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Study Finds Gaps in Aid for Non-English Speakers in State Civil Courts

By [JOHN SCHWARTZ](#)

When Maythe Ramirez went to Superior Court in Contra Costa, Calif., for a child custody hearing in 2006, she wanted to tell the judge that her husband beat her and should not be allowed broad visitation rights. The court did not provide an interpreter for her, however, and Ms. Ramirez, who speaks almost no English, could not follow the arcane proceeding, much less participate.

"It is really as if you are doing nothing in court," she said in Spanish through an interpreter, "standing still and not being able to explain what's really happening."

Ms. Ramirez, who came to the United States from Mexico, later divorced her husband and had the visitation rules modified with the help of a lawyer from [Bay Area Legal Aid](#), who got her interpreters for other hearings.

The court system can be a bewildering place for anyone, but it can be terrifying for those who do not understand English. Federal law requires civil and criminal courts that receive federal financing to provide free interpreters for those with limited proficiency in English. But while interpreters are commonly offered in criminal cases, many states do not require the services in all civil cases. The state of California, where Ms. Ramirez's case was heard, provides interpreters in some civil cases and not others.

A new [study](#) of civil courts, from the [Brennan Center for Justice](#) at the [New York University](#) law school, examined the 35 states with the highest immigrant populations and found that interpreter services are not always provided, or not provided well, and are not keeping up with growing demand. Of those states, 46 percent do not require that interpreters be provided in all cases, and 80 percent fail to guarantee that the courts will pay for the interpreter, as the Department of Justice's view of the law requires.

Thirty-seven percent of those states do not require that the interpreters have proper credentials. The result is a national patchwork of varying rights from state to state.

"This must change," the report concluded. "Federal law, principles of fundamental fairness, and our need for equal access to the justice system all demand it."

The disparity in services for non-English speakers between civil and criminal cases makes little sense in light of the high stakes also in civil court, said Richard S. Brown, a state appellate judge in Wisconsin.

"Civil cases can involve denial of constitutional property rights, termination of parental rights, statutory rights to be free from harassment and stalking, consumer transactions, foreclosures and a host of other

matters,” Judge Brown said. “If a person cannot understand what is happening in the courtroom proceeding, an unfair result might occur. And that is contradictory to what we want our courts to do: administer justice, fairly and impartially.”

In family law cases, which deal with issues like divorce, child custody and abuse, the lack of language help “can mean the difference between justice and injustice,” said Purvi Shah, executive director of [Sakhi for South Asian Women](#), an organization concerned with domestic violence among South Asians in the United States.

“Your testimony on the experience of abuse is what needs to be articulated to be able to access remedies,” Ms. Shah said.

States that do not provide interpreters in civil court are violating federal law, said Laura Abel, deputy director of the Justice Program at the Brennan Center and the author of the new report. “The law is very clear,” Ms. Abel said, adding that while some states have made progress in the last decade, “the state courts are just slow to comply.”

Wanda Romberger, manager of court interpreting services at the [National Center for State Courts](#), said states were trying to rise to the challenge, but were struggling to find enough qualified interpreters. Forty states have joined a consortium that promotes language access to the courts and sets standards for training and testing interpreters. But progress is uneven, Ms. Romberger said, and many states have barely begun.

Senator Herb Kohl, Democrat of Wisconsin, [introduced a bill](#) last week to provide \$15 million a year in seed money for states to develop or improve their court interpreter programs.

The federal requirement to provide interpreters in federally financed programs goes back to the 1964 Civil Rights Act, and was underscored by the Clinton administration in an [executive order](#) in 2000 requiring agencies to take “reasonable steps to ensure meaningful access” to services. It was followed up with guidelines issued two years later by the Department of Justice.

Loretta King, acting assistant attorney general for civil rights, [restated the policy](#) in April at a federal meeting devoted to language skills issues. “Even in tough economic times,” Ms. King said, “assertions of lack of resources will not provide carte blanche for failure to provide language access. Language access is essential and is not to be treated as a ‘frill’ when determining what to cut in a budget.”

The states, however, face daunting costs and challenges to bring language aid to their courts. In New York, where state law requires interpreters to be offered in all civil and criminal cases, costs have been rising, from nearly \$18 million in the 2004-5 fiscal year to more than \$24 million in the 2008-9 fiscal year, with 282,000 hours of interpretation in nearly 90 languages, including Kurdish, Wolof and Cajun French. According to a recent [article by Ms. Romberger](#) from the National Center for State Courts, California civil courts provided more than 160,000 days of court interpreter services in 2004-5 in Spanish alone, and provided thousands of days in more than 20 other languages, including Samoan, Romanian and Jhindu.

California’s costs for interpreter services have risen 12 percent a year since 2004. Arkansas’s costs have risen by 74 percent a year since 2003, according to the state courts group.

Federal court costs are rising as well, with \$23 million spent on interpreters in the 2007 fiscal year, up from \$18 million in 2004, according to the administrative office of the federal courts.

Such figures gall those who oppose permissive [immigration](#) policies. “We accommodate for language too much, and that sends a very clear message that it’s O.K. not to learn English,” said Mark Krikorian, the executive director of the [Center for Immigration Studies](#) in Washington, a nonprofit group that seeks to limit immigration. “This is an inevitable cost of massive immigration that is never taken into account when making policy.”

The idea that immigrants should simply learn English, however, does not sit well with Judge Brown.

“I wonder aloud how many immigrants from the 1840s through the 1920s lost their liberty, lost their property, lost their homes, their livelihood, all because they could not yet understand the English language to the fullest,” he said in an e-mail interview.

Judge Brown, who is deaf, said, “I think we are a better country because we are now acknowledging what we did not acknowledge in the 19th and early 20th centuries.”

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