Of the 13 largest counties in California in 1998, Santa Clara County had the third lowest crime index. The county jail population fell from 4730 in April 1998 to 4273 in April 2000.

As of November 8, 2000, there were 1,147 self-identified immigrants in the county jail system, or about 1 in 4 of the total jail population of 4,362. This percentage has remained relatively constant in the past two years and represents a slightly smaller percentage of immigrants in jail than the percentage of immigrants in the county’s general population, which stands at about 1 in 3. The single largest group of immigrant inmates was from Mexico, followed by immigrants from Vietnam, the Philippines, El Salvador, China, and India.

Except for small ESL and substance abuse programs, there are almost no programs specifically set up for immigrants or the Limited English Proficient (LEPs) either inside the Department of Corrections (DOC) or for immigrants on probation that are community-based. Most of the DOC programs serve the jail population at large, such as Literacy in Families Together and the General Equivalency Diploma (GED) program. In the last six months of the year 2000 the DOC began to make some inroads to better serve Spanish-speaking inmates, such as a new Latino marching band and small classes in Spanish regarding domestic violence. There are no programs specifically set up for the Vietnamese, who constitute the second largest immigrant inmate population.

One county program that is part of the Probation Department is the Restorative Justice Program. The program made 1884 referrals to Neighborhood Accountability Boards (NABS) regarding minor criminal offenses. Recent statistics show that 86% of offenders did not commit new offenses within 6 months of completing their NAB contract. The District Attorney’s office recently established a program of community prosecutors to better know the community, in such areas as Burbank and Mayfair. These are high immigrant areas that are traditionally hesitant to report crime.

Crime fell by 3% nationally in 1999 and it fell by 15% in San Jose and by 12% in Santa Clara and Sunnyvale, due largely to the economy. Of cities having a population over 800,000, San Jose has the lowest homicide rate in the United States. Nonetheless, the Citizen Tribunal states that San Jose led the nation in the ratio of homicides committed by police. Allegations of excessive force by the San Jose Police in 1999 (killed were Montiel, Tran, Sabala, Morales, Tomasello, Mitchell, and Garcia) led to the department instituting simulation training and critical incident training (CIT) for confronting those emotionally or mentally ill.

In the early 1990s some citizens sought a community-based review panel for the San Jose Police Department (SJPD). In response, San Jose established the Office of the
Independent Police Auditor, now a multi-lingual office to address issues of complaints and potential excessive force.

In 1999, San Jose became the first California city to voluntarily collect statistics on whether officers stop drivers based on their race or ethnicity. The SJPD found that black and Latino drivers are stopped at far higher rates than whites and Asian-Americans.

June 2000 findings of the SJPD ethnic breakdown show that officers of Asian origin are severely under-represented in the force. Latinos outrank whites of those who say they are very fearful of crime.

In 2000 the San Jose Police Department opened community police substations in Oakridge Mall on Blossom Hill Road and in Tropicana Plaza at Story and King Roads, with two more on the way. On August 1, 2000 eight-seven (87) San Jose police officers participated in neighborhood-based National Night Out, as did officers from Santa Clara, Sunnyvale, and Milpitas. In recent years the SJPD’s community services division has designated a Spanish-speaking and a Vietnamese-speaking officer to occasionally visit schools and adult gatherings and has held some community meetings at churches, with youth, etc. to confront stereotypes of police and gather information to improve accountability.

Local Press Coverage of Accused Immigrants: Indo-American, Vietnamese, and Mexican immigrants groups have complained about how they are depicted in the press. For example, in May 2000, 55 mostly Vietnamese were indicted as potentially engaging in loan-sharking and other illegal activity at two San Jose card clubs. Mug shots were printed of all of them in the San Jose Mercury News. Charges against the vast majority were later dropped. Mayor Ron Gonzalez, and Vietnamese community leaders called for closing the card rooms.

In California, about 22,000 of the state’s 162,000 inmates in 1999 were undocumented inmates who committed offenses, compared to 18,000 in 1997. According to an Urban Institute study issued in 2000, by far the largest group was Mexican, and the dominant offense was illegally entering the United States. California counties received $61 million of the $244 million received by California for incarceration costs in FY99 under the State Criminal Alien Assistance Program.
FINDINGS AND RECOMMENDATIONS

Finding 1: The lack of knowledge of immigrants and lack of supportive programs lead to incarceration and deportation.

The lives of immigrants and their families are being torn apart by jail time and deportation that, with more knowledge and support, could be reduced, including the number of first-time offenders, recidivists, and deportees for lesser offenses.

The random sample County Jail Survey conducted in June 2000 indicated that of those immigrants in the county jails who are married, 77% of their wives are in the U.S. Over 61% of immigrant inmates have children, and the average number of children is 2.5. About 85% of their children are in the U.S. About 4 of 5 immigrants feel that being in jail hurts their families financially, and 2/3 of those feel it hurts them “a lot”.

<table>
<thead>
<tr>
<th>WHAT IMMIGRANTS IN JAIL SAY ABOUT THEIR FAMILIES</th>
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<tbody>
<tr>
<td>Moral and emotional stress</td>
</tr>
<tr>
<td>“My family members are worried and get sick.”</td>
</tr>
<tr>
<td>“My Mother is very sad.”</td>
</tr>
<tr>
<td>“They take it badly. My family is sad and disappointed... It affected my kids...”</td>
</tr>
<tr>
<td>“My family suffers emotional distress.”</td>
</tr>
<tr>
<td>Family breakdown of relationships</td>
</tr>
<tr>
<td>“My kids are hurt. Their dad is not around.”</td>
</tr>
<tr>
<td>“It’s completely disastrous. The man is needed in the house.”</td>
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<tr>
<td>“The family is hurt financially. Also my kids have been affected—their grades.”</td>
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<tr>
<td>“Because of this my wife has not written to me. We lived together 13 years.”</td>
</tr>
<tr>
<td>“I lost everything: my wife, my kids, my car, my home.”</td>
</tr>
<tr>
<td>Financial burdens</td>
</tr>
<tr>
<td>“Economically they have been hurt because they depend upon me for support.”</td>
</tr>
<tr>
<td>“I used to support my family. I can’t now.”</td>
</tr>
<tr>
<td>“Well, right now they don’t have enough money to eat.”</td>
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<tr>
<td>“My mom and sister are having a hard time financially. I’m supposed to be helping them. Instead, they are supporting me.”</td>
</tr>
<tr>
<td>Immigration concerns</td>
</tr>
<tr>
<td>“It’s affected them a lot. I used to send them money in Mexico and now I can’t.”</td>
</tr>
<tr>
<td>“They had to return to Guatemala.”</td>
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<tr>
<td>“My family stresses a lot. They fear I’ll be deported to India where I have no relatives.”</td>
</tr>
<tr>
<td>“Nobody knows I’m in jail; my family is in Mexico.”</td>
</tr>
</tbody>
</table>
Random Sample

Of the top five immigrant groups in the county, the populations with the least hourly pay and average weekly take home pay—Mexico, Vietnam, and the Philippines—are also the three largest groups of immigrants in the county jail system, in exactly that order for both indexes.

Of those stopped by police who were asked if they were respected, mistreated, scared, etc, 20.6% of immigrants answered that they did not know their legal rights at the time of the stop. This compares to only 7.3% of the US-born. Immigrants are unaware of their legal rights at a rate 282% higher than the US-born. In comparison to the US-born, Vietnamese are unaware of their legal rights at the time of a police stop at a rate 518% higher than the US-born, and Mexicans are unaware at a 360% higher rate.

