languages.

### FINDING THE RIGHT LANGUAGE MATCH FOR INDIGENOUS LANGUAGES

- Ask the recipient **what language they would like to receive services** in, either using basic Spanish or through a family member or friend. Tell them you can locate an interpreter who speaks the language they are most fluent in, not just Spanish. Remember – Indigenous Latin American languages are their own languages; they are not dialects of Spanish. Different *variants* may exist within the Indigenous language.
- If they would like an Indigenous language interpreter, ask for the **name of their language** (i.e., "Mixteco") and then gather information about their **home region** in Mexico (i.e., Mixteco from the state of Oaxaca in Mexico, municipality of San Juan Mixtepec). To make a correct match, you will need to know the **country, state, municipality and town if possible**. It might be possible to make a language match without knowing the town.
  - a. *Note that any inquiry from a law enforcement officer about country of origin will make most immigrant residents understandably nervous. Make it clear why you are gathering this information.*



- **Contact your telephonic interpreter** provider with the region and language name to try to find an interpreter match. Note that it is often difficult to find language matches for Indigenous languages using mainstream interpreting services, and that a list of Indigenous language interpreter services can be found at Appendix 8. **The best practice is to build a roster of local trained and qualified Indigenous language interpreters who speak the languages spoken in your service area.**
- Conduct a **variant match**, which involves a 5-10 minute phone call during which the community member and potential interpreter talk to ensure that they can communicate effectively
- **Caution:**
  - a. Be wary of interpreters who claim to speak many different variants of an Indigenous Latin American language. This is uncommon (though not impossible). Check in with the community member to make sure they understand the interpreter.
  - b. See “Working with Indigenous Language Interpreters” in Appendix 9 for more guidance.

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### 3. Ensure that language access plans are set up for success:

#### *a. Appoint a language access coordinator and language task force*

A Language Access Coordinator is a staff member who is in charge of maintaining the language access plan and implementing policies. A language access task force could be more effective, since it spreads the responsibility out over more people and ensures that multiple people in the agency have a sense of ownership in the policy.

#### *b. Train staff on contents of plan*

A perfect language access plan is meaningless if staff are not trained on how to use it and given permission to incur expenses for an interpreter. Both the TPD and BPD policies encourage training every two years as refresher trainings and that all staff should receive initial training and that records of such trainings should be kept in each member’s training file.<sup>48</sup> By following their own policies and training staff on the contents, local law enforcement ensures that language access plans are followed by staff.

#### *c. Train staff on how to work with interpreters and translators*

Apart from receiving training on the contents of the language access plans and the language resources available to employees (as well as information about how to make use of and bill for language services), each employee should receive a training on how to work with interpreters and how to ensure a successful interaction with individuals with LEP. Such training helps employees understand the interpreter role and code of ethics so that they can work with interpreters more effectively and identify unqualified interpreters. Professional interpreters follow a strict code of ethics and professionalism. They receive many hours of training and commit to ongoing practice to sharpen their skills. Staff should be trained to see the difference between a qualified and unqualified interpreter.

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48 TPD and BPD LEP Services Policy § 368.15

#### 4. Commit to never using minors as interpreters, except to identify language need of the adult with LEP when no other option is available

Staff should be trained on the dangers of using minors as interpreters and discouraged from doing so in all but the direst of emergencies. Officers should look for an interpreter even if the parent is assuring the officer that it is acceptable to use the minor, since the parent might feel pressured not to cause any “trouble” or inconvenience to law enforcement and might not be aware of the potential harm of using the minor to interpret.

Practically speaking, law enforcement officers regularly encounter exigent circumstances and there might be occasions where the officer has no choice but to use the minor to interpret to avoid a greater harm. In these instances, the officer must be sure not to conflate an inconvenience with a true, time sensitive emergency and ensure that an imminent harm will occur unless the child is used.

It is generally regarded as acceptable to use a minor interpreter for the limited purpose of ascertaining the language need of the adult with LEP. But if there are other satisfactory ways to gather this information from someone other than the minor, then these should be pursued.

Both the TPD and BPD plans already contain provisions discouraging the use of minors as interpreters and the research is clear that this practice is harmful to minors. The practice of using minors as interpreters is also discouraged in the guidance documents found at [www.lep.gov](http://www.lep.gov).<sup>49</sup>

#### 5. Coordinate with CBOs for training on how to work with communities with LEP

While addressing language barriers is one very important component of building trust, this is are not the only tool. Cultural responsiveness and context can go a very long way in building trust and assisting in investigations. Seemingly innocuous cultural differences can have a significant impact on investigations and an officer’s perception of a suspect, victim or witness. **For example, in many Indigenous Mexican cultures, avoiding eye contact is a way of demonstrating respect and disagreeing with a person in a position of authority is seen as disrespectful.** Without the proper context, these two behaviors could lead an officer to believe that an individual is avoiding eye contact because they are being dishonest and not objecting to leading questions because they do not dispute that version of events. These are just two examples of the countless ways that cultural differences can significantly jeopardize police investigations and impair community trust.

Two visionary California Indigenous advocacy organizations, the Mixteco Indígena Community Organizing Project (MICOP) and Frente Indígena de Organizaciones Binacionales (FIOB) have been offering cultural sensitivity trainings to law enforcement agencies in Ventura and Los Angeles Counties for many years. These trainings have gradually built trust between law enforcement and Indigenous Mexican communities and have increased law enforcement’s awareness of Indigenous Mexican residents. MICOP distributes “I Speak” cards to Indigenous Mexican residents in Ventura County and does outreach to residents so they know to hand the cards to law enforcement that notifies the agency of the language they speak.

CRLA also uses “I Speak” cards as part of our outreach efforts and will continue to do so to facilitate quick identification of Indigenous Mexican residents’ language needs.

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<sup>49</sup> Specific discussion about using minors as interpreters can be found at: <https://www.govinfo.gov/content/pkg/FR-2002-06-18/pdf/02-15207.pdf> beginning at page 41462.

## 6. Create data capture tools to track languages spoken in service area and outcomes for individuals with LEP

An effective data capture tool that tracks languages spoken by people encountering police can be a valuable method of gathering language needs of the community and tracking outcomes for individuals with LEP. Although many individuals with LEP might be wary of officers asking for detailed information about their language or home region for the purposes of identifying their language, this information could help build community trust in the long run. By collaborating with community-based organizations and building trust with leaders of Indigenous communities, law enforcement agencies can work with trusted allies and community members to come up with data capture tools that do not increase mistrust of the police.

Tracking outcomes for LEP individuals is an important data point that law enforcement agencies can use to identify problematic trends or bright spots. Data that show, for example, higher rates of victimization among Indigenous Mexicans could be instructional in agency planning on where to devote resources and communities in which to focus outreach efforts.

## 7. Update language access plans regularly to ensure plans are a valuable resource instead of a useless administrative burden

Although the Lexipol LEP model policies contain good information and a strong baseline for law enforcement, they do not account for local factors and should be a baseline and not a ceiling.

One way that local agencies and service providers can help gather information about Indigenous residents of Kern is by accurately documenting language needs of the community. This will not paint an entirely accurate picture, since it does not account for Spanish or English fluent Indigenous Mexican residents, but it could be an important step towards identifying and making Indigenous Mexican residents in Kern County visible to local agencies and service providers. If agencies share these data with each other and liaise with community-based organizations, we will begin to get a fuller picture of the language needs of the residents of Kern County. Law enforcement could be an important leader in the county on this effort.

## 8. Both law enforcement and community-based organizations should inform residents with LEP about their right to an interpreter

Another surprising finding in the survey result was how many Indigenous Mexican residents were unaware that they could ask for an interpreter:

*“A thief came three times in a week to rob my construction tools that I had outside [my] home. The first time, he took an air compressor that cost \$300, the second time he [robbed me] he took a saw machine and the third time he [stole a] hammer and tried to open the shed. I called the police and when the police officer arrived, he took the report and told me that he will call me if he finds out something but he never did. **I didn't know that I could request a Mixteco interpreter, so I didn't ask for one.**”*

Fear of police is pronounced in immigrant communities and many Indigenous Mexican residents are reluctant to “out” themselves as Indigenous. They also do not expect to be able to have access to an interpreter in their language, since it is so uncommon for agencies to extend language access to them. In fact, in our survey results, many respondents seemed to equate “language access” with their access to a Spanish speaking employee or interpreter, even if

the respondent was not fluent in Spanish. Many survey respondents were confused by the concept that receiving an interpreter in their Indigenous language was a possibility.

Community based organizations and law enforcement agencies should raise awareness among Indigenous Mexican communities about their right to an interpreter in their Indigenous language. CRLA is currently doing outreach about language rights and will incorporate outreach specifically educating residents about their rights to receive an interpreter during interactions with law enforcement and distribute “I Speak” cards that will identify the individual’s language.

## **9. Conduct targeted outreach to Indigenous communities**

Another pattern that emerged from our survey data is low awareness about administrative laws such as traffic laws and license requirements. We believe that targeted outreach to Indigenous Mexican communities could build a lot of community trust, especially around the topics of: the right to ask for an interpreter; basic traffic safety laws; licensing requirements and parking restrictions; and, other topics as selected by the community.

Uliasz (2018) led a community-based participatory research project with MICOP<sup>50</sup> to identify strategies to inform the Indigenous interpreting field and to promote equity for Indigenous language speakers. Uliasz’s recommendations overlap with the recommendations above by finding that agencies should: 1) “establish partnerships with [Indigenous language interpreting organizations];” 2) “develop formal written policies to ensure clients have access to qualified interpreters or staff members who speak their language;” and 3) “provide training to their staff about linguistic and cultural competency and how to work with Indigenous interpreters.” (2018).

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50 Uliasz (2018) led the project with MICOP and input from advisory committee members Centro Binacional para el Desarrollo Indígena Oaxaqueño (CDBIO), Frente Indígena de Organizaciones Binacionales (FIOB), and CRLA, Inc.



Photo: Miguel Zafra

## Conclusion

**This report is about the fundamental human need to communicate.** Indigenous Mexican residents are not communicating effectively with law enforcement in Kern County. Federal and California language access laws require that individuals with LEP be given meaningful access to police services. Although Taft Police Department and Bakersfield Police Department have promising language policies, we have not seen evidence that they are being implemented in a way that meets the needs of Indigenous Mexican language speakers. This is evidenced by the finding that no respondent surveyed received an Indigenous language interpreter, despite 74% of Indigenous language speakers in Kern County being most comfortable speaking their Indigenous language and 64% of respondents reporting they would need an interpreter in their Indigenous language if they needed to communicate in English or Spanish. Bakersfield Police Department has taken steps in the right direction by regularly contracting with interpreters and providing guidance to staff about language support resources and how to make use of them. Bakersfield Police Department was also the only law enforcement agency to show early interest in this study and assigned an officer to join the advisory committee. Kern County Sheriff's Office has no written language policy at all, which should be remedied immediately.

