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**Testimony of the Legal Aid Society  
Civil Practice**

**OVERSIGHT: MONITORING THE IMPLEMENTATION OF THE CITY'S  
LANGUAGE ACCESS POLICIES**

**New York City Council Committee on Immigration and  
Committee on Governmental Operations**

**January 20, 2011**

**Introduction**

My name is Susan Sternberg. I am a staff attorney at the Legal Aid Society in New York City, where I assist clients with public benefits issues. We appreciate the opportunity to come before you today to testify on the City's compliance with language access requirements for individuals who have limited proficiency in speaking, understanding, or reading English.

The Legal Aid Society is the nation's oldest and largest non-profit law firm dedicated to serving low-income families and individuals. Through our three major practice areas – the Civil Practice, the Juvenile Rights Practice, and the Criminal Defense Practice – we serve many clients who have limited proficiency in English and who interact with a variety of City agencies.

The Society's Civil Practice has offices in every borough of the City, handling more than 32,000 civil matters for its clients each year and winning over 90 percent of cases that go to court or an administrative hearing. Thousands more benefit from our pending class action litigation. The Civil Practice works to improve the lives of needy New Yorkers by helping vulnerable

families and individuals on issues ranging from health care, housing, employment and training, economic development, public assistance, domestic violence and disability-related issues.

In addition to these varied practice areas, the Society has a robust immigration law practice for low-income New Yorkers, serving individual clients and working with community-based organizations in all five boroughs. Last year the Immigration Law Unit served over 2,900 immigrants in legal matters in Immigration Court and in federal court.

Our testimony today focuses on the New York City Human Resources Administration. Through our public benefits practice, we represent a large number of clients who rely upon public assistance to get through difficult times, often as a result of unemployment, disabling medical and mental health conditions, domestic violence, homelessness or even the need for child care. Many clients, whether or not they are immigrants, do not speak English as their first language. Some can converse about basic topics in English but cannot read or write in English, or require interpreters for complex topics.

For example, in my own practice assisting clients with public benefits matters in Manhattan, and before that for many years in Brooklyn, I generally need interpreter assistance with at least 1/3 of my clients. I have personally assisted clients who primarily speak Spanish, Russian, Chinese and Arabic.

Despite the important protections set forth in Local Law 73 and HRA's own policy directives about assistance to limited English-speaking individuals, we frequently encounter situations where our clients did not understand agency instructions, had to wait lengthy periods for interpreters, did not receive documents translated to their primary language, or were not assisted when they explicitly requested that they be assisted in communicating with HRA personnel and its contractors in their own language. These problems continue even in the six

most common languages which are the subject of Local Law 73 and HRA's own policy directives: Spanish, Arabic, Chinese, Haitian-Creole, Korean, and Russian.

### **Typical Examples of Inadequate Provision of Translation Services**

The following examples illustrate the shortcomings in HRA's provision of translation services.

- Mr. E is an Arabic speaking client who has had great difficulty trying to open a public assistance case. He resides with his wife and eight children in a rent stabilized apartment in the Bronx. Mr. E is currently unemployed and lacks sufficient income to pay the rent; he is currently facing eviction in Bronx Housing Court. In the Fall of 2010, Mr. E went to the Melrose Job Center 40 to apply for public assistance benefits. Mr. E understands a few basic English words, but does not understand full sentences when people attempt to converse with him in English. At no point during his several trips to the Center was he provided with an Arabic interpreter, despite his attempts to inform them he does not understand English. When asked how conversations are communicated to him at the Center, he states that workers "write the information on a piece of paper in English." He then takes the paper home so one of his children can interpret what the paper says. In November 2010, Mr. E returned to the Center to provide information regarding his children. As occurred during other visits to Center 40, he was not provided with an Arabic interpreter. He believes a worker told him that HRA had no information on file for him, but states that he could not understand much of what she was saying. His public assistance case still has not been opened.
- Ms. O is a Spanish-speaking client who has had great difficulty opening, and keeping open, her public assistance case. She is a survivor of domestic violence who testified

against her abuser. She began needing public assistance after she left her abuser and became a single mother. Due to her past difficulties with HRA job centers, she asked Legal Aid Society paralegal Shira Wisotsky to accompany her to a mandatory dispute resolution ("MDR") conference on January 11, 2011. When they reached the reception desk, Ms. Wisotsky asked the receptionist for an interpreter. Initially the receptionist ignored the requests for an interpreter. After some discussion, the receptionist sent them to the second floor to meet with a case-worker. Ms. O had no idea what was happening. They waited to see the case-worker for about an hour. At one point, the supervising worker picked up a sign-in clipboard for customer service and announced that the sign-in sheet was not properly filled out and that clients could not be seen if HRA did not know why they were in the center. Although there appeared to be many Spanish speaking clients in the waiting room, this and all other oral directions were given only in English; no interpretation was provided. When they met with the MDR worker, Ms. Wisotsky again asked for a translator. Although the MDR worker called over a different case-worker to translate, the translator's Spanish was not adequate. For example, when speaking about the budget, the translator did not know the Spanish word for "income" and asked the non-Spanish speaking worker how to say it. Additionally, the translator did not translate the conversation between Ms. Wisotsky and the MDR worker into Spanish, so the client could not understand what was transpiring. Indeed, the only time the translator spoke in Spanish to the client was when she attempted to persuade the client that the client had signed certain documents.

