

Confusion, delays as videos replace interpreters at immigrants' hearings

By Nanette Asimov

WASHINGTON — The Trump administration has been slow to implement its new policy replacing in-person interpreters with informational videos at immigrants' initial hearings, but the switch is causing delays and confusion where it has been introduced, including in San Francisco, observers say.

The Justice Department informed immigration judges in late June that it would [replace in-person interpreters at the first court appearance for immigrants facing deportation](#) with videos advising them of their rights. The switchover [began in July](#).

So far, the policy has been rolled out to courts in just four cities: San Francisco, Los Angeles, Miami and New York.

It's not clear when the policy will expand. A spokesman for the Justice Department division that oversees the courts said the agency "is taking into consideration all feedback before additional translation videos are created and the program is rolled out to further immigration courts."

Judges and attorneys observing the courts say the change has mostly served to delay proceedings, by adding lengthy steps and information that is not necessary for all migrants to hear.

After the videos are shown, each immigrant is called up for his or her individual hearing and may have questions for the judge. Although judges are now barred from scheduling in-person interpreters for the hearings, at times interpreters can be found on short notice in the courthouses. When none is available, judges must try a telephone service to reach an interpreter.

At issue are what are called master calendar hearings — immigrants' first appearance in courts that determine whether they can remain in the U.S. The typically rapid-fire sessions serve to inform migrants of their rights and the process they will go through. Judges also schedule their next hearings.

Many immigrants in the system are Spanish speakers, but it's also common for Chinese, Creole, and several indigenous languages from Central America and around the world to be spoken in courtrooms.

Judges in courts that have made the change are required to play either a Spanish-dubbed or English-language video for immigrants who do not have attorneys representing them. The 20-minute video runs through a lengthy list of technical legal advisories. Videos in other languages are not yet available, but the Justice Department has plans to introduce them.

Most of the dozens of immigrants going through their initial hearings Tuesday in San Francisco were shown the video. Many of them had attorneys present who

translated, and others were able to use a Spanish-speaking interpreter who was on hand. Languages spoken in court included Spanish, Punjabi, Hindi, Mandarin and Fijian.

One hearing in the courtroom of Judge Arwen Swink involved a Mongolian woman who needed translation. After about five minutes, Swink was able to secure an interpreter in her language through the telephone service Lionbridge.

Swink asked the interpreter to introduce himself to the woman, who did not have an attorney, to ensure that she understood him. The interpreter said he had trouble hearing, but court staffers brought the microphone closer to the woman and the session was able to proceed.

With an interpreter in the room, such a hearing can take five minutes or less. The woman's case took 15 minutes.

The Chronicle has obtained transcripts of the separate videos that are played for immigrants who are [in detention](#) and [not in detention](#), as well as an [FAQ handout](#) they receive.

Roughly a fifth of the videos are devoted to a discussion of "voluntary departure," under which immigrants can go back to their home country without being penalized if they try to come back someday. The videos also warn immigrants of the criminal consequences of trying to re-enter the country illegally after being deported.

Legal experts and veteran immigration judges say neither topic was commonly brought up in initial hearings before the videos were introduced because they are most relevant at the end of cases, if migrants do not prevail in their bid to remain in the U.S. Several said they feared the emphasis on voluntary departures and criminal penalties could prompt immigrants with valid claims to stay in the U.S. to waive their right without fully understanding what they're doing.

The Justice Department did not consult with the union that represents immigration judges before making the change, and has proceeded despite ongoing bargaining with the group. The result is "lots of confusion, constantly changing parameters of the program by the agency and frustration among many judges," said Ashley Tabaddor, president of the National Association of Immigration Judges and an immigration judge in Los Angeles.

Tabaddor added that courts in New York and Miami have had trouble securing help by phone, and that cases have been delayed in the Los Angeles court because of shortages of interpreters.

Amiena Khan, the union's executive vice president and a judge in New York, said the videos make for a "really long day" for unrepresented immigrants who have to wait through proceedings for all migrants who have attorneys before watching a 20-minute video. She finds herself repeating or adding key advisories when immigrants are called before her.

"There was no problem that needed to be solved by the introduction of the video," Khan said. "What I think really bothers me is that it's mandatory. I think if it was discretionary as a tool for the judge to use, it could be helpful. (But) it takes away our judicial independence as to what method to employ to best get through the day's docket."

Khan and former immigration Judge Jeffrey Chase, who reviewed the transcripts, also noted that the videos do not include information that would be important for immigrants, including that they have only one year to formally apply for asylum in the U.S.

“The information provided is misleading in a way that can lead to a noncitizen’s removal,” said Chase, who now volunteers for organizations that provide legal assistance to immigrants.

Laura Lynch, senior policy counsel for the American Immigration Lawyers Association, said the transcripts show that the videos use “scare tactics” instead of informing immigrants of their rights. The videos warn immigrants against filing frivolous asylum claims, but don’t explain what asylum is, she noted.

“The videos provide an overwhelming amount of information that no one can easily digest in one setting,” Lynch said. “What’s more disturbing is that the content itself only tells one side of the story.”

San Francisco Chronicle staff writer Tatiana Sanchez contributed to this report.

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