Respondents Not Knowing Their Legal Rights When Stopped by Police
(Random Sample)

<table>
<thead>
<tr>
<th>Immigrant Group</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vietnam</td>
<td>47.8%</td>
</tr>
<tr>
<td>Mexico</td>
<td>26.3%</td>
</tr>
<tr>
<td>China</td>
<td>19.0%</td>
</tr>
<tr>
<td>India</td>
<td>13.8%</td>
</tr>
<tr>
<td>Philippines</td>
<td>4.4%</td>
</tr>
<tr>
<td>U.S.</td>
<td>7.3%</td>
</tr>
</tbody>
</table>

Lack of English is a barrier to receiving services, education, and benefits for 31% of the top five immigrant groups in the county, with the following countries of origin indicating that not enough English is a barrier: PRC 60%; Mexico 49%; Vietnam 48%.

Lack of information as a barrier to obtaining services, education, and benefits was higher for immigrants than the US-born, with each of the top 5 immigrant groups (Mexico, Vietnam, Philippines, PRC, and India) having a higher percentage indicating this barrier than the US-born.

Of those stopped by police, Mexican and Vietnamese were much more likely to not know they were breaking the law than other major immigrant groups in Santa Clara County or the US-born.

An average of 18% of immigrants seek legal help to address INS abuse, with Mexicans (35%) and Indians (25%) leading the way.
One out of 10 Mexican, Vietnamese, and Filipino immigrants in Santa Clara County feel they have been the object of discrimination by the San Jose INS.

**Public Assistance Recipient Survey**

The US-born are more than four times more likely than immigrants to receive criminal case legal help when they needed it. Only 26 of 766 or 3.4% of immigrants stated they received legal help, compared to 24 of 164 or 14.6% of the US-born.

**Criminal Justice Help Received**

( Public Assistance Recipients Survey )

![Bar graph showing the percentage of individuals who received legal help in different countries.]

- U.S.: 14.6%
- Iran: 9.5%
- Cambodia: 4.5%
- Mexico: 4.0%
- Vietnam: 3.9%
- Russia: 2.8%
- Philippines: 2.6%
- China: 0.8%
- India: 0.7%
- Taiwan: 0.0%
- Korea: 0.0%

About 29% of public assistance recipients who had ever been stopped by the police didn’t know their legal rights, compared to 22% of US-born. The immigrant percentage was even higher for Mexicans, Vietnamese, Bosnians, and Somalis.

More than 42% of Filipinos, Indians, Cambodians, and Ethiopians, among other groups, stated they did not know they were breaking the law when they were stopped by police. 27.4% of immigrants didn’t know they were breaking the law compared to 23% of US-born.

About 2 of 3 US-born and immigrants who received legal help were satisfied with the help received.
County Jail Random Sample

Only 9% of immigrants in county jail say they had a good understanding of the US criminal justice system before being arrested and convicted; 3 of 4 had no or little understanding.

Two of 10 immigrants serving time in county jail did not understand what was happening in the courtroom.

Of 30 immigrant inmate responses to the question of whether or not they understood what was happening in the courtroom, 9 responses were positive. “Thanks to the interpreter.” “My lawyer explained to me.” “I did, but I couldn’t do anything because the Public Defender didn’t want to fight for my rights.” “I understood because I was being helped by an interpreter.” “I understood everything the judge told me.” Ten responses were neutral. “I understood that I was facing violation of probation.” “The charges were read to me and I pled guilty.” Eleven responses were negative:

<table>
<thead>
<tr>
<th>WHAT IMMIGRANTS SAY ABOUT BEING IN CRIMINAL COURT</th>
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<tbody>
<tr>
<td>“I understood what was happening but I did not understand the charges and why I was charged. I am innocent.”</td>
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<tr>
<td>“Because I spoke very little English I used an interpreter and I could not understand what was going on.”</td>
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<tr>
<td>“I didn’t feel like I knew what my options were.”</td>
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<tr>
<td>“They spoke very rapidly in English and I didn’t hear.”</td>
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<tr>
<td>“They spoke very rapidly; I didn’t hear well.”</td>
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<tr>
<td>“No, because they spoke only in English. When the interpreter spoke to me I kind of understood.”</td>
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<tr>
<td>“The truth is I pled guilty because I was frustrated with the court system.”</td>
</tr>
<tr>
<td>“I didn’t understand anything.”</td>
</tr>
<tr>
<td>“I was confused.”</td>
</tr>
</tbody>
</table>

Four out of five immigrants sentenced in county jail do not speak English as their primary language, and 61% do not have good or excellent English skills.

Of 26 immigrant inmate responses to the question of whether or not these immigrant defendants felt respected by the judge, 12 responses were positive. “The judge was nice and took the time to explain the consequences that I could be deported, and the charges.”
“The judge gave me a good, fair sentence.” “The judge...was understanding.” “The judge told me what was going on.” “I was told everything regarding the charges and the consequences.” “He treated me with respect.” “I understand respect...he said good morning to me and explained things to me.” “The judge was very nice. He called me by his last name.” Eight responses were neutral. “He did his job.” “He didn’t say anything that offended me.” “I don’t know.” “I’m not sure because of the language barrier.” Six responses were negative. “It seemed like the judge did not listen to me, only to my attorney” “The judge didn’t do much.” “The judge made a joke at my expense and humiliated me.” “The judge was talking privately to the DA about my case without my attorney.”

Two out of five sentenced immigrants serving time in county jail indicate that their judge did not advise them that a conviction might affect their immigration status.

Only 11.9% of immigrant inmates serving time in county jail are aware that their country had such a thing as probation.

Of 31 immigrant inmate responses to the open-ended question of how immigrants were treated by his or her probation officer, 18 responses were positive:

<table>
<thead>
<tr>
<th>WHAT IMMIGRANTS SAY ABOUT PROBATION OFFICERS</th>
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<tbody>
<tr>
<td>“Very fair. The probation officer has a heart and takes the time to listen. The probation daughter has a daughter so maybe that’s why the probation officer is compassionate.”</td>
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<tr>
<td>“I was treated well by him”</td>
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<tr>
<td>“I was treated with respect.”</td>
</tr>
<tr>
<td>“She treated me with respect and gave me time to explain things about my case.”</td>
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</tbody>
</table>

Seven responses were neutral. “Never saw him.” “The officer treated me in a serious manner with authority and nothing more.” Six responses were negative. “I provided my probation officer with all my phone numbers after I moved and she didn’t call me to inform me of court dates. I failed to appear, and I was arrested.” “The probation officer is sometimes playing with me, like asking why I didn’t show up at his office when I did.” “She gave me the wrong information which resulted in getting me incarcerated again.” “I’ve been treated badly. He put me here in jail.” “He respected me until he charged me with failing to report.” “I couldn’t get a hold of my last probation officer. The new one didn’t explain how I violated probation.”

