

LEP Assistance and the Intersection of Language, Culture, and Immigration Status

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What Does the Intersection of Language, Culture, and Immigration Status Mean for LEP Assistance in the State Courts

Description of the LEP Population

- **52 Million US residents over five years of age (20%) do not speak English at home.**
- **8 Million more than ten years ago.**
- **25.2 Million considered LEP (9%).**
- **80% LEP increase between 1990 and 2010.**
- **California, Texas, New York, Florida, Illinois, New Jersey are the big five but increasing need across entire nation.**
- **1990 Top languages were Spanish, Chinese, French, German, Italian.**
- **2010 Spanish, Chinese, Vietnamese, Korean, Tagalog and Russian.**
- **Huge variation among states and communities.**

Description of the Origins of LEP Population

- **40 Million foreign born US residents**
- **About 17 Million (42%) are Naturalized US Citizens**
- **About 12 Million in US lawfully but non-US Citizens**
- **Remaining 11 Million foreign born residents are in US unlawfully (Over 63% of unlawful FB population have been in US 10 or more years.)**
- **Additional 62 Million non-US residents visited US in 2011**

The Language, Culture, Immigration Status Nexus

- **There long has been a nexus among language, culture, and immigration status but that nexus increasingly has become more complicated.**
- **Individually, language, culture, and immigration status are important especially from a procedural fairness/justice prospective and the nexus among the three also must be considered.**

The Language, Culture, Immigration Status Nexus And Procedural Justice

- **Respect + Voice + Neutrality + Trust = Procedural Fairness**
- **Figure 1 (page 12) in hand-out**

Importance of Language

- **Language is the most basic tool of the courts**
- **Provides insights to culture and immigration status**
- **Procedural fairness and justice are non-existent without quality language assistance services**
- **Compliance with DOJ requirements and ABA expectations**
- **Words mean nothing without context**

Language Matters – What Interpreters Do

- **Qualified interpreters orally transfer the meaning of statements to and from English and the language spoken by the LEP person in the context of a court proceeding**
- **No omissions or additions**
- **Conserving the meaning, tone & style**
- **Dialect, slang and specialized vocabulary**
- **Not “word-for-word translation”**
- **Produce a legal equivalence**

Language Matters

- **Mississippi: Cirila Baltazar Cruz — an undocumented immigrant lost custody of her daughter in November 2008**
- **County officials said Cruz' immigration status, lack of English-language skills & breastfeeding amounted to negligence**
- **Interview at hospital was conducted with a Spanish interpreter where she allegedly agreed to give up baby for adoption**
- **Mother spoke Chatino not Spanish**

Culture Matters

Examples from own experience.

- **Immigrant from Guatemala and ESL student**
- **Mother after more than 40 years living in California insists on having one of my sisters accompany her to visit her doctor. One day she calls asking me to pray for her because she was having one her kidneys removed. I later found out that she went to the doctor alone and misinterpreted a simple outpatient procedure for a serious surgery (not questioning authority-seeking clarity)**
- **High recidivism and non-compliance of probationary terms by the Latino defendants diverted for DUI and Domestic Violence in Napa County. One key contributing element was lack of culturally competent treatment providers- Also preventive education and outreach efforts by culturally appropriate staff (DA, Court, non-profits) improved outcomes.**

Culture Matters Continued

- **Bemba (Zambia) interpreter was needed for a family law domestic violence matter. After securing the only interpreter in Northern California, the litigant would not communicate with a stranger about her personal matters. A community-member acted as an intermediary to facilitate communications**
- **During a child custody and visitation mediation session for two Spanish-speaking parents/litigants, the mother indicated to the mediator that she was not willing to allow the father “to borrow” the child. The nuance of borrowing versus sharing custody, presented an opportunity for educating and learning.**

Culture Matters Continued

- **Imperial County Superior Court experiment**
 - **Creation of network of traditional and non-traditional partners**
 - **Started with creating honest and respectful relationships**
 - **Expanded resources and access to justice within a broader USA/Mexico Border community**

- **Sonoma Superior Court-Piloting translation of court orders in Spanish in selected family law matters to determine the effect on compliance of court orders**

Summary of Why Culture Matters in LEP Service Provision

Culture has a great influence on how people:

- **define justice, conflict, disorder, authority, and many other critical aspect of justice;**
- **determine when and how it is appropriate to involve third parties – including the courts – in resolving problems and conflicts;**
- **communicate and describe events, causes, and consequences;**
and
- **fashion responses or solutions.**
- **Also, culture profoundly affects notions of respect, voice, neutrality, and trust.**
- **Increasing gap between Anglo/European based culture of the courts and greater and greater numbers of LEP court users.**

Immigration Status Matters

- **Hypothetical Example Review**

Summary of Why Immigration Status Matters in LEP Service Provision

- **Immigration status can greatly complicate many aspects of criminal, civil, family, juvenile, and juvenile cases, including many aspects that might be more “routine” in cases involving US citizens.**
- **State court action can profoundly affect immigration status – it can affect an immigrant individual and their family’s ability to be in the US., work, and be eligible for benefits both in the long and short-term, including ability to become a naturalized US citizen.**