The impact of the denial of language access to the Indigenous Mexican community has resulted in mistrust of law enforcement, use of minors as ad hoc interpreters, underreporting of crimes, increased physical and mental health impacts and inability to provide law enforcement with key details of crimes. The recommendations in this report are designed to increase physical and mental wellbeing of Indigenous Mexican residents, provide law enforcement with the tools they need to conduct thorough investigations, build trust between the Indigenous community and law enforcement, and promote best practices for using interpreters.



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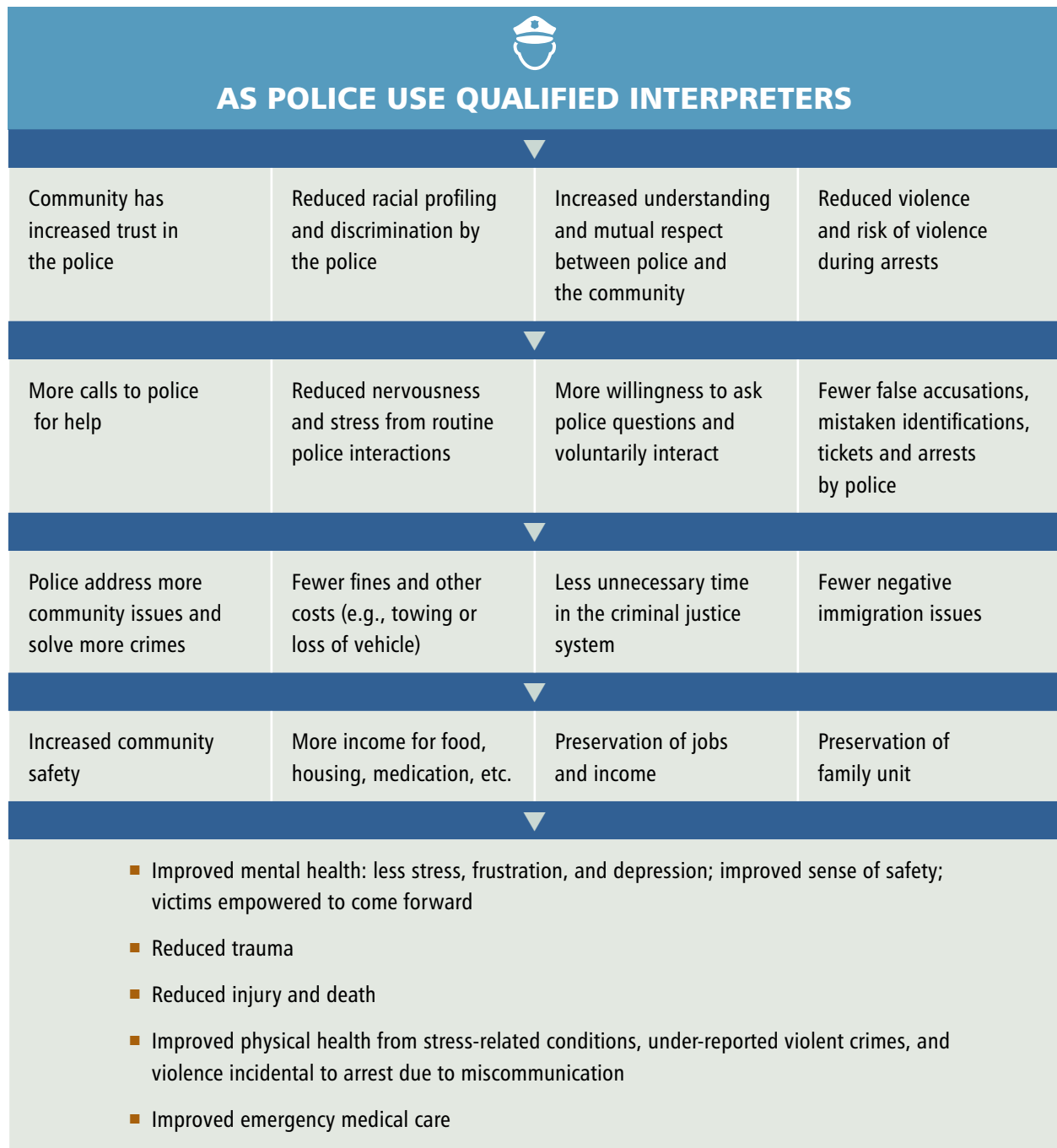
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# Appendices

## Appendix 1. Pathway Diagram

The following “pathway diagram” was created in collaboration with the Advisory and Steering Committees during a two-day training in July, 2018. The pathway diagram shows how stakeholders predicted health improving when police use trained, qualified interpreters during interactions with Indigenous Mexican residents of Kern County.



## Appendix 2. Survey Questions

The following survey was conducted during one on one interviews with 203 residents of Kern County, California during a three-month period between June, 2019 through September, 2019. Data gatherers read all interviewees the introduction section and answered the demographic questions and the screening questions found in the preliminary section. Based on their responses to the preliminary section, the data gathering team either concluded the interview (if the participant had not had any interaction with law enforcement in the last three years) or switched to one of the follow-up surveys (tailored to either victims of crimes, witnesses to crimes, or people who had other encounters with law enforcement). If a person had multiple interactions with law enforcement, they were instructed to select one incident that left a strong impression (either positive or negative).



### Health Impact Assessment of Language Access Practices of Local Law Enforcement and Effect on Latin American Indigenous Residents in Kern County, California

## Introductory Statements

### Who we are

*California Rural Legal Assistance, Inc. (CRLA) is leading this survey with financial support from The Health Impact Project, a collaboration of the Robert Wood Johnson Foundation and the Pew Charitable Trusts. CRLA, Inc. is a non-profit organization that provides free legal assistance and education to low-income, qualifying individuals residing in California. Within CRLA, the Indigenous Program is a special project focused on advocating for the rights of Indigenous Latin Americans living and working in California. By "Indigenous communities," we mean the original inhabitants of Mexico who lived there before the arrival of Spanish-speaking Europeans. CRLA has been serving low income rural Californians since 1966 and has offices statewide.*

### Scope of project

*You are being asked to participate in a face to face survey about interactions between Indigenous communities from Mexico and the police in Kern County. Specifically, we are looking at interpretation practices of the Kern County Sheriff's Department, the Taft Police Department and the Bakersfield Police Department. We are focusing on events from the last 3 years.*

*This study was created with guidance and participation from a steering committee comprised of six members of various Indigenous communities in Kern County, and an advisory committee comprised of representatives from ACLU Southern California, Greater Bakersfield Legal Assistance, Vision y Compromiso, Bakersfield Police Department, Faith in the Valley, and the United Farm Workers Foundation.*

## **Purpose**

*We will be gathering information on how Indigenous communities are impacted when they do not have access to an interpreter during interactions with the police and whether language barriers affect trust, mental health, or other health impacts. The purpose of this project is to provide information to the police departments about the needs for interpreters for Indigenous community members in Kern County.*

## **Privacy**

*We will not gather any information from you today that could be linked to you personally. You do not have to share anything that you do not feel comfortable sharing. We will not ask the exact details of a crime that you suffered or witnessed, but you may share anything that you think is related to this project. We will both sign a document saying that 1) you agree to allow us to use the information you share with us today and 2) that we will not attach any identifying information to the document. You can share your phone number and name with us if you would like us to learn about future legal training opportunities but your personal information will not be linked to the study or your specific survey responses.*

## **How information will be used**

*When we finish gathering all the information, we will prepare a report to share the results with law enforcement agencies, community members, community organizations and others interested in improving the use of interpreters. If you would like, we will contact you when the report is finalized and host an event where we share our findings.*

## **Length of time and compensation**

*We estimate that this interview will take approximately 20-60 minutes. You will be given a \$20 gift card to Vallarta for your participation if you participate in the interview beyond the preliminary and demographic questions.*

*You have the right to end the interview at any time.*

## **Follow up**

*If you have any questions, you can contact an interviewer by calling the Arvin office of California Rural Legal Assistance, Inc. at 661-854-3839, writing or coming into our office at 211 Bear Mountain Blvd Arvin, CA 93203. If you change your mind about participating or would like to provide new information, contact an interviewer at 661-854-3839.*

## **Demographics (to be answered by all interviewees)**

### **1. Age**

- ☐ 18 and younger
- ☐ 19-25
- ☐ 26-45
- ☐ 46-65
- ☐ 66-older

2. Gender

- ☐ Female
- ☐ Transgender Female
- ☐ Male
- ☐ Transgender Male
- ☐ Non-binary
- ☐ None of the above
- ☐ Prefer to describe: \_\_\_\_\_

3. Languages spoken and proficiency

- ☐ Language most comfortable speaking
  - ☐ (List one) \_\_\_\_\_
- ☐ Language you can understand and can speak fluently in conversation, at the doctor, during interactions with police, or any other situation with no communication barriers:
  - ☐ (List all languages that apply) \_\_\_\_\_
- ☐ Language you can understand and speak a little but need an interpreter during more complicated interactions:
  - ☐ (List all languages that apply) \_\_\_\_\_

4. Where do you live?

- ☐ (Zip code only) \_\_\_\_\_

**Preliminary Survey (to be answered by all interviewees)**

1. Have you been the victim of a crime within the last 3 years in Kern County?

- ☐ Yes
- ☐ No *(Skip to Question #3)*
- ☐ I don't know *(Skip to Question #3)*
- ☐ I do not want to say *(Skip to Question #3)*

2. If yes, how many times have you been the victim of a crime within the last 3 years in Kern County?

- ☐ 1-2
- ☐ 3-4
- ☐ 5 or more
- ☐ I don't know

3. Have you been a witness to a crime within the last 3 years in Kern County?

- ☐ Yes
- ☐ No *(Skip to Question #5)*
- ☐ I don't know *(Skip to Question #5)*
- ☐ I do not want to say *(Skip to Question #5)*

4. If yes, how many times have you been a witness to a crime within the last 3 years in Kern County?
- ☐ 1-2
  - ☐ 3-4
  - ☐ 5 or more
  - ☐ I don't know
5. Have you had an interaction with the police within the last 3 years in Kern County, other than as a victim or a witness to a crime?
- ☐ Yes
  - ☐ No *(End interview if answer to 1, 3 and 5 was "no")*
  - ☐ I don't know *(End interview if answer to 1, 3 and 5 was "no")*
  - ☐ I do not want to say *(End interview if answer to 1, 3 and 5 was "no")*
6. If yes, how many times have you had an interaction with the police within the last 3 years in Kern County, other than as a victim or witness to a crime?
- ☐ 1-2
  - ☐ 3-4
  - ☐ 5 or more
  - ☐ I don't know