One in 4 (26.7%) of immigrant inmates in county jail say they are not able to communicate well with their probation officer.
Of 26 immigrant inmate responses to the question of whether the immigrant is able to communicate well with his or her probation officer, 10 responses were positive. “The probation officer spoke Spanish and explained everything I had to do.” “He came to visit me in custody.” “Yes, we spoke by phone.” “She spoke to me seriously and told me what I had to do while on probation. She told me to behave myself and told me what to do to prevent having problems in the future.” “The probation officer visited me in jail months ago and brought an interpreter.” “I reported to my probation officer every month. The probation officer asked about my life and family.” Seven responses were neutral. “I didn’t communicate with the probation officer because I didn’t comply with the terms of probation.” “I don’t know if I have a probation officer.” Nine responses were negative:

<table>
<thead>
<tr>
<th>WHAT IMMIGRANTS SAY ABOUT COMMUNICATION WITH PROBATION OFFICERS</th>
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<tbody>
<tr>
<td>“The new Mexican probation officer didn’t inform me properly of the policy. I was not aware of my violation and I was arrested as a result.”</td>
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<tr>
<td>“The probation officer was not available much. When I called the probation officer I got blamed for things.”</td>
</tr>
<tr>
<td>“My requests to speak with my probation officer were unanswered.”</td>
</tr>
<tr>
<td>“I still haven’t communicated with him.”</td>
</tr>
<tr>
<td>“I never spoke to a probation officer. I only had to get his signature.”</td>
</tr>
<tr>
<td>“The probation officer was unavailable. I kept trying to communicate with him but I was not able to.”</td>
</tr>
<tr>
<td>“The probation officer said to see him, to contact him every 15 days. When I finished the program the probation officer told me I was done and told me to sign papers. I did but he didn’t tell me I had to continue reporting. Then I was charged for failing to report...”</td>
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</table>

One out of 4 immigrants in county jail (26.2%) believe that the customs or accepted behaviors in their native countries caused them problems in the United States.

When immigrant inmates were asked to explain why they think their customs or behaviors in their native countries caused them problems in the U.S., the answers provided deep insights into the cultural differences of different criminal justice systems and expectations:
What Immigrants Say about How Their Home Country Customs Affected Their Criminal Situation

“A criminal record in Vietnam, unlike one in the US, does not adversely affect a person’s whole life.”

“We have different beliefs on how to handle situations. Some Vietnamese may go over the line to support their family.”

“Drinking caused me to get into trouble because in my country I can drink and I don’t get into trouble.”

“Marijuana use in my country has religious uses and it’s not used just to get high.”

“The customs are different in Mexico.”

“I was not accustomed or raised to use any type of drugs.”

“I was raised differently. My parents were harsher and hit me for every little thing. Parents don’t take time to talk to you, instead they hit...Sometimes you act out the way you were raised.”

“I came to the US to work and send money to my wife in Mexico for a surgery and here in the US I met some bad friends and I started drinking—it was my fault.”

“In Mexico there is more morality and more respect for the couple. When one comes here, they change everything.”

“There are certain things you can do in the Philippines that are accepted but not in America. For example, domestic violence. But drugs are illegal in the Philippines as well as America.”

“You can get away with a crime in the Philippines. Just show them the money.”

More than three-quarters (77%) of immigrants serving time in county jail do not understand the legal process if they are placed in deportation proceedings.

Of 14 immigrant inmate responses to the question as to how they were treated by INS officials, six responses were positive. “He treated me with respect. He spoke Spanish and he was clear.” “I was treated well.” “He was a nice guy. He explained the immigration consequences of my past conviction.” Three responses were neutral. “OK, but I didn’t have an interpreter.” “Normal.” Five responses were negative. “The INS officer was snobby, scaring me by the way he talked. They are like policemen.” “I was treated like a criminal with no rights.” “The second officer was upset because he couldn’t understand me and he was in a hurry.” “He only cared about me signing papers.”
Addressing other important issues not covered, immigrant inmates added:
“This society keeps an ex-con from bettering himself. It’s hard to live here.”
“The treatment of minorities in the legal system is poor. If you’re not white, it’s hard to get off the charges. A white person or person with money gets no jail time only probation, while a minority gets both.”

**Focus Groups and Immigrants Building Community**

The Somali community expressed that they do not understand the laws and the expectations of the majority society. The Laotian community stated that it needs to address issues such as child abuse and adult abuse. The Iranian IBC report stated that “The treatment of immigrants in the criminal justice system is very indifferent to the cultural and language needs.”

**Community Sources**

According to Friends Outside, The Place, the criminal justice survey, and other testimony, inmates and their families need information regarding aggravated felonies, immigration laws, deportation procedures, and their right to visit the detained.

The Office of the Independent Police Auditor’s Office expressed the opinion that 1) sentencing, restitution, and required mandatory counseling are too expensive for many low-income immigrants, setting them up for failure, and 2) frequently low-income persons are jailed because they have no ability to pay fines. Once jailed, they don’t understand work furlough programs. These realities disproportionately impact immigrants and their families.

Representatives from The Place expressed the following concerns. 1) Immigrant youth (and their parents) do not understand the criminal justice system, especially the harsh consequences of certain laws but also criminal procedures. 2) Immigrant adults and youth often perceive Probation Officers to be unfair, lacking in cultural competency, unavailable, incapable of explaining conditions in non-legalese, and unable to communicate in the immigrants’ primary language. [This was seconded by Guest Testimony.] 3) The Juvenile Center needs better coordination of services, especially for immigrants, and trained, sensitive, bilingual group counselors.

For Friends Outside, one of the key challenges for those transferred to Eloy, etc., is that the INS fails to give notice when the hearing in canceled, causing the attorney and family great expense and waste of time. Evidence (e.g. witnesses), supportive family members, and representation best help immigrant inmates and their families when they remain local. Also, family members don’t know about insisting on their rights to visit the detained (the INS discourages visits).

A Dependency Court Commissioner explained that in Dependency Court, it is apparent that 1) when kids are left in their cars at Bay 101, their immigrant parents do not know
that they are committing a crime, and 2) many immigrant families don’t know that corporal punishment (“anything but hand spanking on the butt”) leads to protective custody, etc. Immigrant families need information on standards of child abuse, including physical abuse, and neglect and endangerment.

The top three hardships for immigrants in dealing with the criminal justice system are first, language barriers, second, “cultural differences in conceptions of justice”, and third, lack of knowledge of the criminal justice system, according to a recent National Institute of Justice Study.

Gustavo Heredia, initiator of the successful course that reduced immigrant recidivism in Colorado, “How to Live in America”, explains that many immigrants do not know of the penalties for what they consider minor offenses in their countries of origin. (“In their own country, a DUI violation would probably be settled on the street with the policeman and a $10 bill.”)

**Recommendations for Finding 1:**

Effective, culturally competent programs throughout the criminal justice system should be established to reduce the number of immigrant inmates, first-time offenders, recidivists, and deportees. Knowledge of cultures, keeping statistics by national origin, and assessing and addressing the language capacity within needed 2-way communication are key recommendations.

a. **Linguistically Appropriate Services**

- Translate legal rights, laws, criminal laws, and criminal procedures into Farsi and other languages. This was suggested by Iranian IBC participants.
- Increase the number of positions with bilingual immigrant backgrounds inside the criminal justice system. This can be best accomplished by offering bilingual coded positions. First, do an inventory inside each law enforcement agency [LEA] regarding the number of immigrants employed, and their language capabilities.

b. **Culturally Appropriate Services**

- “Have representatives from our community in different offices within the criminal justice system.” [IBC Iranian Report] Immigrants need to be more a part of criminal justice offices.
- Improve the frequency and level of communication and the amount of cultural knowledge of Probation Officers, so that they can explain in the immigrants’ first language, and in non-legalese. [E.g., when many Asian youth “agree with everything” this is often misconstrued.]
- Institute and expand trainings in cultural proficiency including knowledge of cultures.
c. Legal Improvements

