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Lost in Translation? Oregon Struggles to Ensure Accurate Court Interpretation for People Who Don't Speak English

By Peter Wong

When a task force began to consider racial and ethnic discrimination in Oregon's judicial system more than a decade ago, members thought they were doing the right thing by bringing along an interpreter. For their first public meeting, in summer 1992, they chose Woodburn – then and now heavily Hispanic. And someone was hired to translate the proceedings into Spanish.

Minutes after the first Spanish-speaking witness began to testify, some members were feeling heat – and it was not from the temperature in the packed meeting room.

“People were whispering, ‘She’s not doing it right,’” said Marco Hernandez, then a deputy district attorney from Washington County and a task-force member.

“There was a lot of mumbling going on, as I recall, and people were shaking their heads.” Another task-force member was Angel Lopez, a Portland lawyer.

“About five minutes into the presentation, I knew there was going to be a problem because the interpreter was not interpreting correctly,” Lopez said. “But here I was, part of this task force, in an awkward situation.”

Finally, someone in the audience got up and volunteered the services of Liliana Martinez-Olberding, who was interpreting for another group in the audience.

Olberding recalled it this way:

“Someone stood up and said, ‘Well, Lili’s doing court interpreting already, so she can do it.’ I remember only that I gasped, said, ‘Oh, boy!’ and stood up in front of a roomful of people. Six hours later, we finished it, and I volunteered to do the interpreting for the task force.”

The task-force chairman, then-Supreme Court Justice Edwin Peterson, did more. He appointed Olberding as the 18th member of the task force, and she served until the final report was issued almost two years later.

“She is such a vibrant person and had a lot of insight into minority issues,” Lopez said.

Lopez said the incident pointed to one of the major problems in the courts a decade ago. He already knew from experience about the uneven quality of interpretation.

“When I was an advocate for litigants, I frequently had to butt in and correct the interpreter,” he said.

“I knew that was not my function. But by the same token, I could not let those mistakes go, especially when they were going to hurt the ability of an individual to be heard in court.”

Although Oregon law already required assistance from interpreters during court proceedings, it was only in 1993 that the Legislature regulated their competence through training, licensing and supervision.

Two years later, Oregon joined Minnesota, New Jersey and Washington as the founders of a multistate partnership to develop standard tests for court interpreters. The tests cover not only basic skills but also knowledge of legal terminology.

The 33-member Consortium for State Court Interpreter Certification is part of the National Center for State Courts, based in Williamsburg, Va. It offers tests in 11 languages; the most commonly used in Oregon are Spanish, Russian and Vietnamese.

“It has made a big difference,” said Olberding, who still does interpreting for courts in Washington and Multnomah counties. “It has allowed non-English-speaking people to have a real presence in the courtroom and be on a more equal footing with English-speaking people who come before the courts.” Olberding said it is a challenge to be a good interpreter.

“It’s part of your job and your training to be as loyal as possible to the source language and the inherited language, taking into account differing terminology wherever possible,” she said.

Oral interpretation was not the only problem the task force dealt with. Many people complained about the lack of written forms.

“We need interpreters on the civil side and forms printed in Spanish so people can use the forms themselves,” wrote Richard Rambo of Klamath Falls, then a lawyer and now a circuit judge.

At some expense, but at the recommendation of the task force, the courts have translated some of the most commonly used documents into Spanish.

“It takes a long time and a lot of money to get documents translated because there is always some disagreement on what they should be,” said Hernandez, who now is the presiding judge in Washington County. “But they have made use of the courts much easier.”

Oregon now has about 80 certified court interpreters in Spanish, Russian and Vietnamese. About a dozen more are undergoing certification in Spanish.

But new problems have arisen.

“From time to time, we still have difficulty with languages we do not encounter frequently,” said Paul Lipscomb, the presiding judge in Marion County. “It used to be a common problem, but now, because we have ways of solving it, it’s an unusual problem.”

It can be Marshallese, which is spoken on Pacific islands.

It can be one of several indigenous languages in Mexico and Guatemala, where 30,000 to 40,000 speakers have emigrated to Oregon.

Lois Feuerle, the state coordinator for court-interpreter certification, said the courts required interpreting services in nine of those languages, excluding dialects, from mid-2003 to mid-2004. Feuerle said that some Spanish interpreters have been trained in relay interpretation, which involves a pair of translators, one from an indigenous language to Spanish and the second from Spanish to English.

Some dual speakers of indigenous languages and Spanish also have been schooled in court terminology.

Lawyers with clients who speak indigenous languages also will be recruited.

In a recent article for the National Association of Judiciary Interpreters and Translators, Feuerle described Oregon’s three-pronged effort to improve interpretation of indigenous languages.

It was done with the help of the Oregon Law Center in Portland.

“I think it’s a good example of being proactive rather than waiting for the next crisis,” said Nargess Shadbeh, a lawyer and task-force member who then worked in Woodburn and now works for the center.

Relay interpretation, Lipscomb said, has its drawbacks.

“It’s like the old game of telephone, where you start a story at one end of the line and listen to the version that comes out at the other end,” he said. “It’s often significantly different.”

A 2000 report done for the National Center for State Courts concluded that interpretation continues to be a critical need.

“Interpreters are necessary to facilitate equal access to all aspects of the justice system,” said the report by Amandeep Singh Sidhu. “We live in a multicultural society and cannot ignore the fact that a significant number of U.S. residents do not speak English as their first language.”

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