## Victim Survey

### Fill out if interviewee answered "yes" to Question 1 in Prelim. Survey

*(Read to survey participant): You may have been the victim of a crime more than one time over the last three years. For the purposes of this survey, think of just one incident that sticks out in your memory, positively or negatively. You will have an opportunity at the end of the survey to tell us more if you have more to say about other incidents when you were the victim of a crime in Kern County. Take a moment to think about what incident you want to talk about. When you are ready, please answer my questions as they relate to the incident you have chosen to discuss.*

1. Do you know the name of the law enforcement agency responsible for responding to the crime? In other words, where did the crime take place? (Choose one):
- ☐ Taft Police Department
  - ☐ Bakersfield Police Department
  - ☐ Kern County Sheriff's Office
  - ☐ No, I don't know who was responsible
  - ☐ I can't remember
  - ☐ Other \_\_\_\_\_



2. What type of crime was it? (Choose all that apply):

- ☐ Robbery (someone stole something from me using a weapon or a threat of violence)
- ☐ Burglary (someone broke into my house or car)
- ☐ Sexual assault or sexual violence (someone touched me in a sexual way and I did not agree to it)
- ☐ Domestic violence (a romantic partner or other person in my family harmed me physically, prevented me from leaving a closed area, or threatened to harm me or my children to make me do something)
- ☐ Assault by a non-family member (someone who was not in my family physically harmed me)
- ☐ Other (please explain):

3. If the crime was reported, did you have access to an interpreter when you spoke to the police about the crime? A qualified interpreter is someone who has received training to be an interpreter, only relays what each person is saying, and is not adding in their own words or leaving out any words that are being spoken.

- ☐ Yes *(Skip to question 5)*
- ☐ In person
- ☐ By video
- ☐ By phone
- ☐ I had interpretation, but I provided it myself (I had a family member, friend, or community member volunteer to interpret for me). *(Go on to question 4).*
- ☐ No, because the police officer spoke Spanish well and I could communicate well with them
- ☐ No, but the police officer spoke a bit of Spanish and this is how I communicated with them
- ☐ No, the police did not speak Spanish and I did not have an interpreter. *(Skip to question 7)*

4. If a family member, friend, or community member interpreted for you, please affirm if any of these situations apply: *(Skip to question 7 once this question is completed).*

- ☐ It was the person who caused me harm during the crime
- ☐ It was another person I am afraid of or do not trust
- ☐ It was a child under the age of 18
- ☐ It was my adult child (over the age of 18)
- ☐ The person interpreting for me is not fully fluent in either of the languages they were interpreting for me in
- ☐ The person interpreting for me told other people my private or confidential information
- ☐ I could tell the person interpreting for me was not interpreting everything I said or that was said to me accurately

- ☐ I could not participate fully with the police because the person who was acting as my interpreter was not available or willing to continue interpreting for me
- ☐ Other important details about why it was difficult or inappropriate to use a non-professional interpreter: \_\_\_\_\_

5. If you did have an interpreter provided by the police (not an interpreter you provided), were you able to understand them clearly and did they seem to understand you clearly?

- ☐ Yes *(This concludes the survey).*
- ☐ No *(Go on to question 6).*

6. If you had trouble understanding the interpreter provided by the police, please choose all reasons why you think you had trouble understanding him/her/them:

- ☐ The interpreter did not speak the same Indigenous language or variant that I speak
- ☐ The interpreter spoke Spanish, and I did not understand all the words or concepts and they did not understand everything I was saying
- ☐ The interpreter was not accurate *(examples include: not interpreting everything that was being said, using the wrong words, adding words in that I did not say or I do not think the police said).*
- ☐ I couldn't hear what they were saying over the phone or video *(only ask if participant received a phone or video interpreter).*
- ☐ I understood what the interpreter was saying, but I did not feel comfortable speaking openly because of who the interpreter was:
- ☐ I knew the interpreter personally and was worried about privacy
- ☐ The interpreter was not my gender and I did not feel comfortable speaking to them
- ☐ I was worried the interpreter would tell other people in my community what I said
- ☐ Other \_\_\_\_\_

7. In your opinion, did you directly suffer any of these impacts because you did not have access to a qualified interpreter during your interaction with the police: *(answer questions 7-10 if respondent did not receive an interpreter; if you received a poor-quality interpreter; or, if you had to provide your own interpreter)*

- ☐ Yes, a physical injury was worse or exacerbated (i.e., you did not have access to emergency medical services, could not tell the police officer you were injured, etc.)
- ☐ Yes, it cost me money (missed work, lost an item of value, had to pay for something, doctor's visits, etc.)
- ☐ Yes, I stayed in an abusive relationship longer than I would have otherwise
- ☐ Yes, I lost my housing or my job
- ☐ No, I do not think I suffered any of these impacts from not having an interpreter.

8. In your opinion, were your children or other family members affected in a negative way because you didn't have access to a qualified interpreter?
- ☐ Yes (affected child's performance in school, affected child's behavior at home, affected romantic or family relationships in a negative way, broke up a relationship or caused divorce, etc.) (no specifics are needed)
  - ☐ No
9. In your opinion, did you have any mental health impacts because you did not have access to a qualified interpreter?
- ☐ I felt sad, stressed, angry, anxious, scared, lonely, powerless, suicidal, paranoid, or hopeless.
  - ☐ My mental health was not affected
  - ☐ My mental health was affected in another way not described above:  
\_\_\_\_\_
10. Was your reputation in the community affected in a negative way because you did not have access to a qualified interpreter after being the victim of a crime?
- ☐ Yes
  - ☐ No
  - ☐ Other: \_\_\_\_\_
11. Did you (or someone else) report the crime to the police? "Reporting" meaning that you or someone else informed the police that a crime took place.
- ☐ Yes, I reported the crime or someone else reported the crime  
*(Skip to question 14).*
  - ☐ No, nobody reported the crime
  - ☐ I do not remember *(Skip to question 14).*
12. Why didn't you report the crime? *(Interviewer – choose box that best fits answer or fill in "other." Do not read all options)*
- ☐ I was afraid I would be treated poorly because of my language or skin color
  - ☐ I did not think I would be able to speak to anyone who understands my language
  - ☐ I knew I would have to bring someone to interpret for me, and I did not want to have to do that
  - ☐ I did not know how to report
  - ☐ I was afraid to because I don't have papers
  - ☐ I was afraid to because I was scared of the police
  - ☐ I was afraid that nobody would believe me
  - ☐ I was afraid if I reported, I would be harmed by my perpetrator
  - ☐ I was afraid if I reported, I would be accused of a crime
  - ☐ Other: \_\_\_\_\_

13. Would you have been more likely to report the crime if you had been provided with a qualified interpreter who speaks your language?
- ☐ Yes
  - ☐ No
  - ☐ Would not have affected my decision either way
  - ☐ Other \_\_\_\_\_
14. Did the incident you discussed in this survey change the amount of trust you have in the police?
- ☐ Made me trust them more
  - ☐ Made me trust them less
  - ☐ No change
15. Is there anything else you want tell me about how you were impacted by not having access to a qualified interpreter or about how language barriers impacted your experience with the police (in a good way or in a bad way)?
- ☐ (Interviewer, transcribe answer)

## **Witness Survey**

### **Fill out if interviewee answered “yes” to Question 3 in Prelim. Survey**

*(Read to survey participant): You may have been the witness to a crime more than one time over the last three years. For the purposes of this survey, think of just one incident that sticks out in your memory, positive or negatively. You will have an opportunity at the end of the survey to tell us more if you have more to say about other incidents when you were the witness to a crime in Kern County. Take a moment to think about what incident you want to talk about. When you are ready, please answer my questions as they relate to the incident you have chosen to discuss.*

1. Do you know the name of the law enforcement agency responsible for responding to the crime? (Choose one):
- ☐ Taft Police Department
  - ☐ Bakersfield Police Department
  - ☐ Kern County Sheriff’s Office
  - ☐ No, I don’t know who was responsible
  - ☐ I can’t remember
  - ☐ Other \_\_\_\_\_
2. What type of crime was it? (Choose all that apply):
- ☐ Robbery (someone stole something from someone using a weapon or a threat of violence)
  - ☐ Burglary (someone broke into a house or car)
  - ☐ Sexual assault or sexual violence (someone touched another person in a sexual way and that person did not agree to it)

- ☐ Domestic violence (a romantic partner or other person in the victim's family harmed the victim physically, prevented the victim from leaving a closed area, or threatened to harm the victim or the victim's children to make the victim do something)
  - ☐ Assault by a non-family member (someone who was not in the victim's family physically harmed the victim)
  - ☐ Other (please explain):
3. If the crime was reported, did you have access to an interpreter when you spoke to the police about the crime? A qualified interpreter is someone who has received training to be an interpreter, only relays what each person is saying, and is not adding in their own words or leaving out any words that are being spoken.
- ☐ Yes *(Skip to question 5)*
  - ☐ In person
  - ☐ By video
  - ☐ By phone
  - ☐ I had interpretation, but I provided it myself (I had a family member, friend, or community member volunteer to interpret for me). *(Go on to question 4).*
  - ☐ No, because the police officer spoke Spanish well and I could communicate well with them
  - ☐ No, but the police officer spoke a bit of Spanish and this is how I communicated with them
  - ☐ No, the police did not speak Spanish and I did not have an interpreter. *(Skip to question 7)*
4. If a family member, friend, or community member interpreted for you, please affirm if any of these situations apply: *(Skip to question 7 once this question is completed).*
- ☐ It was the person who caused the victim harm during the crime
  - ☐ It was the victim of the crime
  - ☐ It was another person I am afraid of or do not trust
  - ☐ It was a child under the age of 18
  - ☐ It was my adult child (over the age of 18)
  - ☐ The person who interpreted for me is not fully fluent in either of the languages they were interpreting for me in
  - ☐ The person who interpreted for me told other people my private or confidential information
  - ☐ I could tell the person interpreting for me was not interpreting everything I said or that was said to me accurately
  - ☐ I could not participate fully with the police because the person who was acting as my interpreter was not available or willing to continue interpreting for me
  - ☐ Other important details about why it was difficult or inappropriate to use a non-professional interpreter: \_\_\_\_\_