- Work with INS to develop a policy of keeping Santa Clara County resident inmates at Santa Rita jail in Oakland, so that long trips to Eloy, AZ, etc. are not necessary, evidence could remain local, legal representation could remain local, etc. Work with the INS in instances of hearing cancellations far away to set up a system of notification or priority for those who intend to fly to court at great expense at great distances from Santa Clara County.
- Require a criminal justice orientation before an adjustment of status interview at the INS.
- Along with the Bench Bar Committee, approach judges about fuller training on the immigration consequences of pleas and convictions. Immigration judges in SF originally from SCC could be “peer trainers”.
- End the practice of law enforcement agencies that “investigate issues involving citizenship, immigration status, or deportation.” This is suggested by the Office of Refugee Resettlement (ORR) to build trust in immigrant communities, among other reasons. Unless INS is putting an immigration hold on immigrants, Pre-Trial Services should not be preventing release based on their assessment of immigration status.

d. Financial Considerations

- Allow low-income immigrants the option to work off fines that are a huge burden on their families. For example, there should be a work program for a $1000 DUI fine. Immigrants need knowledge of work furlough programs in their own languages and greater access to those programs. The $45/day cost is high and unduly harms immigrant families.
- Take into account family income and the ability to borrow money in the cases of restitution and mandatory counseling sessions. Many immigrants are in the US alone or very poor.

e. Other Services

- Form a Court Watch system to better understand court procedures and make sure justice is done for monolingual non-English speaking defendants, victims, and witnesses.
- Establish a CBO post-release program to help immigrant inmates avoid recidivism. There needs to be a 1-stop where services are co-located for public transportation, ESL, parenting, 12-step substance abuse programs, etc.
- Develop informational workshops on legal matters and court procedures.
- Contract with non-profit agencies that have knowledge and experience of immigration and deportation laws and procedures to provide information inside the jails, in places such as ESL classes and churches where large groups of immigrants gather, and in targeted places where more at-risk immigrants may congregate.
• Better coordinate services at the Juvenile Center; hire and train bilingual group counselors; provide youth and parents with basic immigrant rights and criminal rights classes.

f. Best Practices

• Replicate the “How to Live in America” curriculum in ESL classes, high immigrant churches, high immigrant K-12 classes, etc. Establish a court-ordered “How to Live in America” course to lower fines, serve less jail time, and obtain fewer points on drivers’ licenses for immigrants facing charges such as assault, domestic violence, drunken driving, or disorderly conduct. San Mateo County judges recently voted unanimously to duplicate the program begun in Eagle County, Colorado, which has dropped the number of Latino defendants in drunken driving cases by 40% in the past two years. The 3-hour course costs $100 and “touches on subjects including auto insurance and licensing requirements, restraining orders in domestic violence cases, child abuse, plea bargaining and courtroom demeanor.”

• Within the RJP, provide translation for parents and expand the program to more immigrant youth. This program has been a huge success.

• Expand the services of CBOs such as Friends Outside that provide culturally and linguistically appropriate family support services and rehabilitation counseling, allowing inmates to break the cycle of family-based recidivism. Friends Outside has family services, jail services, and youth programs which all work to make healthy families, link inmates with the outside world, and reduce recidivism. [FO]

• Work with identified at-risk immigrant youth inside and outside Juvenile Hall in the areas of prevention in elementary schools, intervention in middle and high schools and the Juvenile Center, and treatment mandated by a court or requested by a probation officer. This reduces recidivism and increases the chance for success of immigrant youth. The Place is a San Jose-area program of Asian American Recovery Services that provides these services to Vietnamese, Cambodians, Samoans, Tongans, and Latinos. Critical aspects of the formula for success with Asian youth include confidentiality, cultural and linguistic proficiency, younger staff, providing points for school, community, and family-related successes (since the point system in education is so deeply ingrained), open-ended interventions (“How do you feel?”), and addressing the kids as minors or youth instead of “juveniles”, which carries a stigma. Expand the program to encompass all immigrant groups.

• Expand the number of mentors and possibly the type of mentors for immigrant offenders needs. Attorney role models who mentor young adult parolees with consistent advice, support, and friendship improve the opportunities for success of parolee offenders, reduce recidivism, and save taxpayers money. Volunteers in Parole (VIP), supported by the State Bar and Santa Clara County Bar Association, matches local attorneys with parolees to repair shattered families and individual lives. On average, while a California parolee has a 40% chance of success, VIP parolees have 75% success rates. VIP’s annual investment in
turning young lives around represents less than 4% of what society would spend for one year of re-incarceration ($21,000 to $36,000 a year).

- Contract with non-profit immigration agency legal representatives to go into the jails to provide consultation and/or representation with immigrant clients. This is done in Eloy, AZ, and should be done with Santa Clara County immigrants in custody.

**Finding 2: The improvement of police-immigrant relations and the enhancement of cultural competency and understanding by both groups can lead to a higher incidence of reporting of crime and make immigrant lives more secure and whole.**

The underreporting of crimes by specific immigrant groups appears to correlate with their degree of isolation from the law enforcement and criminal justice systems. More funds need to be allocated for law enforcement resources in immigrant communities. Officers who are bilingual/bicultural are critical. Intensive multi-lingual outreach to communities, victims and defendants has proven successful in other communities. [National Institute of Justice]

**Random Survey**

Of those immigrants stopped by police who felt there was a communication problem with the officer, immigrants register over three times greater communication problems than the US-born. Vietnamese register a 10 times greater probability of communication difficulties than the US-born, Chinese 9 times, and Mexicans an eight times greater probability of communication problems.

Comparable differences regarding the ability to communicate effectively with police officers were found on the public assistance recipient survey. The 16 immigrant nationalities surveyed had more than twice as many difficulties communicating than the US-born. Mexicans had over 6 times the difficulty. Iranians, Vietnamese and Cambodians had over 4 times the difficulty, and Chinese respondents had over 3 times more difficulty communicating than the US-born.

Of those stopped by police who expressed themselves about being stopped, the US-born feel respected by the police at a rate twice as high as the respect felt by immigrants (53.4% to 26.6%). Only 12% of Chinese immigrants and 18% of Filipino immigrants felt respected.

Of those who were stopped and expressed themselves, the percentage of Mexicans who feel mistreated (28.2%) is more than four times greater than the percentages felt by the US-born (6.4%) or by the top five immigrant nationalities as a whole (6.6%). Mexicans were the only significant group that expressed such an extraordinarily high level of mistreatment.
Of those who felt scared once stopped by the police, the Vietnamese and Mexican respondents felt more than twice as scared as the average immigrant level of fear.

Of those immigrants needing any type of legal assistance, the Vietnamese (23.7%) and Filipinos (22.5%) indicated the most need in police abuse cases, higher than the immigrant percentage of 17.2% and double the percentage of the US-born (11.8%) needing such help. Mexicans also indicated a higher percentage than the US-born.

Of those respondents who identified the source(s) of their discrimination, immigrants (10.8%) feel over three times as discriminated by police in Santa Clara County as do US-born (2.9%), with Vietnamese (34.9%) and Mexicans (28.6%) feeling the most discriminated by far.

Of those immigrants from the top five immigrant groups in the county who feel discriminated against by police, only 19% identified “English” as the language they use most often.

Fear of government is a barrier to obtaining education, services, and information at double the rate for immigrants as for the US-born (five times greater for Mexican immigrants).

**County Jail Random Sample Survey**

Three of 10 immigrants sentenced in county jail indicated that they were not able to communicate well with the arresting officer.

Approximately 27% of immigrants sentenced in county jail felt they were not treated with respect by the arresting officer.

