



JUDICIAL COUNCIL OF CALIFORNIA

LANGUAGE ACCESS PLAN
IMPLEMENTATION TASK FORCE

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MINUTES OF COMMUNITY OUTREACH MEETING

March 22, 2016

10:00 a.m. to 1:00 p.m.

Judicial Council of California
Malcolm L. Lucas Boardroom, 3rd Floor
San Francisco, California

Advisory Body Members Present: Hon. Mariano-Florentino Cuéllar, Chair, Hon. Manuel Covarrubias, Vice-Chair, Hon. Steven Austin, Mr. Kevin Baker, Hon. Terence L. Bruiniers, Ms. Tracy Clark, Hon. Michelle Williams Court, Hon. Janet Gaard, Ms. Susan Marie Gonzalez, Hon. Dennis Hayashi, Ms. Janet Hudec, Ms. Joann Lee, Hon. Miguel Márquez, Ms. Ivette Peña, Mr. Michael M. Roddy, Dr. Guadalupe Valdés, Mr. José H. Varela, and Hon. Brian Walsh.

Advisory Body Members Not Present: Ms. Naomi Adelson, Hon. Jonathan Conklin, Ms. Oleksandra Johnson, Hon. Jonathan Renner, Ms. Jeanine Tucker, Ms. Leah Wilson, and Hon. Laurie Zelon.

Others Present: Mr. Douglas Denton, Ms. Diana Glick, Mr. Stephen Goldberg, Ms. Donna Hershkowitz, Ms. Bonnie Hough, Ms. Olivia Lawrence, Ms. Cristina Llop, Ms. Judy Louie, Ms. Anne Marx, Ms. Angie Murphy, Ms. Gretchen Peterson-Fisher, Ms. Jenny Phu, Ms. Catharine Price, Ms. Jacquie Ring, Mr. Victor Rodriguez, Ms. Melody Saint-Saens, Ms. Renea Stewart, Ms. Elizabeth Tam-Helmuth, Ms. Sonia Sierra Wolf, and Ms. Angela Zawadzki.

I. OPEN MEETING (CAL. RULES OF COURTS, RULE 10.75 (C)(1))

WELCOME AND INTRODUCTION

The Chair Justice Mariano-Florentino Cuéllar introduced his Vice-Chair, Judge Manuel Covarrubias from the Ventura County Superior Court. Justice Cuéllar welcomed and thanked everyone for joining the second community outreach meeting of the Language Access Plan (LAP) Implementation Task Force (ITF). The first community outreach meeting was held in Los Angeles on October 20, 2015.

SESSION ONE – CIVIL EXPANSION: STRIDES AND CHALLENGES

Moderator: Mr. Kevin Baker

Participants: Ms. Angie Murphy, Ms. Ivette Peña, Mr. Stephen Goldberg, and Ms. Angela Zawadzki

The *Court Progress in Providing Interpreters in Civil Cases* graphic (as of September 2015) illustrates that nine courts reported full expansion (i.e., they could provide interpreters in all civil matters upon request), and another 28 courts reported that, dependent on available resources, they provide interpreters in civil case types following the priority order dictated by statute in Evidence Code §756 (i.e., for priorities 1 through 8). The illustration of courts' progress on civil expansion will be updated based on results from the January 2016 trial court survey and any information we receive from the newly appointed trial court language access representatives as we continue to implement the LAP.

One of the key challenges to the expansion of interpreter provision in civil proceedings is that we lack sufficient interpreter resources. The cross-assignment procurement process has always been an effective way of doing more with fewer interpreters, but some courts are experiencing shortages as neighboring courts need more interpreters for their own civil expansion. This challenge has caused some courts to rely more heavily on independent contractors, however, the 100-day limitation rule associated with the hiring of these contractors is becoming an additional obstacle. Funding is also a big challenge. Most courts do not receive funding for administrative costs of interpreter services, and court administrators are working with the bench to educate them on the limited number of interpreters and the need for scheduling considerations, especially in matters requiring other than Spanish (OTS) interpreters.

There are various strategies being carried out by the courts to meet language access needs. One is to strive for early identification at the earliest point of contact to ensure the LEP court user will be provided with the resources necessary for their court matter. Another way is by creating calendar codes and improved web-based calendaring for proper (and more efficient) scheduling of interpreters. Judicial officers also have access to these calendars so they can readily continue matters when interpreters will be available. Courts are also maximizing interpreter usage by using them to assist at counters or help other court staff while waiting for trials or during down time.

