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The Newsletter for The Los Angeles Airport Peace Officers Association



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Excerpts from the LAAPOA State of the Union Address

By Marshall E. McClain
President
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July 14, 2012

The State of our Union is evolving to a place of strength with surer footing for a more secure future. Our organization is moving toward a time in which, as a result of raising the bar of dialogue and accountability, we will have a more effective and respected seat at the table to support our mission of protecting our airports and the aviation community.

I am proud to represent you, the proud members of the Los Angeles Airport Police. I will continue to work every day to ensure that we receive the respect, which is a central theme to my tenure, and the resources to perform our duties effectively.

In a perfect world, LAAPOA's Board, Julius and I would have been elected at a time in which we were assuming the helm of a functional organization to advance it organically to the next level — a time when we were part of a meaningful collaboration with key airport players to lend our substantial on-the-ground experience and expertise to coordinate definitive roles for all elements of airport security to proactively acclimate to meet the ever-changing complexities that a major terrorist target airport such as ours faces on a daily basis. Where we were working hand-in-glove with management to anticipate and prepare at the highest, most advanced and sophisticated security responses as the upcoming massive international expansion at LAX reaches its final stages. Where we would be part of the conversation on how to work with relevant parties on the Ontario airport situation to ensure that the airport is not vulnerable during an ongoing public battle that could be construed as weakness that some could exploit and may target our facility.

Instead, we assumed our positions after years of a thousand cuts of neglect that have led to an airport that is not as safe as it should or could be, a dysfunctional relationship between rank-and-file officers and management and a loss in faith by some in the LAAPOA leadership. As the Board of the Los Angeles Airport Peace Officers' Association, it is our responsibility to be the voice of our members and ensure that those of us on the front lines of

protecting our airports are given the tools and resources necessary to be successful. That is why your Board has made equipment, training and staffing our primary issues. Some people within our ranks and on the outside looking in may not approve of our varying methods and would rather us revert to the same methodology and softer approach that hasn't worked in nearly 30 years, since 1983, when LAAPOA was established. This Board, your Board, has made major strides in raising the profile and professionalism of LAAPOA in only three years despite momentous opposition.

Many of the issues that have brought us to where we are now happened slowly and are not the responsibility of any singular person, but they do exist and this must be rectified and we must each take responsibility to adjust our course in every action we take every day we do our jobs. We are now building to a better future and I ask you to continue to work with us to take us where we are beginning to go and where we need to eventually be. Let me be clear: I, too, get frustrated and I, too, at times feel that the weight is over-burdensome. I, too, have been the recipient of blow back, but I have seen more changes in the last few months at our airport than I have seen collectively in the last 5-10 years. Particularly in the past year, we have laid the groundwork to regain respect for our officers. We are working for each of us to have a say and to influence how we conduct our jobs and how we can better contribute to a safe and productive working environment with the singular focus of securing our airport, its workers, its travelers and each other.

During this last year, we worked to establish local, regional and national footprints with a fresh prospective and new approach, all working toward an end goal of making the airport policing environment the most productive it has ever been.

We reached out to our counterparts at other major airports including the Port Authority Police of New York and New Jersey, Dallas/Ft. Worth and BWI to gain a perspective on similarities, differences and best practices in airport policing. We initially organized with the Port Authority and Dallas Fort Worth to form the American Alliance of Airport Police Officers to fill a void of a national unified voice of rank-and-file officers at American airports. When policy makers implement regulations that impact how we do our jobs, they have done so without our input. In doing so, the theoretical

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STATE OF THE UNION

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aspects of thwarting criminal and terrorist activities do not always convey to the practical. Our organization has met with members of Congress, committee chairmen, senior staff and administration officials on various matters that contribute to the safety and security of our airports. We have found a thirst for first-hand, non-sanitized real life experiences that rank-and-file officers bring to the table. In addition, we have found strength with our airport police brothers who share common experiences and have used our collective voice to promote positive changes within our system. As our group grows and matures, we look forward to continuing reporting progresses.