Of 35 open-ended responses by immigrant inmates in county jail to see if the arresting officer treated the immigrant with respect or not, 11 comments were positive. “*They spoke to me and explained to me why I was under arrest in my own language.*” “*Officer treated me with respect because he spoke Spanish.*” “*He asked me what language I spoke and then asked me all questions in Spanish...he read me my rights.*” “*She was nice and cool.*”

Eight comments were neutral. “*Police officers did their job.*”

Sixteen (16) comments were negative:
WHAT IMMIGRANTS SAY ABOUT POLICE ARRESTS

“Put shoes on my neck, too cruel.”

“Officer called me ‘stupid’ in English.”

“Officers disrespectful to me and longtime girlfriend.”

“Rights not read.”

“I was told to shut up.”

“I was treated like a human rat, a hoodlum.”

“Disrespected me by not explaining the charges and cussing at me.”

“Police officers didn’t explain procedures such as the court date resulting in the issuance of a warrant for my arrest.”

Focus Groups and Immigrants Building Community

A Cambodian participant stated: “There are gang activities, drug activities and truancy problems in our neighborhoods and we worry that our children will get involved in these activities and get in trouble with the police.”

A Somali father expressed dismay. “My child decided to call 911 because I would not order pizza for dinner, and when the police came I didn’t have the ability to communicate with them. The child then ended up interpreting for me and I felt totally helpless. The easiest way to deal with him now is to let his mother be responsible for his upbringing.”

The Laotian focus group stated that the Laotian community needs to address issues such as child abuse and adult abuse.

The Iranian report from Immigrants Building Community expressed several concerns: “The concept of police and the legal system from our homeland still is in the back of our minds in the approach with police here.” “[There I]is negative police stereotyping of the Iranian community.” “Not having access to legal information in our language causes a backwardness in our awareness of our legal rights.”

Community Sources

The Office of the Independent Police Auditor (IPA) noted that Section 832.5 of the California Penal Code requires every department in the state that employs peace officers to establish a complaint procedure to investigate public complaints, and each department or agency “shall make a written description of the procedure available to the public”. It
is unclear that every Police Department and law enforcement agency in the county has such a procedure 1) at all 2) in various languages.

The same Office of the IPA related from its experiences that many immigrants fear or don’t understand the police; that because of relations with authority in their home countries, immigrants are frequently fearful of filing complaints against peace officers, and that Vietnamese police are in short supply because Vietnamese fear the criminal justice system and fear retribution.

Anonymous guest testimony to the Criminal Justice Work Group from an immigrant with a son at Elmwood gave the opinion that police do not have sufficient knowledge of cultures or a corresponding sensitivity.

A recent National Institute of Justice (NIJ) study reports that 67 percent of law enforcement officials nationally feel that recent immigrants report crimes less frequently than other victims. Domestic violence is the crime least reported, with sexual assault and gang violence also more likely to go unreported. Most incidents involve perpetrators from the same ethnic group as the victim. Officials believe that immigrants faced greater hardships when reporting crimes to police or appearing in court, including language barriers, cultural differences, and ignorance of the U.S. justice system. More than half (56%) of the officials stated that the problem of underreporting is not limited to undocumented immigrants. Asians (53%) and Latinos (42%) are the groups most likely to underreport. Fear of authorities and embarrassment to their families are the two biggest negative pressures that prevent reporting of crime in immigrant communities. According to 32% of the officials, “too few funds are allocated for law enforcement resources in those immigrant communities.”

**Recommendations for Finding 2:**

**a. Linguistically and Culturally Appropriate Services**

- Enhance community policing /bilingual outreach positions like El Guardian in the San Jose Police Department, with bilingual officers having community relations and explanation of the law the full substance of their job description. This is particularly justified in the Mexican, Central American and Vietnamese communities. However, officers should “adopt an immigrant community” (Somali, Iranian, etc.) and make themselves available to and knowledgeable of those communities.
- Hire more Vietnamese and immigrant police officers. This should happen hand in hand with greater community police outreach in the Vietnamese and other immigrant communities to lower the general level of fear which many immigrants have toward police from their home-country experiences.
- Require more police training in knowledge of cultures and cultural sensitivity.
- Encourage immigrant communities to talk with the training units of Police Departments about its diversity training/knowledge of cultures component and about their outreach to immigrant communities. [Office of Refugee Resettlement]
• To better recruit immigrants to the police force, set up a Citizen’s Police Academy specifically for foreign-born residents. [Office of Refugee Resettlement]
• Encourage law enforcement to sit down with different immigrant communities and develop different crime prevention strategies that fit the specific needs and issues of each community.
• Increase the number of immigrants inside the police departments.
• Translate legal rights, laws, and procedures into different languages.

b. Legal Improvements
• Make a clear complaint procedure available to the public within all law enforcement agencies in the county, in visible places in multiple languages.
• Have law enforcement desist from investigating “issues involving citizenship, immigration status, or deportation.” Such investigating undermines trust.
• Encourage immigrant groups to invite law enforcement to their cultural events.
• Encourage law enforcement agency best practices such as having programs, policies, or practices in place to assist immigrant victims; providing multilingual assistance or translators and non-English informational brochures; holding regular meetings with leaders of ethnic groups; working with citizen liaison committees; participating in cultural sensitivity training; incorporating leaders of immigrant communities into citizen advisory boards for police and prosecution agencies; enhancing ethnic diversity among staff of criminal justice agencies; sponsoring in-service training regarding knowledge of cultures, and conducting special outreach from the district attorney’s offices to immigrant victims. [National Institute of Justice]

c. Other Services
• Set up Neighborhood Watch committees with police assistance and involvement in areas of high concentrations of immigrants and in multi-national neighborhoods, especially in high-crime areas.
• Encourage law enforcement to apply for special grant money designated to help immigrants, in collaboration with existing immigrant groups. [Office of Refugee Resettlement]

d. Best Practices
• The underreporting of crimes by specific immigrant groups appears to correlate with their degree of isolation from the law enforcement and criminal justice systems. More funds need to be allocated for law enforcement resources in immigrant communities. [National Institute of Justice Study, including the San Jose area] According to a May 1998 National Institute of Justice/DOJ research report, two model programs are the following:
• Both the District Attorney’s office and the Philadelphia Police Department have outreach programs to Southeast Asian immigrants. “In the district attorney’s office, Vietnamese and Cambodian caseworkers screen arrest reports citywide
for victims with Southeast Asian surnames and attempt to contact these individually by telephone or letter. Brochures describing the court process are provided in Cambodian, Vietnamese, and Korean.”

- The Jackson Heights neighborhood of New York City offers comprehensive programs that gain immigrants’ trust in reporting crime. “In one police precinct, the police have a Spanish-speaking receptionist on duty at all times, hold frequent open houses for community members, patrol neighborhoods on foot, support an active police-community council, and have community relations officers who act as liaisons with ethnic groups. The district attorney’s office works with community organizations such as Jackson Heights Action Group to address crime-related issues.” In addition, see the summary of “Community Policing”, a video produced by the Sacramento Police Department for the National Institute of Justice in the appendix.

Finding 3: It is important to address the concerns of immigrants inside the Department of Corrections (DOC).

In order to reside in conditions comparable to their US-born English-speaking inmates, the special needs of immigrants need to be addressed within the Department of Corrections [DOC] in a proactive way.

This includes bilingual educational services for inmates, hiring bilingual Correction Officers, and special efforts to allow inmates to be in touch with their families outside the United States.

Of the randomly selected immigrant inmates who participated in a 55-question survey of the state of the criminal justice system throughout the county, the overwhelming concern and preoccupation had to do with the conditions inside the county jail system. Although positive assets were present inside the DOC that can be built upon, the tone of the vast majority of comments painted a difficult, discriminatory, or desperate scenario for immigrant inmates. The comments below primarily address the specific treatment of immigrant inmates as immigrants. Many other comments reflecting negative general conditions in the jails are deleted.