5. If you did have an interpreter provided by the police (not an interpreter you provided), were you able to understand them clearly and did they seem to understand you clearly?
- ☐ Yes *(This concludes the survey).*
  - ☐ No
6. If you had trouble understanding the interpreter provided by the police, please choose all reasons why you think you had trouble understanding him/her/them:
- ☐ The interpreter did not speak the same Indigenous language or variant that I speak
  - ☐ The interpreter spoke Spanish, and I did not understand all the words or concepts and they did not understand everything I was saying
  - ☐ The interpreter was not accurate *(examples include: not interpreting everything that was being said, using the wrong words, adding words in that I did not say or I do not think the police said).*
  - ☐ I couldn't hear what they were saying over the phone or video *(only answer if participant received a phone or video interpreter).*
  - ☐ I understood what the interpreter was saying, but I did not feel comfortable speaking openly because of who the interpreter was:
  - ☐ I knew the interpreter personally and was worried about privacy
  - ☐ The interpreter was not my gender and I did not feel comfortable speaking to them
  - ☐ I was worried the interpreter would tell other people in my community what I said
  - ☐ Other \_\_\_\_\_
7. In your opinion, did you directly suffer any of these impacts because you did not have access to a qualified interpreter during your interaction with the police: *(answer questions 7-10 if you did not receive an interpreter, if you received a poor-quality interpreter, or if you have to provide your own interpreter)*
- ☐ Yes, a physical injury was worse or exacerbated (i.e., you did not have access to emergency medical services, could not tell the police officer you were injured, etc.)
  - ☐ Yes, it cost me money (missed work, lost an item of value, had to pay for something, doctor's visits, etc.)
  - ☐ Yes, I stayed in an abusive relationship longer than I would have otherwise
  - ☐ Yes, I lost my housing or my job
  - ☐ No, I do not think I suffered any of these impacts from not having an interpreter.
8. In your opinion, were your children or other family members affected in a negative way because you didn't have access to a qualified interpreter?
- ☐ Yes (affected child's performance in school, affected child's behavior at home, affected romantic or family relationships in a negative way, broke up a relationship or caused divorce, etc.) (no specifics are needed)
  - ☐ No

9. In your opinion, did you have any mental health impacts because you did not have access to a qualified interpreter?
- ☐ I felt sad, stressed, angry, anxious, scared, lonely, powerless, suicidal, paranoid, or hopeless.
  - ☐ My mental health was not affected
  - ☐ My mental health was affected in another way not described above:  
\_\_\_\_\_
10. Was your reputation in the community affected in a negative way because you did not have access to a qualified interpreter after being the victim of a crime?
- ☐ Yes
  - ☐ No
  - ☐ Other: \_\_\_\_\_
11. Did you (or someone else) report the crime to the police? "Reporting" meaning that you or someone else informed the police that a crime took place.
- ☐ Yes, I reported the crime or someone else reported the crime  
*(Skip to question 14).*
  - ☐ No, nobody reported the crime
  - ☐ I do not remember *(Skip to question 14).*
12. Why didn't you report the crime? *(Interviewer – choose box that best fits answer or fill in "other." Do not read all options)*
- ☐ I was afraid I would be treated poorly because of my language or skin color
  - ☐ I did not think I would be able to speak to anyone who understands my language
  - ☐ I knew I would have to bring someone to interpret for me, and I did not want to have to do that
  - ☐ I did not know how to report
  - ☐ I was afraid to because I don't have papers
  - ☐ I was afraid to because I was scared of the police
  - ☐ I was afraid that nobody would believe me
  - ☐ I was afraid if I reported, I would be harmed by the perpetrator
  - ☐ I was afraid if I reported, I would be accused of a crime
  - ☐ Other: \_\_\_\_\_
13. Would you have been more likely to report the crime if you had been provided with a qualified interpreter who speaks your language?
- ☐ Yes
  - ☐ No
  - ☐ Would not have affected my decision either way
  - ☐ Other \_\_\_\_\_

14. Did the incident you discussed in this survey change the amount of trust you have in the police?
- ☐ Made me trust them more
  - ☐ Made me trust them less
  - No change
15. Is there anything else you want tell me about how you were impacted by not having access to a qualified interpreter or about how language barriers impacted your experience with the police (in a good way or in a bad way)?
- ☐ (Interviewer, transcribe answer)

### Other Police Encounters Survey

#### Fill out if interviewee answered "yes" to Question 5 in Prelim. Survey

*(Read to survey participant): You may have had other encounters with the police over the last three years when you were not the victim or witness of a crime. You might have been accused of a crime or suspected of a crime or just encountered the police briefly. For the purposes of this survey, think of just one incident that sticks out in your memory, positive or negatively. You will have an opportunity at the end of the survey to tell us more if you have more to say about other incidents when you had an encounter with the police where you were not the victim or witness of a crime. Take a moment to think about what incident you want to talk about. When you are ready, please answer my questions as they relate to the incident you have chosen to discuss.*

1. What type of encounter did you have with the police? Interviewer – let the participant offer a response and categorize it into one of the below or fill in the blank if there is no answer that applies:
- ☐ I was pulled over in my car
  - ☐ I was a passenger in a car that was pulled over
  - ☐ I was arrested for a crime that I committed
  - ☐ I was arrested for a crime that I did not commit
  - ☐ I was stopped in a public location for something illegal that I was doing
  - ☐ I was stopped in a public location, but I was not doing anything illegal
  - ☐ I was approached at a house (my own or another person's house) for something illegal I was doing
  - ☐ I was approached at a house (my own or another person's house) but I was not doing anything illegal
  - ☐ I was mistaken for another person who the police were looking for
  - ☐ I interacted with the police because a family member or friend was the victim or witness to a crime
  - ☐ Other: \_\_\_\_\_

2. Do you know the name of the law enforcement agency you had an encounter with?  
(Choose one):
- ☐ Taft Police Department
  - ☐ Bakersfield Police Department
  - ☐ Kern County Sheriff's Office
  - ☐ No, I don't know who I had the encounter with
  - ☐ I can't remember
  - ☐ Other \_\_\_\_\_
3. Did the encounter result in your arrest? *An arrest occurs when the police take you into custody and you are no longer free to walk away.*
- ☐ Yes *(go on to question 4)*
  - ☐ No *(skip to question 5)*
  - ☐ I don't know *(skip to question 13)*
4. When you were arrested, were you provided with an interpreter when you spoke to the police about the crime? *A qualified interpreter is someone who has received training to be an interpreter, only relays what each person is saying, and is not adding in their own words or leaving out any words that are being spoken.*
- ☐ Yes *(Skip to question 6)*
    - ☐ In person
    - ☐ By video
    - ☐ By phone
  - ☐ I had interpretation, but I provided it myself (I had a family member, friend, or community member volunteer to interpret for me). *(Go on to question 5).*
  - ☐ No, because the police officer spoke Spanish well and I could communicate well with them
  - ☐ No, but the police officer spoke a bit of Spanish and this is how I communicated with them
  - ☐ No, the police did not speak Spanish and I did not have an interpreter. *(Skip to question 8)*
5. If a family member, friend, or community member interpreted for you, please affirm if any of these situations apply: *(Skip to question 8 once this question is completed).*
- ☐ It was the person who I was accused of causing harm to
  - ☐ It was a potential witness to the crime I was accused of
  - ☐ It was a child under the age of 18
  - ☐ It was my adult child (over the age of 18)
  - ☐ The person who interpreted for me is not fully fluent in either of the languages they were interpreting for me in
  - ☐ The person who interpreted for me told other people my private or confidential information

- ☐ I could tell the person interpreting for me was not interpreting everything I said or that was said to me accurately
- ☐ I could not participate fully with the police because the person who was acting as my interpreter was not available or willing to continue interpreting for me
- ☐ Other important details about why it was difficult or inappropriate to use a non-professional interpreter: \_\_\_\_\_

6. If you did have an interpreter provided by the police (not an interpreter you provided), were you able to understand them clearly and did they seem to understand you clearly?

- ☐ Yes *(This concludes the survey).*
- ☐ No

7. If you had trouble understanding the interpreter provided by the police, please choose all reasons why you think you had trouble understanding him/her/them:

- ☐ The interpreter did not speak the same Indigenous language or variant that I speak
- ☐ The interpreter spoke Spanish, and I did not understand all the words or concepts and they did not understand everything I was saying
- ☐ The interpreter was not accurate *(examples include: not interpreting everything that was being said, using the wrong words, adding words in that I did not say or I do not think the police said).*
- ☐ I couldn't hear what they were saying over the phone or video *(only answer if participant received a phone or video interpreter).*
- ☐ I understood what the interpreter was saying, but I did not feel comfortable speaking openly because of who the interpreter was:
  - ☐ I knew the interpreter personally and was worried about privacy
  - ☐ The interpreter not my gender and I did not feel comfortable speaking to them
  - ☐ I was worried the interpreter would tell other people in my community what I said
  - ☐ Other \_\_\_\_\_

8. In your opinion, did you directly suffer any of these impacts because you did not have access to a qualified interpreter during your interaction with the police: *(answer questions 8-11 if: you did not receive an interpreter; if you received a poor-quality interpreter; or, if you have to provide your own interpreter)*

- ☐ Yes, a physical injury was worse or exacerbated (i.e., you did not have access to emergency medical services, could not tell the police officer you were injured, etc.)
- ☐ Yes, it cost me money (missed work, lost an item of value, had to pay for something, doctor's visits, etc.)
- ☐ Yes, I was not able to give important information to the police to defend myself against the charges
- ☐ Yes, I stayed in an abusive relationship longer than I would have otherwise



- ☐ Yes, I lost my housing or my job
  - ☐ Yes, I would not have been arrested in the first place if I had been able to communicate with the police from the beginning of the encounter
  - ☐ Yes, I went to jail or was found guilty or had to plead guilty to something that I did not do
  - ☐ No, I do not think I suffered any of these impacts from not having an interpreter
9. In your opinion, were your children or other family members affected in a negative way because you didn't have access to a qualified interpreter?
- ☐ Yes (affected child's performance in school, affected child's behavior at home, affected romantic or family relationships in a negative way, broke up a relationship or caused divorce, etc.) (no specifics are needed)
  - ☐ No
10. In your opinion, did you have any mental health impacts because you did not have access to a qualified interpreter?
- I felt sad, stressed, angry, anxious, scared, lonely, powerless, suicidal, paranoid, or hopeless.
- ☐ My mental health was not affected
  - ☐ My mental health was affected in another way not described above:  
\_\_\_\_\_
11. Was your reputation in the community affected in a negative way because you did not have access to a qualified interpreter after being the victim of a crime?
- ☐ Yes
  - ☐ No
  - ☐ Other: \_\_\_\_\_
12. Did the incident you discussed in this survey change the amount of trust you have in the police?
- ☐ Made me trust them more
  - ☐ Made me trust them less
  - ☐ No change
13. Is there anything else you want tell me about how you were impacted by not having access to a qualified interpreter or about how language barriers impacted your experience with the police (in a good way or in a bad way)?
- ☐ (Interviewer transcribe answer)

## Appendix 3. Bakersfield Police Department Limited English Proficient Policy and Taft Police Department Limited English Proficient Policy

### Policy 368

#### Bakersfield Police Department Bakersfield PD Policy Manual

## Limited English Proficiency Services

### 368.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

#### 368.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

**Interpret or interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

**Limited English proficient (LEP)** - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

**Qualified bilingual member** - A member of the Bakersfield Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

**Translate or translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

### 368.2 POLICY

It is the policy of the Bakersfield Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

#### 368.2.1 IDENTIFICATION OF LEP INDIVIDUAL'S LANGUAGE

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language in an effort to avoid misidentifying that language.