As is evidenced across the state, each court is going to face its own set of challenges based on demographics, location, community demands, and practices and procedures of the bench. Diverse courts are finding that they need a very diverse workforce, and whereas Spanish is consistently the top language needed, other languages are less consistently provided (and requested) across the county. The use of audio remote interpreting for court users at filing windows is very helpful but it does not demonstrate a pattern of language needs, especially in OTS languages, in order to assist the courts with hiring of bilingual staff and other provisions of language services.

We have also learned that the communities served by the courts have a variety of needs not met under existing court processes, causing inconvenience and hardship often due to an overlap between socioeconomic background and language barriers. This played out, for example, in Los Angeles with its traffic cases (which, for Los Angeles, represents a very large case load volume), where a survey of court users revealed that a significant number of litigants could not take advantage of remote payment or other services because they did not have bank accounts. As a solution, the Los Angeles court installed traffic ticket payment kiosks in several languages at courthouses, and in locations not subject to security checkpoints, that accept cash payments allowing many to take care of citations in a timely manner. The multilingual traffic digital assistant has also significantly helped Los Angeles better serve all traffic court litigants,

including LEP users. The high volume use of these tools has revealed that a large segment of their local population was not being adequately served. Additionally, the use of supervising interpreters has led to a more efficient deployment of staff interpreters throughout the court, and they are now able to cover a larger portion of interpreting need with the same staff.

Technology is also being leveraged in various ways to mitigate challenges. In Riverside, for example, the court was able to obtain iPhones at a nominal cost for interpreters so that coordinators could text interpreters and deploy them more efficiently. There is room for other technologies such as creating an internal pool of telephone interpreters at the regional level or through the Judicial Council for shared statewide court use. Courts are encouraged to think outside the box and institute practices, whether through technology or some other avenue, to maximize existing resources to achieve civil expansion.

However, while the use of technology can be beneficial, courts need to consider possible challenges that technology may pose, especially in OTS languages. For example, video remote interpreting (VRI) may not be appropriate in all instances, and some populations, such as Latin American indigenous groups, may not be comfortable with the use of technology at all.

Another significant challenge is the shortage of new individuals interested in entering the interpreting field. Much of the work in many courts, especially in Spanish, is being performed by staff interpreters, but there is a need for new interpreters to enter the profession. Educational institutions exist to train a new generation of interpreters. Civil expansion also gives prospective interpreters (and students enrolling in interpreting programs) exciting work opportunities in a growing field. Interpreter training programs have an important role to play in preparing individuals for a profession requiring a high degree of skills. Some, such as Laney College, provide training for legal interpreters and those who want to pursue other areas such as medical, community, and educational interpreting. Collaboration between courts and these educational providers can be an important means for generating interest in legal interpreting. In addition to educational programs, we must make the court interpreting profession more appealing by providing higher salaries and other rewards to make working for the courts more competitive when compared to the private sector.

An uneven roll out of civil expansion in the courts is also causing various challenges. In rural areas and other parts of California, we have noted some implementation issues that are of concern. Several courts have not yet updated their websites to reflect compliance with current law and the LAP and still list court rules or policies that limit language access, or state that interpreters are not provided. This is particularly a problem with OTS languages where telephone or VRI can be a part of resolving a number of those access issues. Legal services providers have tried to engage courts in the various areas; some courts have responded positively and have engaged in constructive dialogue, while others have not been as responsive. There are great strides being made throughout the state, but there is an uneven roll-out of civil expansion and challenges remain—we must remain vigilant to ensure all courts are moving forward in the provision of language access.

SESSION TWO – TECHNICAL SOLUTIONS

Moderator: Hon. Terence L. Bruiniers

Participants: Mr. José Varela and Ms. Gretchen Peterson-Fisher

The Technological Solutions Subcommittee of the LAP Implementation Task Force has been working diligently on various technology approaches to language access. The most resource intensive has been the VRI pilot project. The Subcommittee will be on the Judicial Council's June agenda to present the VRI Pilot Request for Proposal (RFP) for approval. The VRI project is not intended as a cost-savings project, but rather an additional means of meeting the needs of court LEP users. Professional interpreters are a critical but limited resource. There will likely never be enough interpreters in as many languages as are needed, so we need to find a way to deliver interpreter services in appropriate cases, recognizing the preference will always be for in-person interpretation.