Criminal Justice Survey

Of 44 open-ended responses by immigrant inmates in county jail to the question of how they have been treated by Corrections Officers, 11 comments were positive. “They’ve treated me well.” “All right.” “They’re all right, they’re doing their job.” “Haven’t had any problems.” “Treated me fine.” Three comments were neutral. “Really good, except one CO.” “All right, some are bossy.” The vast majority, thirty-one (31) comments were negative:
WHAT IMMIGRANTS SAY ABOUT CORRECTIONS OFFICERS

“Some appear to be racist. They treat the whites with respect and us Mexicans are yelled at and they lose their temper very quickly.”

“Discriminated. I was told that I qualified for SARP [Substance Abuse Rehabilitation Program], but wasn’t released. I was told later that I had to complete an in-custody program. I completed the program, they called main but they didn’t let me do SARP.”

"Sometimes I think COs bring their problems from outside and they take it out on us...we are not here to be punished by them. There is a lot of racism in the jail. They call us f...ing Mexicans.”

“Bad. As a prisoner, we are ...constantly harassed and treated poorly. Not allowed to be at programs. Cold food, late. Dirty clothes. Bad language. Turn off TV. COs threw out property, family pictures...I know of an inmate who was beaten. I was transferred to the main jail for no reason. My family’s letters are not delivered...The English teacher sometimes is not allowed in. The priest from MACSA is not allowed in. Inmates are treated poorly by COs by using bad language and yelling for very poor little reasons. It’s OK to hold a person responsible for making mistakes but it’s unfair to be treated unfairly. Seven Latino inmates are on a hunger strike. Medical attention is delayed. CO ______ is known to throw out and tear up our letters.”

“They treat you very badly. They yell at you, have short tempers, and do not speak your language.”

“In Milpitas jail inmates are often treated badly by Spanish-speaking COs. They throw out their cards...Sometimes we aren’t given programs.”

“Sometimes we are treated poorly because we don’t speak English and can’t defend ourselves. Racism is involved. Some Mexican COs are worse. Some Spanish-speaking inmates spend more time in the cold room. COs take advantage of Spanish speakers, talk to them and humiliate them because of the language barrier.”

Of 33 responses by immigrant inmates as to whether they had anything else to say not discussed in the 55-question survey, 19 chose to talk about conditions inside the DOC, three responses were positive. “I really like the programs here.” “Elmwood has been a good place. We spend 2 hours a day outside and we have good programs.” “Elmwood has been a good place overall. Good programs, free time outside.”

One response was neutral. “We’re here because we did something bad, and that’s fair.”

Fifteen responses were negative:
## What Immigrants Say about Conditions Inside the DOC

“I have a food allergy but my request for a change in diet was ignored...there are not set schedules in the jail...I would like more Vietnamese books in the library.”

“The jail environment roughens a person. If an item is missing like watches, no thorough investigation is conducted before inmates are accused. Officers overstep their authority. They need more Vietnamese speaking staff and counseling and orientation services in Vietnamese.”

“The jail needs to provide more programs in Spanish.”

“Everyone in here should be treated the same...and have the same resources as everyone else.”

“I was discriminated against. I really wanted SARP. The DOC made no effort to see if I qualified. My employer sent faxes and went to jail to personally talk to DOC. DOC didn’t verify my home address. I feel discriminated against; I’ve seen other races get in programs more often than Hispanics.”

“Officer check-down orders are in English and some inmates don’t understand. Officers don’t care and mistreat inmates badly. Officers handcuff them and put them in the cold room for 1-2 hours. Officers confiscate non illegal items like photos, picture frames, and art work.”

“One inmate was given 35 extra days because he didn’t understand what the COs said. We’re treated like animals instead of human beings. I need a new mattress.”

“I can’t understand the most recent poor treatment by COs.”

“We need help and support to be treated like humans. COs should do their jobs with fairness.”

“Most immigrants are treated more poorly than native–born. Some inmates are beaten.”

Nearly 1 out of 3 immigrant inmates in county jail (32%) stated they did not receive an Inmate Orientation and Rule Book, and only 55% of the immigrant inmates in county jail state they received a Rule Book in a language they understood.

As an attachment to the question on how inmates are treated, one inmate provided a 7-page handwritten “Highlighted List of Recommended Improvements at Elmwood’s Minimum Camp”, dated June 9, 2000. This document was evidently written once the inmate knew he would be interviewed soon thereafter. First the inmate quoted the Rulebook: “You have the right that as a human being you will be treated respectfully, impartially and fairly by all personnel”. Then he highlighted many areas of complaints:
Personal treatment: racism, respect: “Inmates are often, and for no good reason, addressed with derogatory remarks and abusive language.”

Regulation, policy: conflict, clarity: “There is not consistency between Corrections Officers on policy throughout the camp. Rule of thumb: do whatever an officer says.”

Meals: time schedule, duration. [Many inmates complained about the 4:00 a.m. breakfast.]

Health and safety: pests, structure: Phones: cost, functionality. “What kind of service or maintenance justifies a 200-500% markup on a $.35 telephone call? And with all the fees collected why are less than 2/3 of the phones functional?”

Medical: dental, qualifications: “Inmates with dental problems must often wait weeks before receiving treatment. There is no dental staff available. The nurses are not registered.”

Visits: extending hours, additional. “Morale would certainly improve…”

Programs: criteria, work furlough: “Program directors, specifically work furlough don’t seem to operate in correlation with the courts; it is often a mystery as to how some decisions are made regarding eligibility or acceptance. One inmate received a note denying work furlough for stated reason: ‘You do the crime, you do the time.’ Is this acceptable? Could the acceptance criteria be published on the reverse of an application? This would certainly cut down on the number of inappropriate applications. What is the review process?”

Community Sources

Service providers, law enforcement officers, and others showed grave concern about the treatment of immigrant inmates.

The Office of the Independent Police Auditor expressed concern that required rehabilitation classes such as parental training, anger management, and drug and alcohol treatment are not taught in immigrants’ primary language.

Friends Outside, the main community service provider inside county jail, expressed that immigrants are not treated with equal concern and many fundamental needs of immigrants are not being met.

- There are insufficient bilingual rehabilitation counselors inside the jails.
- There is a lack of books in Spanish and Vietnamese inside the jails.
- There are no interpreters for phone calls, they are too expensive, immigrants have no way to contact relatives abroad, and phone cards have been confiscated by COs.
- There is no Vietnamese translator in the jail system.
• There are insufficient literacy classes (in English, Spanish, etc.) and ESL classes.
• The Vietnamese who are in the SARP class are completely lost. Since it is only in English, they doodle in the back but get almost nothing out of the class.
• COs rotate daily but they really don’t have language ability outside of English, leaving immigrant inmates in the dark.
• Many immigrants are unaware of the DOC rule book and don’t know it is in Spanish and Vietnamese. The rule book is given out inconsistently and the rules applied inconsistently to immigrants.
• Limited English Proficient (LEPs) are too often penalized at infraction hearings for not following a verbal order, for being disrespectful to an officer, for threatening harm to another, etc., without knowing the rules or the specific verbal orders.
• LEP immigrants are more likely to suffer from perceived CO abuses of power or actual lack of understanding, such as when asking for medicine (if a diabetic) or special religious foods (if religious). They frequently don’t feel understood or respected.
• A grievance must be on a grievance form, but 1) there are no grievance forms in Spanish or other languages, 2) it could be days before a grievance form is obtained (COs say “we don’t have any” or “we ran out”), 3) grievances go to the CO who did the harm, 4) there is no repercussion or discipline provided to the CO who even admits lying at a grievance hearing (the infraction is dismissed, but the CO receives no punishment, even for lying), and 5) there is retribution for the inmate who filed the grievance. Before, Sergeants talked to inmates. Now, there is perceived retribution such as strip searches, shakedowns, etc. for the inmate issuing the grievance.

