

EQUAL JUSTICE

Through awareness, education and action

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A BRIEF HISTORY OF THE "WASHINGTON STATE COALITION FOR LANGUAGE ACCESS"

Gillian Dutton

In May 2005, a handful of the future members of the Washington State Coalition for Language Access were on a bumpy plane ride to Jackson Hole, Wyoming. There, the Violence Against Women Act (VAWA) grantees had been invited to participate in a six-state summit to address the needs of immigrant victims and survivors of domestic violence. They didn't know it at that time, but that summit in Wyoming marked the beginning of a new chapter in Washington State's history of expanding access for residents who speak little or no English.

In 2006, Washington's immigrant or foreignborn population comprised 12.4 percent of the State's total population. The foreign-born population includes naturalized citizens, lawful permanent immigrants, refugees and asylees, legal non-immigrants (including those on student, work, or other temporary visas), and persons residing in the country without authorization.¹ Between 2000 and 2006 the number of foreign-born individuals in Washington State increased by 29.2 percent, as compared with a 90 percent increase between 1990 and 2000. Approximately 16 percent of Washington's population primarily speaks a language other than English.² Persons whose primary language is a language other than English and who have a limited ability to read, speak, write or understand English are

commonly referred to as "Limited English Proficient" or "LEP." Because of language and cultural differences, LEP individuals are often delayed or denied equal access to and participation in policies, programs, services, and benefits.

Washington: A Pioneer in Language Access.

To address these barriers, the federal government and all

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^{1.} www.migrationinformation.org; Migration Policy Institute

^{2.} www.mla.org

EQUAL JUSTICE

Equal Justice is the official publication of the Washington State Minority and Justice Commission whose goal is elimination of racial and ethnic bias, where it exists, from our State courts. The newsletter is a communications and networking tool providing information about Commission programs, projects and issues of concern.

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recipients of federal funding are required to take reasonable steps to ensure meaningful access to their programs, services, and information for LEP individuals.3 In defining the scope of Title VI of the Civil Rights Act of 1964, the U.S. Supreme Court held that one type of national origin discrimination is based on a person's inability to speak, read, write, or understand English.⁴ In the 1980's, several complaints were filed with the Office for Civil Rights by legal services attorneys whose clients, low income residents of Washington State, were not able to access services at hospitals or welfare offices because interpreters and translated materials were not provided. These complaints began a long process by which providers gradually developed policies and procedures that would help them serve the LEP population. One example is the 1991 Reyes Consent Decree, a settlement between a class of LEP individuals and the State of Washington, Department of Social and Health Services, which required DSHS to guarantee that LEP persons have equal access to and participation in economic, medical and field service policies, programs, services, and benefits.⁵ In response to the decree, DSHS established systems to evaluate recipients for LEP status; translate notices and forms without significant delay; provide interpreters; supervise LEP services; and monitor those services for compliance. DSHS also developed standards for testing and evaluating language competency in interpreter services and developed LEP policies. Additionally, on August 11, 2000, President Clinton signed Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." The Executive Order requires federal agencies to identify any need for services to LEP individuals and to develop and implement a system to provide meaningful access to those services.6 These developments led to a steady growth in the need for interpreters.

In addition to federal law requirements, Washington State law RCW 2.43 requires courts to provide interpreters for non-English speaking parties in all legal proceedings. The legislative intent in enacting Chapter 2.43 was "to secure the rights, constitutional or otherwise, of persons who, because of a non-English-speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them." Much of the early work to increase the number of languages in which there is a formal process for certification was done by Washington's Administrative Office for the Courts and Interpreter Commission in collaboration with the Washington State Court Interpreters and Translators Society (WITS). These efforts were later

^{3. 42} U.S.C. § 2000d "No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

^{4.} Lau v. Nichols, 414 U.S. 563, 568 (1974).

Reyes v. State of Washington Dept. of Social and Health Services, W.D. Wash., March 4, 1991 (No. C91-303). Website link: http://www.healthlaw.org/library/folder.99678-Washington

^{6.} See www.lep.gov

^{7.} RCW 2.43.010

taken over by the National Center for State Courts Consortium for State Court Interpreter Certification, but Washington has continued to be a leader in the field.