The VRI project's intent is to identify cases appropriate for remote interpretation consistent with due process. The focus of this project is to identify best practices, and available technologies that will provide for effective delivery of services, minimize interpreter time spent in unnecessary travel, reduce courtroom delays, provide broader access in OTS languages, permit the expansion of interpreter resources beyond criminal proceedings, and allow courts to share resources where appropriate. The Task Force hopes to work collaboratively with the California Federation of Interpreters (CFI) in implementing the pilot project and evaluating results from that pilot. Beyond VRI, the subcommittee is also looking at additional technology that can assist interpreters with their jobs in the courtroom, and how to use existing technology to provide early identification of LEP court users' language needs, working with vendors on newly-adopted case management systems to use available tools, in addition to a number of other projects under way.

The Translation, Signage, and Tools for Courts Subcommittee has, in addition to developing translation policies, focused on the Task Force Chair's desire to create actual tangible products and tools for courts to use in serving LEP users. The Language Access Toolkit was one of the first projects to create a mechanism to distribute tools and information to everyone. The Subcommittee focused on a user-friendly living toolkit to act as a centralized location for language access resources. Staff identified all existing resources and those that were currently in development or would need to be developed in the future. The Subcommittee started with the needs of local courts in mind, and then will scale up to include resources for LEP litigants, bench officers, and other stakeholders.

The Subcommittee found that "simple is hard" and creating a user-friendly interface was challenging, but with assistance from the Stanford Design School, a focus group of local court employees, and other participation, they created the current iteration of the toolkit. The toolkit includes standards for information to be posted, so that courts can be confident that the materials they find and share with their users are of high quality. Any translations available as part of the toolkit have been professionally translated and the information provided has statewide application in California.

The toolkit will soon include the recently-approved notice of availability of language access services, benchcards, and best practices for the use of bilingual volunteers. Next steps include developing a budget and plan for full scalability and ongoing maintenance, adding resources as developed, user feedback from beta/testing to improve the interface, and work to address the unique challenges of providing information in OTS languages.

[Toolkit Demonstration]

The Superior Court of Contra Costa, under a self-help grant from the Judicial Council, created a Virtual Self-Help Center, which provides statewide information online to which all California courts can link. The information is provided in English and Spanish, and all Spanish content has been translated by a professional translation agency. A new and improved design will go live later this spring. The new site will be more mobile-friendly and have an enhanced user-interface to improve access to the information provided.

Per Google analytics results, the website receives over a million visits per year (clearly visited by users beyond Contra Costa County). Only about 8 percent of users are visiting the site from a Spanish search, so the court will look at how to improve those numbers on the new redesigned site. About 30 percent of users access the site by tablet or smart phone but the current site is not really mobile device-friendly. The Latino community is the fastest growing group accessing the internet (in Spanish) on a tablet or phone. These numbers are consistent with data showing that younger populations, people of color, and those in lower socio-economic groups tend to access the internet via mobile devices over desktops.

[Demonstration of site]

Each English page has a mirror page in Spanish. Links are provided to the Judicial Council's Online Self-Help Center when appropriate, and similarly, the Judicial Council website provides links back to the Contra Costa site, especially to video instructions for court forms and other processes. Through the website, users can also use email to provide feedback or suggestions to improve the site, and ask questions. The use of email has proven to be a good way to give additional assistance to people without having to come to court and useful for court staff to see where users are having challenges using the site.

For OTS languages, for which the court has not had resources to translate the web information, the new site will explore the use of the Google Translate capability.

ADVISORY BODY MEMBER COMMENTS

Judge Austin reminded all present that Judicial Council staff is aware of each court's language access contact person so those persons or offices will be able to access the toolkit and efforts can ensure all are linked.

SESSION THREE – PERSPECTIVES FROM BEYOND THE COURTROOM

Moderators: Ms. Bonnie Hough

Participants: Ms. Judy Louie, Ms. Melody Saint-Saenz, and Dr. Guadalupe Valdés

Over 4.3 million come to court without an attorney, and if they are LEP, they effectively have no access to the court system. How do we make sure that all along the way, in the courthouse and outside, people get the assistance they need? A number of programs to assist self-represented English and LEP litigants have demonstrated that Spanish-speakers will do as well as English speakers handling a matter on their own, as long as they have assistance in their language.