On related issues, Friends Outside expressed concern that 1) there are no post-release programs for immigrants in Spanish, Vietnamese, etc., 2) after release, immigrant inmates find services are spread out all over the place, and they have trouble negotiating the services that exist, 3) within the Restorative Justice Program (RJP), culturally appropriate interaction and translation is needed to communicate with the parents (and some minors), and 4) studies show that inmates are more likely to accept personal responsibility for their actions and remain out of jail upon release if they are able to maintain contact with their families while they are in confinement.

A Dependency Court Commissioner expressed concern that inside the DOC, inmates are not getting enough information in Spanish, Vietnamese, and other languages to know what services are available. The English-speaking know more about service programs. Monolingual immigrants don’t know what questions to ask. In Dependency Court, when asked if they know of any programs for them, they say they don’t know of any.

In a positive spirit of self-criticism, the Department of Corrections admitted that no counseling or presentations are made in Spanish, Vietnamese, or other languages so that immigrant inmates can really understand what is available, and that there are waiting lists for the non-English classes. The DOC attended work group meetings, cooperated fully in
conducting the immigrant inmate survey at Elmwood, and provided valuable feedback regarding general conditions in the jails and the difficult challenges faced by Corrections Officers.

**Recommendations for Finding 3:**

a. Linguistically Appropriate Services

- Provide required rehabilitation classes in languages where 5 or more non-English speaking inmates speak the same language.
- Increase the number of CBO bilingual rehabilitation counselors inside the jails.
- Do a language assessment of immigrant (and perhaps bilingual/bicultural) inmates and work with libraries and non-profit organizations to donate language-appropriate books in multiple languages.
- Establish a language bank that DOC can buy in to, in order to allow immigrant inmates to have interpreters available for specified calls (attorney, family abroad, court procedures, employer, etc.).
- Extend the successful adult literacy in English program at Elmwood and institutionalize adult literacy in Spanish or other languages spoken by inmates who do not have a solid grasp of literacy in their primary language. Without this foundation, studies indicate, it is difficult for adults to later attain literacy in English.
- Extend ESL and ABE programs (including literacy in English) for immigrants.
- Code Corrections Officer positions as bilingual/bicultural according to the language and cultural needs of the inmates. None of the Corrections Officer positions are now coded as bilingual/bicultural. An adequate number of Correction Officers’ positions should be coded as bilingual as done within the Social Services Agency, to address issues of lack of knowledge and understanding by inmates, felt discrimination, and the ability of immigrant inmates to communicate important issues and ideas such as their medical and religious needs. Rotating English speaking-only COs is not the best practice if they cannot communicate with non-English-speaking inmates.
- Establish a system whereby the written language of preference of the new inmate is determined, the translated rule book provided to each and every immigrant inmate in the language of their preference, the rule book and its content are explained verbally at workshops or in counseling in the language of choice, and the rule book is consistently applied with all inmates regardless of national origin.
- Translate grievance forms into major languages, make them readily and openly available, and address grievances expeditiously, seriously, and independently from the officer complained about.

b. Culturally Appropriate Services

- Provide knowledge of culture and cultural proficiency training to COs.
• Review the classes and services available to immigrant inmates, especially when they are court-mandated and/or not available in the inmates’ primary language. Add classes in appropriate languages. Institute SARP classes in appropriate languages.

c. Legal Improvements

• Translate grievance forms into major languages, make them readily and openly available, and address grievances expeditiously, seriously, and independently.
• COs admitting to lying must be punished.
• Inmates must be able to file a complaint if retribution ensues.
• The modeling of due process for immigrant inmates must appear inside the criminal justice system.
• Sergeants or independent auditors should be able to assess immigrant complaints in their own languages.

d. Other Services

• Provide immigrants alone in the US with the contact needed to inform their families abroad, and allow those families to send a calling card to the detained immigrant. When calling cards are taken away from inmates without due process, allow a complaint procedure form and a remedy for replacing the card.
• Establish regular meetings between the Executive Directors of CBOs, their delegates, or other perceived independent parties having regular contact with inmates, and the Facility Commanders.

Finding 4. Immigrants are not receiving adequate representation and interpretation in criminal court, and all involved in the legal system must be better educated about the immigration consequences of pleas and crimes.

Random Sample and Public Assistance Recipient Sample Surveys

In the random sample of the top five immigrant nationalities in Santa Clara County, of those immigrants who said they needed any type of legal help 23.4% said they needed help with a criminal case, versus 14.7% of the US-born, a 59% greater need expressed by immigrants. Filipinos (34.1%) and Vietnamese (31.4%) expressed the greatest need.

Similarly, in the survey of public assistance recipients in Santa Clara Count who said they needed legal assistance, 20.3% stated they needed help with a criminal case, versus 11.7% of the US-born. The immigrant rate shows a 74% higher need. Of those public benefits recipients needing legal help, more than a quarter of Bosnians, Vietnamese, Cambodians, Somalis and Filipinos said they needed help for a criminal case.

Of the randomly sampled five top immigrant groups in the county who expressed a need for legal help in the area of police abuse, Vietnamese (23.7%) and Filipinos (22.5%)
requested the most legal assistance, higher than the immigrant percentage of 17.2%. This immigrant percentage was 46% higher than the US-born percentage of 11.8% needing such help. Similarly, of public assistance recipients needing any type of legal help, 14.4% of immigrants said they needed help with a police abuse case, versus 6.5% of the US-born, more than double the rate.

Of the immigrant groups needing legal help from the two surveys, 1 of every 6 immigrants consistently indicated that they needed legal assistance for a case of INS abuse.

Of those actually receiving criminal justice legal help, immigrants and US born in the random sample were only 50% satisfied with the help received. In the public assistance recipient survey, both groups were satisfied with the assistance received by about a 2 to 1 ratio. However, both surveys indicated that the US-born were more than four times more likely than immigrants to receive help when they needed it in criminal cases.

**County Jail Random Sample Survey**

About 62% of sentenced immigrants in county jail feel they were represented adequately in court; 38% feel they were not represented adequately. 71% were represented by Public Defenders and 23% were represented by private attorneys.

Attorneys spent an average of 30 minutes with sentenced immigrants in county jail before the criminal proceedings at which they were convicted.

One in 4 sentenced immigrant inmates in county jail say they were not able to communicate well with the attorney who represented them.

Two out of five sentenced immigrants serving time in county jail indicate that their attorney did not inform them that a conviction and sentence might affect their immigration status.

Three out of five (58.8%) of immigrants in county jail who used an interpreter in their criminal case feel the interpreter was clear and understandable, 11.8% state that in retrospect they should have used an interpreter, and 14.7% state there was no interpreter available but they continued anyway.

Three out of four (75%) of those who used an interpreter indicate they received adequate translation.

