

Negative Consequences of Not Providing Language Access – Child Welfare Case Example

**Multi-State Training
New Orleans, Louisiana
April 6, 2019**

Judicial Training Network
Multi-State Training

Faculty



Judge Lora Livingston



Investigator Michael LaRiviere



Judge Rosemary Collins (Retired)



Sujata Warriier

Judicial Training Network

Learning Objectives

By the end of this workshop you will be better able to:

- Have a better understanding of what federal language access laws requires of the Courts
- Identify pivotal points where lack of language access can negatively impact immigrant victims and their children
- Know what steps you can take in your courtrooms and as leaders in your courthouses and in your states to improve access to justice for immigrant and limited English proficiency (LEP) victims, children, parents and litigants

Judicial Training Network
Multi-State Training

Resources


- Case of Maria L.
- Detained Parent Directive Brochure
- Language Access to Court Services -Tool



Judicial Training Network 4

Maria Luis Case

- Question: Let's read over the fact pattern
- In your small groups at your tables –
 - List on flip charts all the points at which language access should have been provided to Maria
 - List what you could do as a judge
 - If this was a case before you




Judicial Training Network 5

Report Back

- Language access problem points in case
- What judges can do

Judicial Training Network 6

Large Group Discussion



What would you have the power to do as a judge regarding each of the language access problems that arose in this case?

- At the hospital? With the police?
- The role CPS played? When Maria was detained?
- With regard to Maria's consulate?

Judicial Training Network 11

Large Group Discussion



How would you get Quiche interpreter to child welfare proceedings in your state?

Judicial Training Network 12

Limited English Proficiency (LEP)

LEP.gov A Federal Interagency Website

LEP Resources and Information

[Frequently Asked Questions](#)

[Executive Order 13166](#)

[Resources by Subject](#)

[Recipients of Federal Assistance](#)

[Interpretation and Translation](#)

[LEP and Title VI Videos](#)

[Demographic Data](#)

[LEP Mapping Tools](#)

LEP Compliance

[Federal Agency LEP Plans](#)

[LEP Guidance for Recipients](#)

[LEP Guidance for DOJ Recipients](#)

[File a Complaint](#)

LEP.gov

[Suggest LEP Resources](#)

[Report Broken Links on LEP.gov](#)

Last Updated: November 15, 2018

Department of Justice LEP Guidance for Recipients and Agencies

Department of Justice LEP Guidance for Recipients and Agencies

- [LEP Guidance for DOJ Recipients](#)
- [Language Access Guidance Materials](#)
- [State Courts](#)
- [Corrections](#)
- [Police and Sheriff's Departments](#)
- [Guidance to State and Local Government](#)
- [Guidance for Federal Agencies](#)

LEP Guidance for DOJ Recipients [TOP]

2002 LEP Guidance for DOJ Recipients - June 18, 2002

General Guidance Issued with Executive Order 13166 - August 16, 2000

[LEP Enforcement and Compliance Activities](#)

Language Access Guidance Materials [TOP]

Judicial Training Network Multi-State Training 9

DOJ Guidelines on Language Access

- The use of qualified interpreters:
 - Not limited to courtrooms
 - For all types of proceedings
 - For motions, status hearings and trials
 - At clerks offices, file rooms
 - For court ordered services batterers treatment, therapy, drug counseling



Large Group Discussion



When a parenting plan is established what could you do to affect how CPS is communicating with the parent?



Maria Luis Case Study

- In light of the triggers for termination of parental rights proceedings how do you monitor CPS in a case like this
- What role might the language access problems play in any termination of parental rights proceeding?



Resources Available on Language Access

- Investigator Michael LaRiviere
 - Share experiences with API Institute on Gender Based Violence resources
- Sujata Warrierr
 - Share experiences with Center for Court Innovation



Small group activity

- Review materials
 - How to get a detained parent to court
 - Detained parent directive
- List on a flip chart how the directive increases your options as a judge to help Maria



If an immigrant parent is detained you can ...

- Order that they be brought to your courtroom to participate in state court proceedings involving their children
- Make sure they get notice and that notice is provided in a language they speak especially if they do not speak English or Spanish



Detained Parent Directive Aug. 2017

- If parents are detained:
 - Placement near family court when ongoing family court/child welfare cases
 - Bring parents to family court to participate in cases involving children
 - Alternate: video or teleconference participation
 - Facilitate visitation when required by family/child welfare court order
 - Help children travel with deported parent – obtain passports for children



16

Large Group Discussion



If Maria is in DHS custody and will be removed from the U.S. what role can you play in reuniting Maria with her children?



Judicial Training Network

12

Maria L. Case What should have happened?

- What could have been different at the child welfare court proceedings?
- Once Maria was in DHS custody what should have happened with regard to the abuse and neglect proceeding?



Judicial Training Network

18

Immigrant Parents and Child Custody

In re Interest of Angelica L., 277 Neb. 984 (2009)

- Parents have a constitutional right to custody (absent unfitness)
- Applies to all families without regard to:
 - Undocumented immigration status
 - Immigration detention
 - Deportation
- Overriding presumption that:
 - Parent-child relationship is constitutionally protected
 - In children's best interest to stay with/be reunited with their parent(s)
- Child's best interests is most important
 - A comparison of natural vs. adoptive parent's cultures, countries or financial means is not to be made

19

A Family Reunited



20

Flash Drive Materials

- Language Access Folder
 - DOJ State Court Letter
 - NCSC Bench Card on Qualifying Interpreters
 - Fact Sheet on Language Access in the Courts
 - Laws government language access
 - Language Identification Card – World languages
- Family law > Child Abuse and TPR
 - Detained parents and court appearances
 - Detained Parent Directive and Flyer
 - Nebraska Supreme Court Unanimous
 - Decision in Maria's case



Judicial Training Network Multi-State Training

21

Technical Assistance and Materials

- Power Point presentations and materials for this conference at
 - <http://niwaplibrary.wcl.american.edu/jtn-nola-2019/>
- Judicial Training Manual at
 - <http://niwaplibrary.wcl.american.edu/sji-materials/>
 - **NIWAP Technical Assistance:**
 - Call (202) 274-4457
 - E-mail info@niwap.org
- Web Library: www.niwaplibrary.wcl.american.edu



Judicial Training Network Multi-State Training

22