- After Ms. O returned to the Legal Aid office, Ms. Wisotsky asked her if the experience they had was typical. Ms. O proceeded to relate the difficulties she has had at the DeKalb Center with regard to language access. For example, in February 2010 at her re-certification appointment, Ms. O was made to wait over four hours for an interpreter to become available. In March 2010, when she went to report a change in her income, she had to wait three hours for an interpreter. It was explained to her that there was only one interpreter available for that entire floor. In May 2010, Ms. O asked the receptionist for an interpreter. None was provided. After waiting four hours upstairs, the case-worker told her that “If you can’t understand me you will have to wait for someone you can” rather than agreeing to call a translator. She was unable to wait any longer and had to leave the center without taking care of the problems with her case.
- In August 2010, Ms. O went to the Job Center to open a food stamp case for her older children. The case-worker did not speak English and no interpreter was provided. Instead, F.O., her minor teenage son, interpreted for his mother, against HRA policy. The case-worker did not even ask F.O. his age. No case was opened that day. Two weeks later, Ms. O had to renew her one-year-old son’s childcare and still wanted to open a food stamp case for her older sons. She met with a case-worker on the third floor of the DeKalb job center. The case-worker did not speak Spanish and did not provide an interpreter. Ms. O said that she did the best she could but was unable to communicate with the case-worker. The case-worker then cut the visit short and would not speak about the food stamp case. When Ms. Wisotsky met Ms. O in October 2010, her children’s food stamp case was still unopened. She did not have

enough food in the house, and was not able to buy milk to feed her baby. The issues with her children's food stamp case were due to a combination of the language barriers she experienced when dealing with case-workers at HRA and case-workers not accepting her immigration documentation that proved her son is eligible for food stamps.

- Our client Ms. N is an Iraqi refugee who speaks some English but reads and writes only in Arabic. She resides with her husband, who speaks even less English than she does, and their two young children. Her household lost their benefits when their case was closed because HRA said they failed to provide several documents. The documents were listed on Form 113-K, only in English. Ms. N and her husband did not understand which specific documents were needed. They were not offered interpreter help. After their case was closed, the family reapplied twice for benefits, again encountering English-only document forms and notices. Their applications were denied each time. This continued over the course of three months. After her attorney intervened, their third reapplication for benefits was granted. From our review of the documents, only one notice of many was in Arabic. When Ms. N's attorney sought to resolve the problem with the Job Center, she was advised that CNS notices – notices generated by HRA's Client Notice System, which issues many if not most of the notices sent to clients and applicants – are not available in languages other than English and Spanish. This included the notice discontinuing their benefits.
- Ms. S is a survivor of domestic violence at her husband's hands. She is a Lawful Permanent Resident who earned her green card through asylum. She has been living in New York City since the mid-1990s, and she is the mother of five children, ages

three to fourteen. Ms. S applied for Public Assistance after her abusive husband was excluded from the home pursuant to an order of protection. A monolingual Soninke speaker, Ms. S often has difficulty navigating her way through the labyrinth of the Human Resources Administration. HRA notified Ms. S in early 2010 that her case was being sanctioned, but she didn't understand what the notice meant. Fortunately, Ms. S was working with The Legal Aid Society on her divorce and she brought the HRA papers to the attention of her Legal Aid attorney. Through her counsel, Ms. S requested a State Fair Hearing and asked for a Soninke translator to be present. No translator was provided at that hearing, and her brother was forced to translate. Ms. S does not wish to reveal the details of her personal life to her brother, including that she has survived severe physical violence at her husband's hands, and she was quite ashamed to be in the position that HRA created. Recently, Ms. S received a Notice of Intent to close her Public Assistance case, and, again, Ms. S did not understand the notice that HRA was sending her. With the help of counsel at The Legal Aid Society, Ms. S has requested a Fair Hearing and a Soninke translator; that request is pending.