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### Limited English Proficiency Services

#### **368.3 LEP COORDINATOR**

The Chief of Police shall delegate certain responsibilities to an LEP Coordinator. The LEP Coordinator shall be appointed by, and directly responsible to, the Operations Division Commander or the authorized designee. The Training Lieutenant shall serve as the LEP Coordinator.

The responsibilities of the LEP Coordinator include, but are not limited to:

- (a) Coordinating and implementing all aspects of the Bakersfield Police Department's LEP services to LEP individuals.
- (b) Developing procedures that will enable members to access LEP services, including telephonic interpreters, and ensuring the procedures are available to all members.
- (c) Ensuring that a list of all qualified bilingual members and authorized interpreters is maintained and available to each Watch Commander and Communications Manager. The list should include information regarding the following:
  - 1. Languages spoken
  - 2. Contact information
  - 3. Availability
- (d) Ensuring signage stating that interpreters are available free of charge to LEP individuals is posted in appropriate areas and in the most commonly spoken languages.
- (e) Reviewing existing and newly developed documents to determine which are vital documents and should be translated, and into which languages the documents should be translated.
- (f) Annually assessing demographic data and other resources, including contracted language services utilization data and community-based organizations, to determine if there are additional documents or languages that are appropriate for translation.
- (g) Periodically reviewing efforts of the Department in providing meaningful access to LEP individuals, and, as appropriate, developing reports, new procedures or recommending modifications to this policy.
- (h) Receiving and responding to complaints regarding department LEP services.
- (i) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

##### **368.3.1 BILINGUAL PERSONNEL**

Personnel utilized for LEP services need not be certified as interpreters, but must have demonstrated, through established department procedures, a level of competence to ascertain whether his/her language skills are best suited to monolingual communications, interpretation, translation, or all or none of these functions.

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All personnel used for communication with LEP individuals must demonstrate knowledge of the functions of an interpreter and the ethical issues involved when acting as a language conduit. In addition, employees who serve as interpreters and/or translators must have demonstrated competence in both English and the non-English language. When bilingual personnel from this department are not available, personnel from other city departments who have the requisite training may be requested.

#### 368.3.2 WRITTEN FORMS AND GUIDELINES

This department will determine the most frequently used and critical forms and guidelines and translate these documents into the languages most likely to be requested. The Department will arrange to make these translated forms available to department personnel and other appropriate individuals.

#### 368.3.3 AUDIO RECORDINGS

The Department may develop audio recordings of information that is either important to or frequently requested by LEP individuals for broadcast in a language most likely to be understood by involved LEP individuals.

#### 368.3.4 TELEPHONE INTERPRETER SERVICES

The Watch Commander and the Communications Manager will maintain a list of qualified interpreter services. These services shall be available, with the approval of a supervisor, to assist department personnel in communicating with LEP individuals via official cellular telephones.

#### 368.3.5 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF INTERPRETATION

Where competent bilingual departmental personnel or other City-certified staff are unavailable to assist, responsible members of the community who have demonstrated competence in either monolingual (direct) communication and/or in interpretation and translation (as noted in above) may be called upon to assist in communication efforts. Sources for these individuals may include neighboring police departments, university languages and linguistics departments, local businesses, banks, churches, neighborhood leaders and school officials. Department personnel should ensure that community members are able to provide unbiased assistance. The nature of the contact and relationship between the LEP individual and the individual offering services must be carefully considered (e.g., victim/suspect).

Except for exigent or very informal and non-confrontational circumstances, the use of an LEP individual's bilingual friends or family members, particularly children, are generally not recommended and department personnel shall make case-by-case determinations on the appropriateness of using such individuals (for further guidance see: Section V(3) of the DOJ Final Guidance available at the DOJ [website](#)).

#### 368.4 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which



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measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

#### 368.4.1 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

In order to provide LEP individuals with meaningful access to police services when they are victims of, or witnesses to, alleged criminal activity or other emergencies, this department has designated its 9-1-1 lines as its top priority for language services. Department personnel will make every reasonable effort to promptly accommodate such LEP individuals utilizing 9-1-1 lines through any or all of the above resources.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

#### 368.4.2 EMERGENCY CALLS TO 9-1-1

When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker should quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a language-appropriate authorized interpreter is available in the Communications Center, the call-taker should immediately connect the LEP caller to the interpreter.

If an appropriate authorized interpreter is not available, the call-taker will promptly connect the LEP caller to the contracted telephonic interpretation service directly for assistance in completing the call. Dispatchers will make every reasonable effort to dispatch a bilingual officer to the assignment, if available.

The Bakersfield Police Department will take reasonable steps and will work with the Department of Human Resources to hire and develop in-house language capacity in the Communications Center by hiring qualified personnel with specific language skills.

#### 368.4.3 FIELD ENFORCEMENT AND INVESTIGATIONS

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts which may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Department personnel must assess each situation to determine the need and availability for



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translation services to all involved LEP individuals and utilize the methods outlined in § 368.3 to provide appropriate language assistance.

Although not every situation can be addressed in this policy, it is important that department personnel are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action taken with an LEP individual. It would, for example, be meaningless to request consent to search if the person requesting is unable to effectively communicate with an LEP individual.

#### 368.4.4 INVESTIGATIVE INTERVIEWS

In any situation where the translation of an interview may contain information that might be used in a criminal trial, it is important to take certain steps to improve the chances of admissibility. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

Any person selected as an interpreter and/or translator must have demonstrated competence in both English and the non-English language involved and knowledge of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the case. The person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation to the court.

#### 368.4.5 CUSTODIAL INTERROGATIONS AND BOOKINGS

In an effort to ensure the rights of LEP individuals are protected during arrest and custodial interrogation, this department places a high priority on providing competent interpretation during such situations. It is further recognized that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution. As such, department personnel providing interpretation services or translated forms in these situations will have demonstrated competence in interpretation/translation and make every reasonable effort to accurately interpret/translate all communications with LEP individuals.

In order to ensure that translations during criminal investigations are documented accurately and admissible as evidence, audio recordings of interrogations, victim interviews and witness interviews should be used whenever reasonably possible.

Employees providing interpretation or translation services shall also be aware of the inherent communication impediments to gathering information from the LEP individual throughout the booking process or any other situation in which an LEP individual is within the control of department personnel. Medical screening questions are commonly used to elicit information on an individual's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, resulting symptoms upon withdrawal from certain medications, or the need to segregate the arrestee from other prisoners, therefore it is important for members of this department to make every reasonable effort to provide effective language services in these situations.

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#### **368.4.6 COMPLAINTS**

The Department shall ensure access to LEP persons who wish to file a complaint regarding the discharge of department duties. The Department may do so by providing interpretation assistance or translated forms to such individuals. If the Department responds to complaints filed by LEP individuals, the Department shall attempt to communicate its response in an accessible manner.

#### **368.4.7 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department have become increasingly recognized as important to the ultimate success of more traditional law enforcement duties. As such, this department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services to LEP individuals and groups.

#### **368.5 TYPES OF LEP ASSISTANCE AVAILABLE**

Bakersfield Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

#### **368.6 SUPPLEMENTAL MATERIALS PROVIDED TO DEPARTMENT EMPLOYEES**

The following materials will be made available to employees to assist in providing access and service to LEP individuals:

- (a) Listing of departmental bilingual employees, languages spoken, contact and shift information.
- (b) Listing of department-certified interpretation services bilingual interpreters, languages spoken, contact and availability information.
- (c) Phone number and access code of telephonic interpretation services.
- (d) Translated Miranda warning cards and other frequently-used translated documents.
- (e) Any audio recordings/warnings that are developed in non-English languages.

#### **368.7 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue

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to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

#### **368.8 TRAINING**

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

The Planning, Research, and Training Lieutenant shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Planning, Research, and Training Lieutenant shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

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### 368.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

#### 368.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

**Interpret or interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

**Limited English proficient (LEP)** - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

**Qualified bilingual member** - A member of the Taft Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

**Translate or translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

### 368.2 POLICY

It is the policy of the Taft Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

#### 368.2.1 QUALIFYING INDIVIDUALS

While this department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right, the above analysis will be utilized to determine the availability and level of assistance provided to any LEP individual or group.

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#### **368.3 LEP COORDINATOR**

The Chief of Police shall delegate certain responsibilities to an LEP Coordinator. The LEP Coordinator shall be appointed by, and directly responsible to, the Operations Lieutenant or the authorized designee.

The responsibilities of the LEP Coordinator include, but are not limited to:

- (a) Coordinating and implementing all aspects of the Taft Police Department's LEP services to LEP individuals.
- (b) Developing procedures that will enable members to access LEP services, including telephonic interpreters, and ensuring the procedures are available to all members.
- (c) Ensuring that a list of all qualified bilingual members and authorized interpreters is maintained and available to each Watch Commander and Dispatch Supervisor. The list should include information regarding the following:
  1. Languages spoken
  2. Contact information
  3. Availability
- (d) Ensuring signage stating that interpreters are available free of charge to LEP individuals is posted in appropriate areas and in the most commonly spoken languages.
- (e) Reviewing existing and newly developed documents to determine which are vital documents and should be translated, and into which languages the documents should be translated.
- (f) Annually assessing demographic data and other resources, including contracted language services utilization data and community-based organizations, to determine if there are additional documents or languages that are appropriate for translation.
- (g) Identifying standards and assessments to be used by the Department to qualify individuals as qualified bilingual members or authorized interpreters.
- (h) Periodically reviewing efforts of the Department in providing meaningful access to LEP individuals, and, as appropriate, developing reports, new procedures or recommending modifications to this policy.
- (i) Receiving and responding to complaints regarding department LEP services.
- (j) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.



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#### 368.3.1 BILINGUAL STAFF

Individual officers and employees need not be certified as interpreters, but need only have a competent understanding of the language involved. When bilingual employees of this department are not available, employees from other departments within the area may be requested by a supervisor depending on the circumstances.

#### 368.3.2 WRITTEN FORMS AND GUIDELINES

This department will endeavor to provide frequently used and critical forms and guidelines in languages most commonly represented within the community or a particular area. When appropriate, these forms will be conspicuously posted at the front counter and otherwise available upon request. For example, the Department's Personnel Complaint form and information about various department programs and services should be made readily available to LEP individuals.

#### 368.3.3 AUDIO RECORDINGS

From time to time, the Department may develop audio recordings of important information needed by LEP individuals. For example, officers may be provided with a canine warning or crowd dispersal order for broadcast in a language most likely to be understood by involved LEP individuals.