Washington Renews its Efforts to Improve Services. In May of 2005, all of this history provided the perfect framework for both a continuation and renewal of past efforts. At that first meeting in Wyoming, participating individuals and organizations identified the lack of adequate interpretation and cultural awareness as a major barrier for LEP individuals. Despite the existing laws, agencies and advocates spoke of police officers using abusive spouses to interpret at the crime scene, of courts unable to adequately decide whether to grant a protection order or immigration relief due to a lack of interpreters, and service providers whose staff did not have the training or the resources to provide culturally and linguistically appropriate care. To address the concerns raised, Washington State's interpreter/translator, advocacy, medical, governmental agencies formed the coalition known as the Washington State Coalition for Language Access (WASCLA). Their goal was to use a collaborative effort to create internal written policies for working with the LEP population, improve access to quality interpreting and translation services, develop training resources, and encourage involvement in the process.

The original participants in WASCLA included individuals from many groups—the nonprofit Chaya; Washington State Department of Social and Health Services; Northwest Justice Project; Northwest Immigrant Rights Project; King County Superior Court Interpreter Services; Civil Rights Division of the U.S. Department of Justice; Columbia Legal Services; King County Sheriff's Office; King County Protection Order Advocacy Program; Consejo Counseling and Referral Services; Seattle University Access to Justice Institute; Seattle Police Department; and U.S. Immigration and Customs Enforcement. Today, its membership includes hundreds more, and together they are continuing to help lead Washington State to better serve some of its most vulnerable residents.

Ms. Gillian Dutton is the Senior Attorney for the Seattle office of Northwest Justice Project and Director of the Refugee and Immigrant Advocacy Project.

Celebrating the Courts in an Inclusive Society

A COLLABORATIVE APPROACH TO LANGUAGE ACCESS: THE WORK OF WASCLA SUMMITS

Kristi Cruz

Washington State Coalition for Language Access (WASCLA) serves as a nexus for a diverse group of interpreters, translators, government agencies, advocates, and service providers to share resources, information, and best practices in better serving the Limited English Proficient (LEP) population Washington State. To further that purpose, WASCLA holds an annual conference, free of charge, which promotes dialogue about language access issues for Washington State's LEP population. WASCLA is currently planning its fourth summit scheduled for October 2008, in Wenatchee, Washington. These summits, in conjunction with smaller work groups, monthly statewide phone calls, and a website, have provided a valuable way for participants to share challenges and encourage progress. More importantly, they have attracted a diverse group of participants and created relationships for a common goal.

WASCLA's Mission: Collaborative

Action. The mission of WASCLA is to ensure provision and delivery of effective legal, medical and social services to Limited English Proficient (LEP) residents in Washington State. WASCLA seeks a Washington State free of language and cultural barriers for all residents through the following means: continuation and expansion of the annual educational summits; development of language access policies and the sharing of technologies and resources for interpreters and translators; education and training of service providers and other groups on identifying LEP individuals and satisfying the legal requirements to provide interpreters and translators; development of a model curriculum for service providers that includes quality control standards and ongoing training for working with interpreters and translators; development of a model curriculum for cultural sensitivity training; allocation of funding to support interpreter and translator services and training; expansion of the pool of qualified interpreters and translators; and creation of a centralized database (or directory) of trained interpreters and translators.

Summit I: Experts Share the Basics.

WASCLA held its first summit in June 2006 in Ellensburg, Washington, with seventy-one participants. It provided participants with an opportunity to learn the

steps in creating an LEP policy and highlighted some of the policies serving as models throughout the nation. The conference began with an overview of two basic skills—how to work with an interpreter and how to provide culturally competent services.1 Next, two of Washington's nationally recognized leaders in interpreter services, the Department of Social and Health Services (DSHS), and the Office of Interpreter Services at the King County Superior Court, described methods by which their organizations provided services to LEP individuals. DSHS currently provides interpreters for all public assistance services and fully translates notices and letters in over eighty-eight languages around the State. The Office of Interpreter Services at King County Superior Court is known for its exceptional program for training both court personnel and interpreters and for the careful mentoring and professional development provided to interpreters in its courtrooms. The office schedules interpreters for all civil and criminal actions and court related programs and to date has provided interpreters in over one hundred twenty-four languages.²

Following these presentations, conference participants separated into four work groups—courts, law enforcement, advocates/legal services, and government agencies/medical providers. The goal of these sessions was to discuss plans to serve (LEP) clients and to encourage participants to take the initiative in developing policies in their agencies. Examples included materials from the Yakima County Superior Court, the King County Superior Court and Seattle Municipal Court, a draft Seattle Police Department policy, the Northwest Justice Project LEP policy, the Model Protocol by Washington State Coalition Against Domestic Violence, and DSHS policies and procedures.