Of the 28 responses to the open-ended question asking immigrant inmates whether or not the immigrant was able to communicate well with his or her legal representative, 11 responses were positive. “The lawyer spoke Spanish.” “I had the help of a translator.” “My public defender used an interpreter and I was able to understand.” “My attorney’s partner came to visit me and broke down what I was facing...they were honest and straightforward.” “She explained what to expect and what the District Attorney wanted.” Three responses were neutral. “More or less. I understand English, but the
important things, I like in Spanish.” “We both spoke English.” Fourteen responses were negative:

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<tr>
<th>WHAT IMMIGRANTS SAY ABOUT COMMUNICATION WITH THEIR CRIMINAL LAWYER</th>
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<tr>
<td>“I was not able to explain my case to my attorney. The public defender forced me to plead guilty.”</td>
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<tr>
<td>“I didn’t have enough time to talk with my attorney, and I got no answers from my attorney. I’m serving a longer sentence as a result.”</td>
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<tr>
<td>“The attorney didn’t spend enough time to explain all the consequences, charges, and defenses.”</td>
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<td>“I had different lawyers with different opinions.”</td>
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<tr>
<td>“The attorney didn’t speak Spanish.”</td>
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<td>“The public defender pushed me to plead to take a deal. He did not explain anything to me.”</td>
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<tr>
<td>“We didn’t communicate well because she only explained the charges and the time I was going to get and told me to take it.”</td>
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<tr>
<td>“The Public Defender told me to take the deal. I didn’t want to. I wanted to fight the case.”</td>
</tr>
<tr>
<td>“Because he was trying to make me enter a plea, no options were explained.”</td>
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</table>

Of 19 immigrant inmate responses to the open-response question of whether they felt the interpreter used in the courtroom was adequate, 9 responses were positive. “She was clear and I understood what she said.” “The interpretation was fine, but trying to listen to the judge in English was distracting.” “The interpreter spoke slowly and I understood.” “Yes, because the interpreter told me everything that was being said, every word they spoke.” “I understood everything she said.” Two responses were neutral. “I understood because I speak a little English. The interpreter spoke very quickly.” “I didn’t use an interpreter.”

Eight responses were negative. “The judge spoke fast and the interpreter had to rush.” “They weren’t very clear.” “They spoke very rapidly and I couldn’t understand them very much.” “When the judge would ask a question, the interpreter remained silent and wouldn’t say a thing.” “The interpreter spoke too fast and didn’t seem to know Spanish well. I could understand about every third word spoken. He didn’t stop to repeat words for me. They told me to say yes or no without explaining to me.” “There were some words that the interpreter said that I didn’t understand. I also didn’t understand the legal
Focus Groups and Immigrants Building Community

The Mexican focus group expressed the opinion that there is discrimination against Latinos in the judicial system. “Sometimes Mexicans are in the prison system unjustly. They are told, ‘declare yourself guilty and you will only get 3 months; if you don’t you could get up to four years’. People think, ‘well...3 months versus 4 years, I’ll declare myself guilty’. Then later...you find out that by declaring yourself guilty you could be affected negatively in many other ways.”

The Latino IBC group identified four main problems in the criminal justice system:

- There is not sufficient representation
- Defendants are forced to enter guilty pleas
- Defendants cannot afford private attorneys
- The process is too lengthy

One Iranian IBC participant stated: “The lawyers mostly use the ignorance of new immigrants regarding court procedures to make money.”

Community Sources

The Office of the Independent Police Auditor and the special guest testimony of an immigrant father from India with a son in county jail observed that low-income immigrants do not have enough money to access private attorneys, and public defenders are often overwhelmed. Some private criminal attorneys knowingly take an immigrant’s last $500 (or $1000) knowing they will do nothing for their clients. They play on the immigrants’ lack of knowledge of the system and on their fear. Sometimes private attorneys encourage fast-tracking if they know they will not be paid enough over time.

The Place stated that Public Defenders need to be more sensitive and competent at times. For example, there is no Laotian Public Defender, and the one Filipino is no longer doing juvenile cases.

- A Commissioner from Dependency Court expressed a number of concerns from the context of Dependency Court that are also concerns in criminal courts.
- In domestic violence cases, one interpreter is used for both perpetrator and victim.
- The quality of interpretation and translation varies widely.
- Many interpreters and translators do not have sufficient knowledge of US law, procedures, and at times customs.
- Recruitment of interpreters and translators is inadequate.
- There is no complaint procedure for poor translation/interpretation, and no procedure to require additional training of interpreters or replace them. Major rights and life issues are at stake.
• Earphones are needed for immigrants during simultaneous translations.

The National Institute of Justice pointed out one of the biggest problems that immigrants with less education face in court proceedings: in court, language is the biggest barrier, but not the English language. The legal language is the problem, since “immigrants have trouble understanding court proceedings conducted in English even when they are translated.”

**Recommendations for Finding 4:**

**a. Linguistically and Culturally Appropriate Services**

• Develop systems to allow low-cost bilingual attorneys for criminal law representation.
• Code more positions within the Public Defenders’ office for bilingual capacity, following an assessment of the need.
• Use separate interpreters for the victim and perpetrator in domestic violence cases.
• Slow down in court translations; don’t require simultaneous translation; avoid literal translations; permit more methodical translations by translators trained in conveying the meaning of the words even if it takes a story in addition to a functional translation.
• Establish a system to independently verify the quality of interpretation and interpreters.
• Provide threshold testing of interpreters and translators regarding US law, procedures, and customs, and require training in these areas before certified to translate.
• Review and improve the current testing of translators so that the test is an accurate reflection of what is needed in the courtroom, such as knowledge of substance material and procedures and knowledge of cultures and language of the defendants and victims.
• Recruit interpreters and translators through widespread advertising.
• Create a translator/interpreter pool listing qualifications, to get well-qualified interpreters.
• Develop a complaint procedure for poor translation/interpretation. Poor interpreters should receive additional training or be replaced.
• Provide earphones needed by immigrants during simultaneous translations.
• Train private attorneys and public defenders in the special needs of immigrants, through cultural competency training, knowledge of cultures, knowledge of the immigration consequences of crimes, etc.

**b. Legal Improvements**

• Establish an attorney position inside the Public Defenders Office that is an expert on the immigration consequences of pleas and crimes.
• Form a Court Watch system to better understand court procedures and make sure justice is done for monolingual non-English speaking defendants, victims, and witnesses.

Finding 5: Immigrants are under-represented as witnesses and jury members.

In conducting an analysis of gaps in services, work group members from the Public Defenders Office expressed concern about local juries that do not represent the ethnic, cultural, and linguistic background of the local community or of the accused. The Office of the Independent Auditor expressed a strong concern that some nationalities have a disproportionate number of low-income immigrants, meaning they cannot take a day off to vindicate the accused as witnesses nor serve as members of juries.

Recommendations for Finding 5: “Justice is not always cost-efficient, but…”

a. Linguistically and Culturally Appropriate Services

• Study the level of English of those immigrants who are prospective jurors and who write that they don’t speak English and are eliminated from the jury pool. Their level of English should be examined and their true potential for inclusion on juries should be analyzed pragmatically.
• Permit jury members whose first language is not English, facilitating trials by simultaneous translation for jury members especially when an immigrant is being tried with no immigrant jury member.
• Keep statistics on jurists to see how many are immigrant in a county where one-third (1/3) of the population is immigrant.

b. Financial and Other Considerations

• Take into account the family income of potential low-income immigrant witnesses and jury members in assuring their presence at trials.
• Provide a basic workshop on criminal procedure and criminal law, particularly in the trial setting, for immigrants who now have sufficient knowledge of English but perhaps not enough knowledge of the criminal justice system. At a minimum, a bilingual video would be helpful.
• Form a Court Watch system to better understand court procedures and make sure justice is done for monolingual non-English speaking defendants, victims, and witnesses.