#### 368.3.4 TELEPHONE INTERPRETER SERVICES

The Watch Commander and Dispatch Supervisor will maintain a list of qualified interpreter services which may be contacted to assist LEP individuals upon approval of a supervisor.

#### 368.3.5 COMMUNITY VOLUNTEERS

Depending on the circumstances, location and availability, responsible members of the community may be available to provide qualified interpreter services. Sources for these individuals may include local businesses, banks, churches, neighborhood leaders and school officials. In addition to such sources developed by individual officers, the Department will attempt to maintain and update a list of qualified community volunteers.

#### 368.3.6 FAMILY AND FRIENDS OF LEP INDIVIDUAL

While family and friends of an LEP individual may frequently offer to assist with interpretation, officers should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in emergency or critical situations. Further, the nature of the contact and relationship between the LEP individual and the individual offering services must be carefully considered (e.g., victim/suspect).

#### 368.3.7 POSTING OF AVAILABLE SERVICES

Forms printed in available languages should be maintained in a conspicuous location at the front counter and other appropriate areas such as a booking area. When such forms are either unavailable or inappropriate, the Department will post a conspicuous notice that LEP services may be available.

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#### **368.4 FOUR-FACTOR ANALYSIS**

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

##### **368.4.1 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

In order to provide LEP individuals with meaningful access to police services when they are victims of, or witnesses to, alleged criminal activity or other emergencies, this department has designated its 911 lines as its top priority for language services. Department personnel will make every reasonable effort to promptly accommodate such LEP individuals utilizing 911 lines through any or all of the above resources.

While 911 calls shall receive top priority, it is also important that reasonable efforts be made to accommodate LEP individuals seeking more routine access to services and information from this department.

##### **368.4.2 CUSTODIAL INTERROGATIONS AND BOOKINGS**

In an effort to ensure the rights of LEP individuals are protected during arrest and custodial interrogation, this department places a high priority on providing competent translation during such situations. It is further recognized that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution. As such, department personnel providing translation services or forms in these situations will make every reasonable effort to accurately translate all communications with LEP individuals.

Employees providing translation services shall also be aware of the inherent communication impediments to gathering information from the LEP individual throughout the booking process or any other situation in which an LEP individual is within the control of Department personnel. Medical screening questions are commonly used to elicit information on individual's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, resulting symptoms upon withdrawal from certain medications, or the need to segregate the arrestee from other prisoners, therefore it is important for this department to make every reasonable effort to provide effective language services in these situations.

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#### **368.4.3 FIELD ENFORCEMENT AND INVESTIGATIONS**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts which may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary, therefore the Department recognizes that it would be virtually impossible to provide immediate access to complete translation services to every officer in the field. Each officer and/or supervisor must, however, assess each such situation to determine the need and availability for translation services to any and all involved LEP individuals.

Although not every situation can be addressed within this policy, it is important that an officer is able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action taken with an LEP individual. It would also, for example, be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

#### **368.4.4 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department, have become increasingly recognized as important to the ultimate success of more traditional law enforcement duties. As such, this department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services to LEP individuals and groups.

#### **368.5 TYPES OF LEP ASSISTANCE AVAILABLE**

Taft Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

#### **368.6 WRITTEN FORMS AND GUIDELINES**

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP Coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

#### **368.7 QUALIFIED BILINGUAL MEMBERS**

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently

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communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

When a qualified bilingual member from this department is not available, personnel from other City departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

#### **368.8 AUTHORIZED INTERPRETERS**

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the LEP Coordinator which demonstrates that their skills and abilities include:

- (a) The competence and ability to communicate information accurately in both English and in the target language.
- (b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.
- (c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (d) Knowledge of the ethical issues involved when acting as a language conduit.

#### **368.8.1 SOURCES OF AUTHORIZED INTERPRETERS**

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.



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- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

#### **368.8.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE**

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

#### **368.9 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

#### **368.10 INVESTIGATIVE FIELD INTERVIEWS**

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and



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suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

#### **368.11 CUSTODIAL INTERROGATIONS**

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

#### **368.12 BOOKINGS**

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

#### **368.13 COMPLAINTS**

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the LEP Coordinator.

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Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

#### **368.14 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

The Taft Police Department will take reasonable steps and will work with the Department of Human Resources to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

##### **368.14.1 EMERGENCY CALLS TO 9-1-1**

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in Dispatch, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

#### **368.15 TRAINING**

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

The Training Supervisor shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Training Supervisor shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

## Appendix 4. Gathering Baseline Language Data and Summary of Results from Kern County

The ease with which one can gather data about the number of speakers of a particular language depends on the language. American Communities Survey (ACS)<sup>51</sup> or by the Migration Policy Institute (MPI)<sup>52</sup> provide a useful tool for estimating the numbers of speakers of many common languages in the United States. The ACS is conducted by the United States Census Bureau every month of every year and generates data on a rolling basis about various topics that are more detailed than the decennial U.S. Census. ACS forms are sent to sample addresses and covers topics that include language data. MPI is a non-partisan think tank that compiles detailed information, including language characteristics about immigration populations. Agencies can get a barebones, baseline idea of language needs of the community between these two datasets about languages that are accurately captured by both entities.

However, there are some languages that are either not listed or are not listed in the detail necessary to correctly identify the language for the purposes of language access planning. Indigenous Latin American languages are an example of this. Apart from the actual logistical challenges in participating in a paper survey (considering literacy and language barriers), the “buckets” identifying the Indigenous language are typically broader than what would be useful for the purposes of proactively identifying interpreters who could be a match.

Aware of the limitations of these two data sets, we then turned to other local sources of language data to get an idea of the numbers of speakers of each Indigenous Latin American language. There are various agencies who either have an obligation to record language use or traditionally record language use as part of their legally required language planning process, including:

- Hospitals
- Schools
- Courts
- Department of Public Health

A member of the project team contacted language access coordinators from area schools, hospitals, the Kern County Department of Public Health and the Kern County Superior Court. As seen in Fig. 4 above, results varied and no entity recorded information about the region of origin with the language to help make a language match. Not all entities recorded languages requested/needed or admitted that they did not accurately catch all languages. Anecdotally, we are aware of a large disparity between the Indigenous languages that were captured by local agencies and the number of speakers of Indigenous languages residing in Kern County.

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51 United States Census Bureau, American Community Survey, retrieved from: <https://www.census.gov/programs-surveys/acs>

52 Migration Policy Institute, retrieved from: <https://www.migrationpolicy.org/>

School districts send students home with the “Home Language Survey” which is a form that parents can fill out to indicate their preferred language to communicate with the school. However, note that some districts only list two options (English or Spanish) and that, anecdotally, we are aware that many Indigenous parents just put “Spanish” because they have no hope of receiving an Indigenous language interpreter and figure they speak more words of Spanish than English.

When the typical methods of gathering data about language needs are not successful, agencies can turn to community-based organizations, legal aid, and other social service organizations who serve immigrant populations for a better sense of what the language needs are of the community. Other good sources of information could be religious organizations, low-income clinics, and the Labor Commissioner. Note, of course, that these numbers are all small sample numbers, since the number of people accessing these institutions or services will only be a percentage of the overall number of people living in the area.

The following chart summarizes the results of various inquiries into the number of Indigenous language speakers in Kern County. All of these responses indicate that, county-wide, there is a failure to capture Indigenous language needs.

## Baseline Data about Indigenous Mexican Language Speakers in Kern County

### Healthcare

SOURCE	2010	2015	2016
Hospital In-Patient and Emergency Department Information for Patients from Kern County (OSHDP): Preferred language	1 Mixteco write-in	No Indigenous languages reported	No Indigenous languages reported
Primary Care Clinics (OSHDP)	No Indigenous languages reported	No Indigenous languages reported	No Indigenous languages reported

## Legal Sector

### Interpreting Use by the Superior Court of California, County of Kern

Language	2013	2014	2015	2016	2017	2018 (as of 3/8/18)
Amuzgo	0	1	0	1	2	0
Mixteco	7	15	16	18	23	9
Nahuatl	0	0	0	0	6	0
Purépecha	1	1	1	1	0	0
Trique	1	0	0	0	0	0
Tzotzil	0	0	0	1	0	0
Zapoteco	0	0	0	3	3	2

\*Note that the Superior Court was the only sector that gathered more detailed information about variant, though they stopped short of collecting regional information that would be necessary to accurately match an interpreter.

## Education

### Kern County Total:

- Mixteco Speaking EL Students: 78
- Zapoteco Speaking EL Students: 1

District	Total Enrollment 16-17	Total EL Students 16-17	Mixteco Speaking EL Students 16-17	Spanish Speaking EL Students 16-17	EL Student "Other" Language 16-17	Low SES (Free and Reduced Lunch) 16-17
Arvin Union	3,028	2,096	3	2,052	-	2,838
Bakersfield City	30,372	8,738	14	8,540	37	27,010
Beardsley Elementary	1,810	166	0	160	1	1,584
Belridge Elementary	32	10	0	10	0	23
Blake Elementary	11	3	0	3	0	-



District	Total Enrollment 16-17	Total EL Students 16-17	Mixteco Speaking EL Students 16-17	Spanish Speaking EL Students 16-17	EL Student "Other" Language 16-17	Low SES (Free and Reduced Lunch) 16-17
Buttonwillow Union Elementary	374	246	0	243	0	324
Caliente Union	51	NA	NA	NA	NA	36
Delano Joint Union High	4,224	1,223	0	1,093	12	3,799
Delano Union Elementary	7,387	3,548	43	3,303	40	5,949
Di Giorgio Elementary	229	126	0	126	0	221
Edison Elementary	1,059	295	0	290	0	967
El Tejon Unified	785	88	0	86	0	513
Elk Hills Elementary	185	5	0	5	0	108
Fairfax Elementary	2,699	1,079	0	1,025	3	2,371
Fruitvale Elementary	3,211	169	0	117	24	1,448
General Shafter Elementary	146	68	0	68	0	109
Greenfield Union	9,361	2,486	0	2,378	10	7,995
Kern County Superintendent of Schools	4,389	833	0	808	5	2,981
Kern High	38,705	2,865	0	2,656	43	25,454
Kernville Union Elementary	881	13	0	11	0	679
Lakeside Union	1,374	219	0	169	7	878