Summit II: Focus on the Courts—Momentum Builds! In October 2006, WASCLA held Summit II. Returning to Central Washington University in Ellensburg, the ninety-three participants continued the work of helping agencies develop LEP policies through sessions that explored a checklist for developing a plan, assistance in locating resources, and tips on writing LEP policies.

The highlight of the conference was the discussion of a proposal by the Washington Board of Judicial Administration (BJA) to increase funding for

certified court interpreters by State reimbursement of up to 50 percent of court interpreter costs when certified interpreters are used in accordance with an approved local Language Assistance Plan (LAP). This proposal, which subsequently received startup funding of \$2 million from the State Legislature, is enabling Washington's courts to improve interpreter services dramatically. The Interpreter Commission develops policies for the Interpreter Program run by the Administrative Office of the Courts, which in turn directs the certification and testing program for Washington court interpreters. The Interpreter Commission and its committees have continued to work to improve quality interpreting in Washington in a number of ways: first, by offering certification in all the languages currently available through the National Center for State Courts Consortium for State Court Interpreter Certification; second, by offering an alternative status of "registered interpreter" in forty-two additional languages where certification is not available; and third, by working to standardize and distribute translated forms.3

The excitement generated at the conference was palpable, with participants meeting in regional groups to share best practices and enthusiastically discuss the need to bring more providers from health care, government agencies, and business into the ongoing discussion, pointing out that all of these groups provide services to LEP individuals and are themselves consumers of interpreter services. The momentum created at Summit II led to further developments. As courts worked on their LEP policies, so did agencies across the state, both large and small. To date, ninety-five courts around the state have submitted Language Assistance Plans to the Administrative Office of the Courts and four more courts are working on their plans. The Washington State Legislature passed House Bill 2176, signed by Governor Christine Gregoire on April 1, 2008, which requires all courts to submit these plans. Washington's role as a leader in the area of language access allowed that expertise to be shared and developed. As just one example, the American Bar Association's Commission on Domestic Violence decided to hold their Interpreter Institute in Seattle in May of 2007 because of the work being done by the coalition.

Summit III: Expanding the Coalition—Continuing the Work. With 145 attendees from over sixty cities and towns around the State, the conference was expanded to a two-day event. It was the first time that Washington's two largest interpreter/translator organizations—the Washington State Court Interpreters

^{1.} See www.wascla.org

The Office of Interpreter Services at King County Superior Court: www.kingcounty.gov/courts/superiorcourt/interpsrv.aspx

See www.courts.wa.gov/programs_orgs/pos_interpret/index.cfm? fa=pos_interpret.display&fileName=registerfedInterpreters

and Translators Society and the Northwest Translators and Interpreters Society—co-sponsored a conference with WASCLA.⁴ The conference included panels on interpreter ethics; law enforcement efforts in creating LEP policies; human trafficking; a language bank model developed in Alaska; and protocols for working with deaf and hard of hearing individuals. The keynote speaker was Christine Stoneman, Deputy Chief of the Coordination and Review Section of the Civil Rights Division at the U.S. Department of Justice, who is responsible for overseeing compliance with federal law.

The panel discussion with law enforcement personnel highlighted the efforts of one rural law enforcement community to develop an LEP policy. In particular, the panel focused on developments in Grant County where approximately 25 percent of the population is monolingual Spanish speaking. In one town in Grant County, Mattawa, that number is over 70 percent but there are no certified Spanish interpreters living in the area. The panel discussed the unique problems law enforcement encounters when providing services in these conditions and presented their solutions, including an innovative community interpreter model. In the human trafficking session, participants gained an awareness of how to identify trafficking victims; the requirements of federal and state laws; the importance of collaborative efforts between nongovernmental organizations and law enforcement to provide services; and the critical role of qualified interpreters. Other presentations included technologies such as video conference interpreting developed by Harborview Medical Center and telephonic court interpreting systems in use in Oregon. summit included participants from Alaska, Montana, Oregon and Washington, highlighting Washington's leadership in the area of language access.

Summit III also presented efforts to create a centralized language bank in Alaska where advocates have established the Language Interpreter Center (LIC), an organization dedicated to ensuring that LEP individuals receive competent interpretation and translation when accessing services and businesses in Alaska. As a statewide language bank, the LIC is comprised of two significant components: an interpreter recruitment and referral system for government, forprofit, and nonprofit organizations; and a comprehensive interpreter training program.