### **Shortcomings in Oral Interpretation**

These stories and many others like them illustrate serious shortcomings in HRA's provision of translation services to non-English speaking clients. HRA's Policy Directive #10-12-OPE, Services Individuals with Limited English-Speaking Ability (LESA), is its most recent directive to its staff about providing interpreter services. It is directed to staff at all Job Centers, Non-Cash Assistance Food Stamp (NCA FS) Centers, and ancillary sites. These are the locations where our clients most frequently interact with front-line personnel. The Policy Directive discusses both oral interpretation and translation of documents. It clearly states HRA's

policy that “Applicants/ participants with limited or no English-speaking ability must be provided with communication assistance in their native language.” Changes spotlighted in this policy, issued in February 16, 2010, include elimination of any requirement to notify a special liaison before accessing telephone interpretation service; guidelines for working with interpreters; and initiation of a new Tracking Language Indicators screen in the agency’s computer system.

However, as indicated above, HRA workers do not regularly access the telephone translation service. Ms. O, for example, had to wait hours for a bi-lingual worker when any worker could have met with her using the telephone translation service.

### **Shortcomings in Written Translation of Documents**

HRA’s application, eligibility recertification, employability assessment, job training, and other procedures involve a vast amount of paperwork and forms. Indeed, our clients receive what can only be described as a blizzard of notices, many of which involve mandatory appointments at multiple offices. Therefore, the requirement to provide these notices in the six required languages is critically important to our clients. We regularly see clients who are denied benefits because they did not bring in a specified document on a return appointment, or who received numerous notices and did not understand what actions were required.

Indeed, we had occasion last year to analyze the English versions of a standard document return request form using a basic readability test in Microsoft Word. HRA form W-113K is the standard document given to clients by their workers when they apply for benefits or recertify their continued eligibility and additional documentation is needed.<sup>1</sup> It scored grade 14.9 on the Fleishman-Kincaid Readability Grade Level, indicating a college reading level would be

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<sup>1</sup> A redacted copy of this form, in the version we used for readability analysis, is attached.

required. This is just one of the many complex forms our clients encounter in their regular interactions with HRA.

Many of the most common forms are computer-generated "CNS" notices. As noted above, we have been advised that these are only available in English and Spanish. According to the State's Client Notices System Manual, as revised in March 2008, "notices for approvals, denials, changes, recertifications and closings to PA [public assistance], MA [Medicaid], FS [food stamps] and HEAP case types are produced by the system and include required Fair Hearing Language." HRA's Policy Directive on the Client Notices System, Policy Directive #09-13-SYS, also indicates that these notices are generated in English and Spanish. Importantly, Local Law 73 expressly requires that many of these notices be provided in all six of the covered languages.<sup>2</sup>

The lack of written translations for many important documents is also of concern because HRA's Policy Directive discourages use of in-person interpreter services, stressing the use of telephone interpreter services. Translation of multi-page written documents through a telephone interpretation service is very cumbersome and time-consuming. There are already tremendous time pressures on caseworkers from the burgeoning caseload of applicants for and recipients of HRA services during these difficult economic times.

We also note that HRA increasingly uses electronic methods to record client information. For example, eligibility recertification interviews frequently are conducted at a worker's desk with the worker directly inputting answers provided orally by the benefits recipient. If the computerized forms are not produced in the six covered languages, or not printed and translated

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<sup>2</sup> Local Law 73 provides that the term "document" means the following forms and notices developed by the agency: (i) Application forms and corresponding instructional materials; (ii) Notices that require a response from the participant; (iii) Notices that concern the denial, termination, reduction, increase or issuance of a benefit or service; (iv) Notices regarding the rights of participants to a conference and fair hearing; and (v) Notices describing regulation changes that affect benefits.

orally by a telephone interpreter, our clients cannot adequately review and verify the information in these documents before signing them.

**Severe consequences for clients: sanctions and benefits denials/ terminations**

Failures to provide adequate translation services result in severe consequences for HRA's clients. A large percentage of people who depend on cash assistance benefits in HRA's caseload is under sanction at any given time. For example, HRA's Weekly Caseload Engagement Status Report for Family Assistance cases dated December 12, 2010, states that 9.8% of cases that were not already exempted from employment-related engagement requirements were in the "sanction process," with another 13.7% under sanction. These households are at risk of eviction, utility cut-offs, and other hardship as a result of sanctions. For the overall caseload, which includes households without children, the figures reported by HRA for the same period are: 10.9% in the sanction "process," and 10.6% with sanctions in effect. This is often due to appointments, notices, and documentation requirements.

We frequently assist clients who have good reasons for missing an appointment or who need assistance to provide alternative documentation, who do not understand the notices and instructions provided to them because they were only provided in English. Many could have avoided the severe penalty of a sanction, which reduces or discontinues benefits for a specified duration of time, if they understood the notices and requirements sent to them by HRA.

**Conclusion**

We appreciate the opportunity to describe some of our clients' experiences with HRA's failure to provide language assistance. This important legislation can only bring about its intended effect if it is fully implemented. The oversight of the City Council is crucial to ensure that these vital rights are protected.