District	Total Enrollment 16-17	Total EL Students 16-17	Mixteco Speaking EL Students 16-17	Spanish Speaking EL Students 16-17	EL Student "Other" Language 16-17	Low SES (Free and Reduced Lunch) 16-17
Lamont Elementary	3,075	1,897	1	1,891	0	2,689
Linns Valley-Poso Flats Union	22	NA	-	-	-	-
Lost Hills Union Elementary	567	448	0	448	0	321
Maple Elementary	292	44	0	43	0	168
Maricopa Unified	3,972	147	3	119	6	2,000
McFarland Unified	3,570	1,504	3	1,483	1	3,132
McKittrick Elementary	77	NA	-	-	-	16
Midway Elementary	85	NA	-	-	-	47
Mojave Unified	2,735	376	0	368	3	2,244
Muroc Joint Union	1,881	51	0	42	1	554
Norris Elementary	4,098	133	0	80	15	878
Panama Buena Vista Union	17,900	3,031	0	2,381	134	11,724
Pond Union Elementary	196	84	0	82	0	177
Richland Union Elementary	3,466	1,545	0	1,506	0	3,112
Rio Bravo-Greeley	1,033	158	0	149	0	531

District	Total Enrollment 16-17	Total EL Students 16-17	Mixteco Speaking EL Students 16-17	Spanish Speaking EL Students 16-17	EL Student "Other" Language 16-17	Low SES (Free and Reduced Lunch) 16-17
Rosedale Union Elementary	5,619	253	0	170	34	1,502
SBE Ridgecrest Charter	475	35	0	26	0	253
Semitropic Elementary	226	140	0	140	0	190
Sierra Sands Unified	5,020	390	0	323	32	2,444
South Fork Union	241	4	0	4	0	203
Southern Kern Unified	3,406	587	0	580	0	2,437
Standard Elementary	3,130	178	0	163	5	2,372
Taft City	2,216	858	4	841	7	1,795
Taft Union High	1,034	77	1	72	1	614
Tehachapi Unified	4,396	302	0	292	0	1,749
Vineland Elementary	726	509	3	506	0	726
Wasco Union Elementary	3,610	1,464	2 Zapoteco 0 Mixteco	1,447	0	3,239
Wasco Union High	1,855	334	2	328	0	1,438

## Labor

- The California State Labor Commissioner in Bakersfield reports having two cases that needed Mixteco interpreters in the last year and no other cases involving Indigenous Mexican language speakers. Staff reported that it was difficult to find qualified Mixteco interpreters and did not share the name of the interpreting agency they use.
- Note: CRLA has represented many Mixteco speaking individuals at the Labor Commissioner in the last decade and typically relies on bringing their own interpreter due to historical difficulties with the Labor Commissioner assigning an accurate interpreter in a timely fashion.

## Appendix 5. Training Bulletin from BPD Chief of Police to Staff



### BAKERSFIELD POLICE DEPARTMENT

L.D. Martin  
CHIEF OF POLICE

#### TRAINING BULLETIN



#### Civil Rights Title VI and Language English Proficiency (LEP)

The Bakersfield Police Department is committed to ensuring that no person is excluded from participation in, or denied the benefits of its services or programs, on the basis of race, color or national origin (or any other basis protected by federal, state or local statute) as afforded by Title VI of the Civil Rights Act of 1964 as amended, from time to time.

The City of Bakersfield has developed and implemented a Language Action Plan (LAP) to provide timely, reasonable and meaningful access to individuals who do not speak English as their primary language and who have limited ability to read, write, speak or understand English. The agency shall provide free language assistance to individuals whom we encounter or whenever a Language English Proficiency (LEP) individual requests language assistance.

The City of Bakersfield Human Resources Department has provided a Title VI poster, a Language English Proficiency Poster, and a Language Poster with thirty eight (38) languages, which shall be posted where the public can view them. A Language Identification Flashcard for field use is also available which has fifteen (15) languages to choose from, including dialects. A binder, which includes an overview of the LAP Plan, the City of Bakersfield LEP Policy, Language Flashcards, and other LAP documents will be available at the downtown police building at the front counter, Watch Commander's office, and the Investigation's counter, Communications Center as well as the West Side Substation front counter and Watch Commander's office.

These documents will also be available in the "G" drive under [REDACTED]. Laminated Language Flashcards will be provided to all Bakersfield Police Department employees.

When a Bakersfield Police Department employee determines the need for language assistance, they will utilize either the Language Poster or the Language Identification Flashcard, and have the subject choose which language they are proficient in. If their preferred language is not on the list, the binder includes a list of 250 languages to choose from. The employee will then make an attempt to have another employee who is proficient in that language and respond to assist. If no one is available to assist with that language, the employee will utilize "Telelanguage" translation and interpretation services by calling 888-983-5352 and using access code [REDACTED], as well as providing the language to be interpreted. The telephone can either be placed on speaker mode or be directly handed to the person in need of a translator.

In support of Human Resources and the Limited English Proficiency initiative, any person who believes he or she has been aggrieved by any unlawful discriminatory practice under Title VI may file a written complaint with the City of Bakersfield or the Department of Justice. Title VI complaint forms are located at the front desk of both the Bakersfield Police Department Headquarters downtown and the West Side Police Substation. Federal and State law requires complaints be filed within one hundred eighty (180) calendar days of the alleged incident and include the signature of the complainant. The complainant shall complete a City of Bakersfield Title VI Complaint which will be forwarded to Human Resources.

Communication Center personnel should utilize "Voiance" Language Line Services for 911 translation purposes.

BS #754 7/18/2018



## Appendix 6. List of Languages Served from CyraCom (dba Voiance)



### Language List

Our language list contains the languages supported by our call platform. After selecting a language with Voiance your call routes to the interpreter queue for that language. The availability of interpreters for some less-frequently-used languages may vary, and increased requests for languages help us gauge demand and may influence interpreter staffing changes. In the rare instance when interpreters are currently unavailable for the selected language, your call routes to Client Services for further assistance.

Given that there are roughly 6,500 spoken languages in the world, we can and do regularly add support for new languages based on need. Our proven interpreter management process enables us to add more resources to accommodate future growth. Our goal is not to have a static list of languages but rather to have dynamic support to meet growing and changing language needs of our clients across the United States.

Acholi (Sudan-Uganda)	Basque	Chavacano	Dutch
Afghan	Bassa	Cherokee	Dzongkha
Afrikaans	Belorussian	Chichewa	Ebon
Akan	Bemba (Zambia)	Chin	Edo
Akateko	Bengali	Chin (Falam)	Egyptian Arabic
Akian	Berber	Chin (Hakha)	English
Albanian	Bhojpuri	Chin (Matu)	English
American Sign Language	Bhutanese	Chin (Tedim)	Eritrean
Amharic (Ethiopia)	Bicol	Chin (Zanniat)	Eskimo
Apache	Borana	Chin (Zophei)	Esperanto
Arabic	Bosnian	Chinese	Estonian
Armenian	Brazil-Portuguese	Chui Chow	Ethiopian
Armenian (Eastern)	Bulgarian	Chungshan	Ewe
Armenian (Western)	Burmese	Chuukese	Fang
Ashanti	Cakchiquel	Cree	Fanti
Assyrian	Cambodian	Creek	Farsi
Azerbaijani	Cantonese	Crioulo	Fijian
Bahasa/Brunei	Cape Verdean	Croatian	Fijian Polynesian
Baluchi	Catalan	Czech	Filipino
Bambara	Cebuano	Dakota	Finnish
Banda	Chaldean	Danish	Flemish
Bangi	Chamorro	Dari (Afghanistan)	Fon
Bao-an	Chao Chow	Dinka (Sudan)	Foochow



French	Hindustani	Khamu	Maithili
French Cajun	Hmong	Khmer	Malagasy
French Canadian	Hokkien	Kikuyu	Malay
French Creole	Hopi	Kinya/Rwanda	Malayalam
Frisian	Huibe	Kirghiz	Malinke
Fukienese	Huizhou	Kirundi	Maltese
Fulani	Hunanese	Kiswahili	Mam
Fuzhou	Hungarian	Kizigua	Mandarin
Ga	Ibanag	Kongo	Mandingo
Gaddang	Ibo	Korean	Mandinka
Gaelic	Icelandic	Krahn	Mankon
Galician	Ilocano	Krio	Marathi
Gallinya	Ilonggo	Kru/Krumen	Marshallese
Gana	Indonesian	Kunama	Maya
Ganda (Uganda)	Inupiaq	Kurdish	Mende
Garri	Iraqi Arabic	Kurdish (Badini)	Mien
Georgian	Italian	Kurdish (Kurmanji)	Mina
German	Jakartanese	Kurdish (Sorani)	Mirpuri
Grebo	Jamican English Creole (Patois)	Lahu	Mixteco
Greek	Japanese	Lakota	Mixteco Alto
Guamanian	Jarai	Lanzhou	Mixteco Bajo
Guarani	Javanese	Lao	Mizo
Gujarati	Jingpho	Latvian	Mola
Gulf Arabic	Jula	Levantine Arabic	Moldovan
Gwa	Kachchi	Lingala	Mongolian
Haitian Creole	Kamiba	Lithuanian	Montagnard Dega/Mon-Khmer
Hakka	Kanjobal	Loma	Montenegrin
Hamer-Bana	Kannada	Luganda	Moroccan Arabic
Hausa	Karen	Luo	Mossi
Hawaii Creole	Karenni	Luxembourgeois	Nahuatl
Hebrew	Kashmiri	Maay Somali	Nanjing
Hindi	Kayah	Macedonian	Navajo
Hindko	Kazakh	Magahi	Ndebele

Neapolitan	Russian	Tadzhik	Wuxinese
Nepali	Samoan	Taechew	Xhosa
Nigerian English Pidgin	Saraiki	Tagalog	Yapese
Norwegian	Saudi Arabic	Taiwanese	Yemeni Arabic
Nuer (Sudan)	Senegalese	Tamil	Yiddish
Oromo (Ethiopia)	Serbian	Telugu	Yoruba
Other Billable	Serbo-Croatian	Temne	Yucateco
Ouatchi	Shanghaiese	Thai	Yugoslavian
Paluan	Sichuan/Szechuan	Tibetan	Yupik
Pampango	Sicilian	Tigrigna (Eritrea)	Zambal
Pangasinan	Sierra Leone Creole	Tohono O'Odham	Zande
Paplemento	Sindi	Tolsan	Zapoteco
Pashto (Afghanistan)	Sinhala	Toishanese	Zarma
Pennsylvania Dutch	Slovak	Tongan	Zomi
Persian	Slovakian	Triqui	Zulu
Pidgin English	Slovenian	Trukese/Chuukese	
Pohnpeian	Somali	Tshiluba	
Polish	Soninke	Turkish	
Polynesian	Soninke (Maraka)	Twi	
Portuguese	Soninke (Sarahuleh)	Ukrainian	
Portuguese Creole	Soninke (Sarakole)	Urdu	
Pothohari	Spanish	Uyghur	
Pulaar	Suchown	Uzbek	
Punjabi	Sudanese Arabic	Vietnamese	
Purepecha/Tarasco	Susu/Soso	Visayan	
Quechua	Swahili	Visayan	
Quiche	Swahili (Chimwiini)	Waray-Waray	
Rohingya	Swahili (Kibajuni)	Welsh	
Romani	Swedish	Wolof	
Romanian	Sylheti	Wu	

#### Contact Voiance

Contact Voiance today to discuss how we can improve your language services program.