The LAP and civil expansion have provided a great benefit to LEP users and also to the staff at self-help centers. Courts have continued to prioritize employing bilingual staff to meet the need. In addition, courts have been reviewing their activities in accordance with local LEP plans and the LAP, such as ensuring signage is up to date, reviewing the website to make sure that it is updated, etc. In spite of having 13 years of experience since inception, the San Francisco multilingual self-help center still faces many challenges. Language needs are constantly changing, as is the community it serves. In addition to bilingual staff recruitment, the center recruits volunteers from local law schools, universities with paralegal programs, even some high school programs with internships. Volunteer recruitment prioritizes dedication to public service, pre-law or law school students, and Justice Corps volunteers—volunteers must have not just the necessary language proficiency but also an ability to be compassionate and show dedication to public service.

The center has been fortunate to have extensive support from court leadership and received the necessary space in the court to provide services. It engages in ongoing communications with other divisions in the court, working on internal networking with staff across the court to ensure policies and procedures are followed and issues identified. There has also been outreach into the community to build trust with those community agencies in the court's region. Outreach efforts include informational settings at community events such as festivals where the court has a booth and has an opportunity to interact with other agencies and the community itself.

From the legal services perspective, the LAP has been a wonderful development. It sends a message that the court is welcoming to everyone. As just reported by the San Francisco self-help center, Bay Area Legal Aid works on recruiting providers and volunteers to reflect the community, both culturally and in language diversity.

In addition to the successes from the LAP implementation, however, there have been some challenges. In some instances, interpreters that were previously provided in eviction matters were no longer available. The issue was resolved but it affected a number of court users before it was corrected. There has been an increase of bilingual staff in Family Court Services and the Family Law Facilitator's office in some counties, but as mentioned by other participants, the roll-out has not been even, so the improvements have not taken place across the state. While the Bay Area has seen more interpreters provided in family law and restraining order proceedings, the expansion has not been consistent in other civil cases, including unlawful detainers, as addressed in written public comments. There have also been issues of space, and of lack of basic equipment such as telephones, which should have simple solutions but show the difference amongst counties with regard to language access expansion.

One of the issues identified by legal services providers is that though self-help centers have more bilingual staff, they do not provide translation services and LEP users are asked to bring their written declarations already written in English. Some legal aid agencies provide this service but it takes legal aid staff resources for cases that should, except for the translation issue, be easily

handled by self-help centers in order to free up legal aid for the more complex matters. These challenges provide good opportunities to bring providers together to brainstorm and generate new ideas.

When discussing the provision of language access services outside the courtroom, one of the challenges we must address effectively is ensuring that the providers, bilingual staff and translators be qualified. We have a good process for determining interpreter credentialing and qualifications and for ensuring only qualified interpreters interpret in court. However, for a bilingual staff person, how do we determine the range of proficiencies they'll need for the tasks they will be involved in? We need to think about putting in place a process or procedure that can assess the levels of proficiency that a job requires and then see that the people hired can do it.

We need to train individuals to become fully proficient and qualified, linguistically, for their work, including interpreters. Most educational institutions involve long programs, and it can take a lot of time for individuals to become sufficiently qualified and skilled for the job. However, to move forward quickly, which is what we need with respect to the rapid expansion of language access, we need accelerated programs, such as the Agnes Haury Institute, and other innovative approaches. We need to engage educational institutions to develop systems whereby we decide if someone has the language range and then train them as interpreters in an accelerated way. When bilingual individuals do not have the language range, however, preparing them for the job can take years.

PUBLIC COMMENT

A number of independent contractor interpreters shared concerns regarding their livelihood and profession as a result of civil expansion and the provision of free interpreters to all LEP users in all case types. As courts increasingly provide interpreters paid for by the court at the court per diem rate, those independent interpreters expressed worry that they will no longer be hired by private attorneys and parties at the market rates in place, and that per diem rates are not sufficient given the cost of living in the state.

Interpreters raised concerns about the VRI pilot project, proposing it is focused on cost-savings and not on due process and LAP-stated preference for in-person interpretation. Members of the public noted they would like to see CFI involved in the VRI pilot project process.

Other concerns raised include existing per diem rates for contractor interpreters, which have remained as set in 2007, as well as the salaries for court interpreters on staff; and policies and procedures at some courts that may still pose obstacles to obtaining language access services.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:00 p.m.

Approved by the advisory body on May 6, 2016.