The conference deepened awareness of the commonalities and differences between spoken language

and sign language interpreting, pointing out that some Washington residents are both LEP and deaf or hard of hearing. A panel discussed the special needs and cultural issues relevant to individuals who are deaf or hard of hearing in accessing courts and social services through the use of interpreters. In addition, there was a demonstration of American Sign Language (ASL) relay interpreting involving an ASL interpreter and a certified deaf interpreter whose services would be required when a deaf client's native language is not ASL.

Finally, staff from the City of Seattle, Harborview Medical Center, the Washington State Department of Corrections, the Northwest Women's Law Center and other organizations shared the gains each of their agencies had made in developing written LEP policies.

Summit IV: Building for the Future. WASCLA members are already planning their next conference to be held on October 24 and 25, 2008. The conference promises new information about video technology, interpreter training programs, work in state and federal courts, model policies for working with deaf and hard of hearing individuals, and the launch of a statewide interpreter and translator directory.⁵

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Ms. Kristi Cruz is a legal intern with WASCLA and is a certified ASL interpreter.

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WASCLA PLANS LAUNCH OF STATEWIDE INTERPRETER AND TRANSLATOR DIRECTORY

Leticia Camacho

Efforts to Increase Services to LEP Individuals in Washington State Lead to an Increased Demand for Interpreters. New procedures and policies to increase compliance with Title VI of the Civil Rights Act of 1964, Executive Order 13166, and state laws requiring qualified interpreters in courts have expanded the need for interpreters and translators throughout Washington. Added to these legal requirements are several other factors which have prompted organizations to increase access. First, providing interpreters for Limited English Proficient (LEP) individuals is a benefit to both the provider and to

^{4.} See http://www.witsnet.org/ and http://www.notisnet.org/

^{5.} Conference details can be found at www.wascla.org

the LEP individual because it is a more efficient and effective method of service delivery. Second, an LEP individual's inability to access law enforcement, courts, and health care affects all members of society. Finally, the difficulty in learning a new language means that it may easily take two years or more to learn basic English, and some individuals, because of war trauma, age or other health problems, may never be able to learn English, no matter how hard they try. A sufficient supply of qualified interpreters and translators is therefore fundamental in order for these LEP individuals to have equal access to essential services, benefits, programs and businesses within a community.

Throughout Washington, efforts to provide interpreters and address language barriers for the LEP population are often isolated within an organization or region and are hampered by geographic differences. The ability of a service provider in need of an interpreter to communicate with a client often depends upon the provider's location and the language. Languages which are less common often have no full-time interpreters in part because there is insufficient demand to produce adequate income for the interpreter. Rural residents may not have access to an in-person interpreter without significant delay and cost. Furthermore, when an internal list of interpreters and translators is maintained, there is often duplication of effort.

WASCLA Identifies a Need for a Statewide Directory. Interpreter/Translator Currently, interpreter and translator services in Washington State are coordinated through a variety of mechanisms. The Administrative Office of the Courts lists certified and registered interpreters on its website www.courts.wa.gov/ programs. Local Washington courts have their own lists which are regularly updated and shared. Some hospitals, such as Harborview Medical Center, hire on-site interpreters in the most common languages, while others such as Virginia Mason Medical Center, set up a local interpreter phone bank. Finding interpreters in rural areas and in Eastern Washington presents additional challenges. Many WASCLA members have noted the difficulty in locating interpreters in indigenous languages or in rare languages due to a lack of qualified interpreters fluent in these languages.

Many local efforts are supplemented by a number of interpreter/translator referral and professional organizations. These organizations provide interpreter referrals to agencies and businesses throughout the State. In addition to these referral agencies, individual interpreters may contract with business directly to provide interpreting services. Aside from referral agencies, some governmental agencies have established their own internal interpreter coordinating systems. One example is the Language Interpreter Services and Translation (LIST), a department within the Department of Social and Health Services. LIST was established with two primary responsibilities: (1) to develop and administer written translation forms and publications and (2) to develop and implement a language testing and certification program for its bilingual staff and contract interpreters and translators. These interpreters and staff provide language services at local DSHS offices and medical institutions participating in DSHS programs. Requests for interpreters not prearranged through LIST are handled by telephonic interpreter services.