Phone: 866-742-9080 | Fax: (520) 745-9022 | [info@voiance.com](mailto:info@voiance.com) | [www.voiance.com](http://www.voiance.com)

Mailing Address: Voiance | 5780 North Swan Road | Tucson, Arizona 85718

Learn more at [www.voiance.com](http://www.voiance.com)

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9001:2008, 13611:2014, 17100:2015  
 Quality Management System  
 Guidelines for Community Interpreting  
 Translation Services

## Appendix 7. Definitions of Common Language Access / Language Justice Terminology

**Consecutive Interpreting:** Interpreting in which one person speaks and then pauses while an interpreter repeats what has been said in the other language. No equipment is required.

**Cultural Brokering:** Intervention by interpreters that falls outside our role as language experts, when we provide information or analysis on culture that may or may not be relevant to the situation at hand but is not part of our role as interpreters.

**Ethical Tenets of Interpreting:** The ethical concepts and related practices that govern both the profession and the activity of interpreting. Ethical tenets guide interpreters in making choices as we work, and in protocols for developing relationships with the people with whom we work. The four primary ethical tenets for interpreters include: accuracy, competency, confidentiality, and impartiality.

**Interpreting:** The transmission of a message from one language into another using spoken or sign language without adding, deleting, or changing the content of the message. Interpreting formats:

- On-Site Interpreting
- Over-the-Phone Interpreting (OPI)
- Video Remote Interpreting (VRI)

**Language Access:** The use of language assistance (e.g. interpreting and translation) so that non-dominant language speakers have access to public services and civic participation.

**Language Justice:** The systematic fair treatment of people of all language communities and respect for everyone's fundamental language rights.

**Language Rights:** The human and civil rights of linguistic groups, such as the right to preserve non-dominant languages, access public services without language being a barrier, and live free from linguistic discrimination in education, workplaces, civic participation, and all other contexts.

**Limited English Proficient (LEP):** People who speak a non-dominant language and are not fully proficient in English. This term has been critiqued for reinforcing a deficit view of non-dominant language speakers. It remains the legal term to describe this group, obligating its use in certain legal services contexts.

**Linguicism:** A system of oppression based on language that results in structural advantages for dominant language speakers and disadvantages for non-dominant language speakers. In the U.S., the dominant language is English, and all other languages are non-dominant.

**Linguistic Mediation:** An intervention in which an interpreter briefly interrupts an interpreted session to clarify barriers to communication related to language. Examples include, among others, requesting explanation of slang terms or local idioms, clarifying the particular meaning of a term that could have several different connotations, and asking a speaker to repeat a term that the interpreter did not hear clearly.

**Linguistic Variant:** A form of a language spoken by members of a specific regional or social group. This term is sometimes preferred to its synonym, *dialect*, because of the use of the Spanish term “*dialecto*” to denigrate Mexican Indigenous languages.

**Linguistically Marginalized Communities:** Groups whose members use any non-dominant spoken or sign language and are not fully proficient in the dominant language (English in the U.S. context). In the U.S., these groups include many immigrant, Indigenous, and Deaf communities. This term is an alternative to Limited English Proficient (LEP) and emphasizes the systemic disadvantages faced by non-dominant language speakers in societies that privilege speaking English or another dominant language as a first language.

**Sight Translation:** Reading a text aloud in a different language (i.e. oral interpretation of a document).

**Simultaneous Interpreting:** A method of interpreting where an interpreter repeats what is said in another language a few seconds after the speaker, requiring them to listen and speak at the same time. This method usually requires special equipment that includes a transmitter, microphone, receivers, and earphones. The interpreter speaks into the microphone and is heard by people wearing earphones so they can follow the conversation in the language they prefer. In *bidirectional or multi-directional* simultaneous interpreting, anyone not comfortable in both/all languages being actively used wears the equipment.

**Translation:** The conversion of written text from one language into another.

**Trauma-informed Interpreting:** An approach to interpreting for people who have experienced trauma that promotes the safety and empowerment of survivors and avoids potential re-traumatization. This approach also takes into account the impact of interpreting traumatic material on interpreters.

## Appendix 8. List of Indigenous Latin American Interpreter Services

### Indigenous Interpreting Organization Referrals

#### **MICOP - Mixteco/Indígena Community Organizing Project**

(805) 270-9483 – Arcenio López and Javier García

[interpreters@mixteco.org](mailto:interpreters@mixteco.org); [arcenio.lopez@mixteco.org](mailto:arcenio.lopez@mixteco.org); [javier.garcia@mixteco.org](mailto:javier.garcia@mixteco.org)

#### **I Languages**

559-706-9582 – Juan Santiago

[juansantiago@live.com](mailto:juansantiago@live.com)

#### **CBDIO - Centro Binacional para el Desarrollo Indígena Oaxaqueño**

(559) 499-1178 – Irma Luna

[iluna@centrobinacional.org](mailto:iluna@centrobinacional.org)

#### **Maya Interpreters**

(855) 629-2872 – Carmelina Cadena Akateko

[request@mayainterpreters.com](mailto:request@mayainterpreters.com)

#### **Asociación Mayab**

(415) 556 9800 -- Alberto Perez-Rendon

[asociacionmayab@yahoo.com](mailto:asociacionmayab@yahoo.com)

#### **FIOB - Frente Indígena de Organizaciones Binacionales**

(213) 359-0264 – Odilia Romero, Claudio Hernández

[romeroodilia@gmail.com](mailto:romeroodilia@gmail.com), [claudio.h93@live.com](mailto:claudio.h93@live.com)

#### **Indigenous Interpreting+**

(855) 662-5300 – Judith Pacheco

[judith@natividadfoundation.org](mailto:judith@natividadfoundation.org)

*Note that major telephonic interpretation providers such as Language Line, CommGap, Lion Bridge and Cyra Com might advertise that they support Indigenous languages, but making accurate language matches has been notoriously difficult. When using these providers, it is critical to do a variant check with the individual needing interpretation services and to tell the interpreter that they should not continue the call if they are not confident that the language is a match and that the individual needing interpreter services can understand and be understood.*



## Appendix 9. Working with Indigenous Language Interpreters

1. **Challenge: Indigenous languages have many distinct variants.** Some variants of Indigenous languages have the same name (“Mixteco”) but distinct variants that might not be intelligible to one another. Using “alto / bajo” distinctions also does not guarantee a match to an interpreter.

- **Response:**

- Gather the following from the individual to ensure a successful language match (in this order): name of language and then geographic information about where they come from to ensure language match: country, state, district, town/municipality.

2. **Challenge: The vast majority of Latin American Indigenous language speakers do not read or write their language; those who do are typically academics.**

- **Response:**

- Spanish literacy is a bit more common than English literacy among Indigenous Latin Americans, so any written materials should be provided in Spanish (though oral interpreting should still be provided in the Indigenous language if the individual requires it).

3. **Challenge: Many concepts in English or Spanish do not have an exact, analogous translation into an Indigenous language, and vice versa.** Many words involving medical, legal or other technical concepts common in Western cultures do not exist in Indigenous languages. Therefore, the interpreter is tasked with explaining or defining the concept with existing words available to them in the Indigenous language. This underscores the importance of hiring a professional interpreter who is familiar with key terms and concepts in your industry, because in an attempt to explain the concept, an interpreter could unintentionally significantly alter the meaning of the message they are trying to convey.

- **Response:**

- Hire professional, qualified interpreters who are familiar with your industry (key terms, concepts, jargon, etc.)
  - ◆ But still avoid or provide a plain language explanation of jargon, acronyms, slang, and idioms.
- Prepare the interpreter ahead of time, if possible, about what you will discuss with the individual needing interpreting so the interpreter has time to consider phrasing and ask clarifying questions for any terms they do not understand.

- Build in extra time for the interview to allow for the length of time to do consecutive interpreting and come up with phrasing around terms or words that don't have an exact translation. This may mean scheduling more than double the amount of time you would reserve for a meeting without interpreting.

#### **4. Challenge: Indigenous language speakers often come from insular communities.**

Some Indigenous communities are very small, with many of the members coming from the same geographic area. Therefore, there is a much higher chance that an individual needing an interpreter could have some pre-existing relationship with an Indigenous language interpreter. This can make an individual reluctant to use the interpreter if they are speaking about a delicate or sensitive subject.

- **Response:**

- Only work with professional interpreters who understand and are committed to professional interpreter ethics, including confidentiality
- Provide assurances to the individual about the interpreter's commitment to confidentiality
- Offer to source another interpreter if there is a specific conflict of interest / personal relationship between the individual and the interpreter
- Maintain a "do not hire" list for any interpreter who you have discovered has violated client confidentiality

#### **5. Challenge: Indigenous language interpreters are not as common as interpreters for other languages.**

For a variety of reasons, interpreters for some Indigenous languages are more difficult to source than more commonly spoken languages, such as Spanish. As such, it can be more time consuming or challenging to locate an interpreter for the language you're looking for. The infrastructure for instant telephonic interpreters in Indigenous languages is growing and strengthening but is not as comprehensive as service providers need.

- **Response:**

- Identify language needs ahead of time and proactively establish contractual relationships with interpreters who meet the language needs of your community (in addition to setting up contracts ahead of time, establish the process for how to set up appointments in advance and with no advanced notice)
- Talk with other agencies and service providers about their language needs – it is likely more cost efficient to pool resources and hire a bank of local professional interpreters and translators

- Demand feeds supply – the more that there is local demand for interpreters for a specific language, the more that you are likely to get a supply of interpreters to serve that need. Be patient if a lack of demand has contributed to a supply problem in your area. Be part of the solution by continuing to request interpreters who speak the languages of your community.

**6. Challenge: It may be necessary to use relay interpreting if you are not fluent in Spanish.** Many Indigenous language interpreters who have native level fluency in their Indigenous language might not be comfortable interpreting from their Indigenous language directly into English. When this is the case, you will need to work with a Spanish to English interpreter to facilitate communication.

- **Response:**

- Communicate with the interpreter ahead of time to determine if you will need a Spanish-English interpreter.
- Remember that it is still necessary to use a qualified, trained interpreter for both the Indigenous language-Spanish component and the Spanish-English component.
- Ask both interpreters if they have experience doing relay interpreting and connect them ahead of time so they can discuss how to manage the interview
- Brief both interpreters ahead of time on what you will need to discuss (as you typically would with any interpreter)



## A HEALTH IMPACT ASSESSMENT



Photo: Rafa Rodriguez



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