We also established an ongoing dialogue with our local congressional representatives to educate them on who we are and what we do so that LAAPOA officers have the support to conduct our jobs effectively and the adequate resources to do so. As we are all aware, airport policing, including our salaries, is paid with airport user fees. Not one single dime that pays for any airport service, including policing comes from local, city or state taxes. Federal law requires that funds derived from the airport be spent at the airport and only for airport-related activities, and we are working hard to ensure that our world-renowned aviation system, including the third busiest airport in America, be made whole with a police fleet that is not literally falling apart or blowing up as my patrol vehicle did during a recent shift; a secure police parking lot in which our personal cars cannot be vandalized; a policing facility that has working air-conditioning that was built post circa 1950s; a range advanced beyond Starsky and Hutch's era; and a mobile command center that is not immobile. We should question how more than 80% of our fleet became overdue for salvage and how our repeated requests for relief went unaddressed for such a prolonged period to get to such a level of disrepair. We should have answers to why the airport has the ability to fund enclosed, secure, wire-razor-fenced parking lots for contractors hired to work on the airport expansion, but cannot do so for LAWA's own permanent police force and why the airport's proprietary police facility is more than 50-years-old and not suitable to house new technology to help us do our jobs, let alone house the finest airport police in the nation, but the non-airport proprietary police facility is state-of-the-art (with central air that works). While I am somewhat tongue-in-cheek in my articulation of our circumstances, make no mistake that I am very serious in vehemently and passionately making our case to take on each of these and other issues one-by-one, and we are making in-roads.



To see the complete
State of the Union speech,
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The Board of Directors meets on the third Thursday of each quarter at the LAAPOA Headquarters.

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Number: 2012-09 Date: 6-8-12
 By: Devallis Rutledge Topic: Translated Statements

Issue: When police use an interpreter to interview a suspect or witness, does this make the interpreter's translation a form of hearsay evidence?

Hearsay evidence is generally inadmissible in court, with some exceptions. Evidence Code § 1200(b). And at "hearsay prelims," a qualified officer testifying to hearsay statements may not relate **multiple layers** of hearsay, unless each layer satisfies some independent hearsay exception. Evidence Code § 1201; *Whitman v. Superior Court* (1991) 54 Cal.3d 1063, 1074. What are the implications for these principles when an officer talks to a witness or a suspect through an interpreter and seeks to testify to the translated statement, where a hearsay exception would apply to allow the **declarant's** statements to be admitted, but there is no applicable exception as to the **interpreter's** utterances?

Hundreds of languages are spoken by California residents. Law enforcement officers will be required to use interpreters to conduct some interviews. Interpreters may be other officers, bystanders or the relatives or neighbors of the person being interviewed. To deal with the admissibility issues arising in such cases, courts have adopted an agency theory sometimes called the "**language conduit**" doctrine. Under this approach, both the officer and the witness or suspect are deemed to have made the interpreter their joint agent for communication, so that the translated statements of a declarant are treated as if the declarant spoke them to the officer directly, without using an interpreter. If the declarant's statements fall under a recognized hearsay exception, they are admissible.

"When two persons speaking different languages select an interpreter as a medium of their communication, the interpreter is regarded as their joint agent for that purpose. Therefore, the statements of the interpreter are regarded as the statements of the persons themselves, and like any other admission, may be shown by the testimony of any person who heard them **without calling the interpreter as a witness**. ... The fact that the interpreter is a law enforcement officer or other employee of government does not prevent the interpreter from acting as the declarant's agent, even where the declarant is being investigated by law enforcement." *People v. Torres* (1989) 213 Cal.App.3d 1248, 1258, 1259 (allowing an investigator to testify to Evidence Code § 1220 "statements of a party" and § 1222 "authorized statements"

made through a bilingual officer). (Bold emphasis added.)

"The language-conduit theory calls for a case-by-case determination whether, under the particular circumstances of the case, the translated statement may be fairly considered to be that of the original speaker. ... The court should consider a number of factors, ... such as which party supplied the interpreter, whether the interpreter had any motive to mislead or distort, the interpreter's qualifications and language skill, and whether the actions taken subsequent to the conversation were consistent with the statements as translated." *People v. Correa* (2002) 27 Cal.4th 444, 457, 458 (allowing translated hearsay at a Prop 115 prelim).

If it's necessary to use another peace officer to interpret, it's better (though not mandatory) that this officer act *only* as an interpreter, rather than as an investigating or interrogating officer, if possible. *U.S. v. Romo-Chavez* (9th Cir. 2012) ___ Fed.3d ___, WL 1861613.

Bottom Line: If a declarant's statement is otherwise admissible, it does not become inadmissible merely because it was related through an interpreter.

For information on prosecutorial and law enforcement training offered by the Los Angeles County District Attorney's CRIMINAL JUSTICE INSTITUTE, please visit <http://da.lacounty.gov/CJI>.

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.



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