Yet none of these systems is able to find an interpreter for every request and many have identified gaps in services, especially for relatively new LEP populations such as refugees from East Africa. The establishment or expansion of interpreter training programs and student recruitment to address those gaps is hampered by the fact that interpreters do not have a centralized way of connecting to communities. As a result prospective students in interpreter training programs cannot be assured that an economically viable career in interpreting and translation will be available to them. As the need for interpreters continues to expand, WASCLA participants have turned their attention to looking for solutions.

Alaska and California Offer Some Possible

Models. Realizing that no comprehensive system existed in Alaska for identifying language interpreters, Alaska established the Language Interpreter Center (LIC) to remove communication barriers and improve the quality of life for LEP persons. The LIC maintains a roster of interpreters; refers interpreters; provides and coordinates interpreter training; and aims to develop testing and certification standards for interpreters in Alaska.

While the Alaska model requires establishment of a central agency in order to finance, direct and coordinate interpreter services, a group of health care interpreters in California have formed a looser association. Several years ago, one of Washington's leading trainers in the field of interpreting, Cindy Roat, worked with the California Healthcare Interpreting Association (CHIA) to develop an online directory. The CHIA directory acts as a clearinghouse where

interpreters and translators at no charge can be listed in an online searchable database. Service providers can search the directory to find an interpreter/translator in a particular language or dialect, available at a desired time and location, with additional training, and other qualifications. The CHIA model may be a good fit for Washington State because it would not supplant Washington's existing agencies and can be adopted with little additional cost.

Surveying Agencies and Interpreters and Translators—Planning for the Directory. Before the CHIA directory can be adapted for use in Washington State, information is needed about the existing level of demand for interpreters and translators. WASCLA and associated agencies adapted the Alaska LIC survey to assess both client service needs and costs of providing interpreters in Washington State. The survey will determine how often businesses, nonprofits and government agencies interact with LEP individuals and families and will seek to determine the costs for providing those individuals with interpreting services. This information will allow WASCLA to identify barriers to service and gaps in services to LEP individuals. In addition to surveying providers, WASCLA plans to survey interpreters and translators. The Washington State Court Interpreter and Translators Society (WITS) developed a survey for court interpreters that will be administered by WASCLA in the coming months.

Preparing for WASCLA Summit IV— Developing and Launching the Statewide Directory. In addition to surveying for need, WASCLA members are working to expand the CHIA directory, developed for the healthcare field, to serve the broad array of providers in Washington State. The interpreter and translator directory will list interpreters for the courts, advocates, agencies and healthcare providers. WASCLA members are also working to ensure that the interpreters and translators listed in the directory will be qualified. All interpreters and translators listed in the directory, who are not certified by the Administrative Office of the Courts (AOC), will need to complete a one-day training course within a reasonable time after being listed in the directory. This training was created in recognition that the directory and its supporting agencies cannot guarantee the quality of services provided by individual interpreters and translators listed in the directory. However, access to quality services is crucial and training is an important way to promote quality services.

To keep updated on the progress of the directory and other WASCLA resources, please visit the website at www.wascla.org.

* * *

Ms. Leticia Camacho is an attorney at the Northwest Justice Project in Seattle and a member of the Washington State Court Interpreter Commission.

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SPOTLIGHT ON COMMISSION MEMBERS

JUDGE RICHARD F. McDERMOTT, JR.

On April 29, 2008, Judge Richard F. McDermott, Jr. became the President of the Superior Court Judges' Association. He will serve a one-year term.

Judge' Dennis D. Yule

Judge Dennis D. Yule received the 2008 Martin Luther King, Jr. Spirit Award on Monday, January 21, 2008 at Columbia Basin College in Pasco for his personal and professional efforts to create positive social change in the Tri-Cities.

ROBERT C. BORUCHOWITZ

Robert C. Boruchowitz is a Clinical Professor at the Seattle University School of Law and has been name Director of The Defender Initiative, leading a research project on misdemeanor public defense for The National Association of Criminal Defense Lawyers.

YEMI FLEMMING JACKSON

Ms. Yemi Fleming Jackson, an attorney with Garvey Schubert Barer, was designated as one of Washington's top ten healthcare attorneys by the Washington CEO Magazine and AVVO, Inc.

Brenda E. Williams

Ms. Brenda E. Williams became the Supervising Attorney for the Tribal Court Public Defense Clinic at the University of Washington School of Law on Monday, May 12, 2008.

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