

2019 Hawaii Access to Justice Conference
“Expanding Access to Civil Justice”
June 7, 2019

Workshop Summary¹

“Confronting Gender and Language Barriers to Civil Access to Justice”

Panel Presenters:

District Court Judge **William Domingo**, facilitator; **Nanci Kreidman**, Executive Director, Domestic Violence Action Center; **Rebecca Copeland**, solo appellate practitioner; and **Cristina Arsuaga**, Spanish interpreter and translator and a partner at TopNotch Translations, in New York.

Panel members discussed and demonstrated bias in both systems and individuals and suggested that, while some formerly rigid gender roles have been broken down, the foundations of those roles remain. Women are still at a much higher risk for poverty than men; they perform substantially more care-giving work; the wage gap persists; and, one-third of single mothers live in poverty. The representation and power base is still comparatively small. The progress that has been made has led to complaining and some backlash.

Panelist Kreidman showed pictures and advertisements demonstrating ongoing reinforcement of gender stereotypes, and the group participated in an interactive discussion related to roles and biases highlighting the importance of continuing to examine the issue, as foundations, images, and representation are still not equal.

Panelist Copeland discussed gender bias as it relates to the LGBTQ (transgender, non-binary, and gender nonconforming included) community and their ability to access justice. She highlighted that gender expression is unrelated to sexual orientation, and explained other topics related to transgender and gender nonconforming status including, for example, that in communicating the topic of gender it is important to refer to someone as having been assigned a gender at birth (rather than, as is often incorrectly stated, being “born” a gender). LGBTQ individuals make up 4.5% of the US population and 8.1% of millennials. At last estimate, there are 8,450 transgender individuals in Hawaii, and transgender teens nationwide commit or attempt suicide at a rate of close to 50%. Copeland pointed out that the one of the easiest way to show respect to individuals is to use the names and pronouns they use, which is not always the name/pronoun listed on their official documents.

Suggestions for participants included educating staff and personnel; emphasizing our obligation of nondiscrimination; and, fostering an awareness of legal and judicial resources available. Copeland recommended creating a welcoming environment for all by considering our word choices (e.g., addressing a room with “everyone” rather than “ladies and gentlemen”), asking people what

name and pronouns they use, and considering where we place people in holding areas, jails, etc.

Cristina Arsuaga addressed the issue of language barriers to accessing justice. While Hawaii state law provides for interpretation in both criminal and civil cases, as well as document translation, federal rules are much less inclusive, only guaranteeing access to interpretation at a federal level for cases that the government brings. There is no consistent standard across states. While Hawaii does guarantee access and has a ranking system for interpreter skill (scale of 1 to 6), there are still some languages for which no test is available. Arsuaga outlined the skills to look for in an interpreter as follows: post-graduate level English skills; good short-term memory and ability to multi-task; knowledge of legal systems and terminology; general and specialized language ability; and, ability to process information under pressure.

For those using interpreters, Arsuaga recommended helping them prepare for the work by providing case information, names, numbers, and places in advance; sharing information with them; providing documentation; explaining the role they are expected to fill; and, making sure the interpreter and witness/client can understand each other (that is, ensuring that there are no issues with different dialects of the same language). In order to effectively work with an interpreter, she suggested speaking at a reasonable speed; allowing time for interpretation; having an awareness of linguistic differences (some languages may require more words to describe a specific situation, for example); and, having an awareness of the space being used and client/interpreter location in the space. Bridging cultural gaps, she suggested, is the role of the attorney, not the interpreter. That is, it is the job of the attorney/provider to understand the cultural basics of body language and eye contact; the propensity to answer questions directly or indirectly; cultural deference to authority; and, possible reluctance to speak.

¹ A draft was prepared by Lisa Sparrel, Director of Grants, Legal Aid Society of Hawai'i and edited by the presenters.