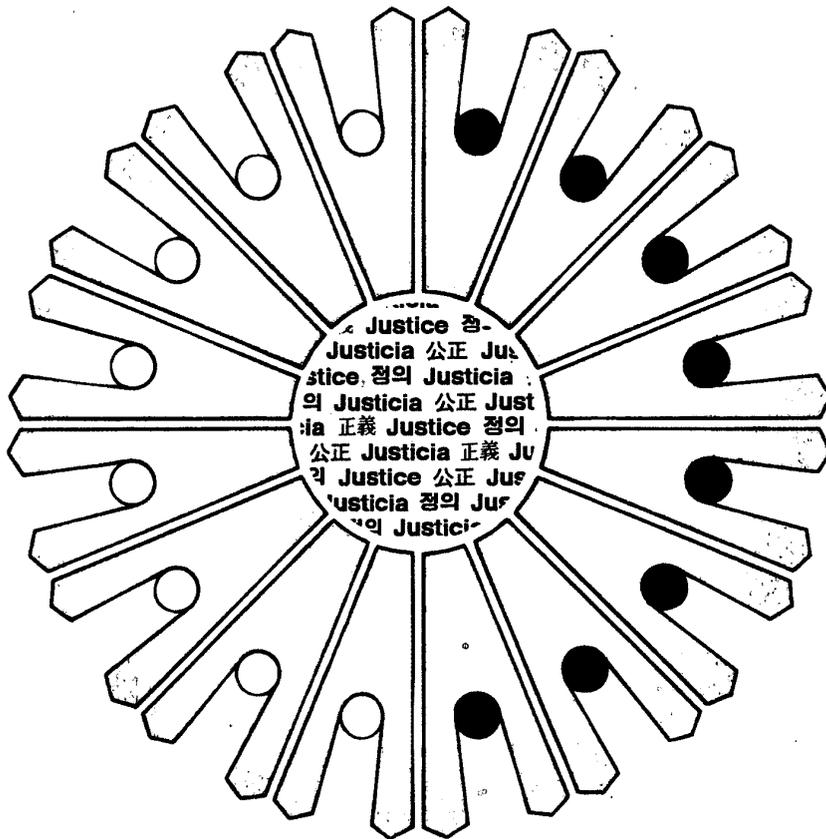




Access to Justice for Persons of Color:
*Selected Guides and Programs for
Improving Court Performance*

Managing Language Problems:
*A Court Interpreting Education Program for
Judges, Lawyers, and Court Managers*

173730



Access to Justice for Persons of Color:
*Selected Guides and Programs for
Improving Court Performance*

Managing Language Problems:
*A Court Interpreting Education Program for
Judges, Lawyers, and Court Managers*

PROPERTY OF
National Criminal Justice Reference Service (NCJRS)
Box 6000
Rockville, MD 20849-6000

About the Cover

The project logo, "Equal Justice," was designed by Seattle graphic artist Sekio Matsumoto. The original design on the cover of *Model Guide 1* depicts people of all races and ethnic backgrounds encircling "the scales of justice," with their arms raised in celebration. The shading and gradation of the colors represents a fusion of these diverse peoples into an indivisible whole, while still maintaining their individual identity. The balanced scales encircled by the people characterize one of the most fundamental principles of our society—*equal justice under law*.

The cover of this *Model Guide 3* illustrates a slight variation of the original logo design; the word "justice" in various languages is encircled by the people, representing the expectations of the diverse linguistic groups who come before our courts. Justice in court proceedings for linguistic minorities is inextricable from the availability of qualified, competent, and professionally trained court interpreters.

Not only has Mr. Matsumoto's design become a recognized symbol of efforts to promote equality and fairness in the justice system, it has received worldwide acceptance as an expression of diversity and inclusiveness. The design was originally conceived by Mr. Matsumoto in 1977 when he was asked by the American Baptist Churches, USA to demonstrate inclusiveness of a diverse racial, ethnic, and linguistic population in the national church membership. The Washington State Minority Justice Commission in 1994 asked Mr. Matsumoto if he could adapt his concept from a celebration of religion to a celebration of justice. The result was the "Equal Justice" version of the logo, which was virtually identical to its depiction on the cover of *Model Guide 1*. This adaptation was originally used for the *1994 Annual Report of the Washington State Minority and Justice Commission* and was later adapted again in 1995 by the *First National Conference on Eliminating Racial and Ethnic Bias in the Courts*. Most recently, the logo was adopted by the *National Consortium Monitor*, the newsletter of the *National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts*.

The copyright for the logo is held by the artist, who has given the National Center for State Courts permission for its use. The layout and design of the cover was done by graphic artist Hisako Sayers.

Suggested Citation:

Hewitt, William E., and John G. Richardson, *Managing Language Problems: A Court Interpreting Education Program for Judges, Lawyers, and Court Managers*. Williamsburg, VA: National Center for State Courts, 1997.

© 1997, National Center for State Courts
ISBN 0-89656-177-1, National Center Publication Number R-196

Library of Congress Catalog Card Number: 97-69653

This project was supported by Grant No. 95-DD-BX-0010, awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions expressed in this document are those of the authors and do not represent the official position or policies of the United States Department of Justice.

National Center for State Courts Project Staff

John G. Richardson
Director

William E. Hewitt
Senior Research Associate

Margaret J. Fonner
Administrative Secretary

Pamela L. Petrakis
Executive Secretary

Project Advisory Committee

Justice Charles Z. Smith
Supreme Court of Washington State

Justice Charles M. Grabau
Superior Court of the Commonwealth of Massachusetts

Judge Veronica Simmons McBeth
Assistant Presiding Judge of the Los Angeles Municipal Court, California

Judge June H. Cicero
Municipal Court of River Falls, Wisconsin

Judge Leslie G. Johnson
Director of Mississippi Judicial College

Doreen T. Yellow Bird
Director of Multicultural Student Services
North Dakota State University

Project Consultant

Margaret H. Brooks
Associate
Windwalker Corporation

Contributors

Charles F. Campbell
Editor
National Center for State Courts

Thomas C. Carlson
Technology Specialist
National Center for State Courts

Catherine Gill
Staff Attorney
National Center for State Courts

Grant Manager

Marilyn Nejelski
Program Manager
Bureau of Justice Assistance
Office of Justice Programs

Cover Logo

Sekio Matsumoto
Graphic Artist

Cover Layout and Design

Hisako Sayers
Graphic Artist

Acknowledgments

The project director extends a special thanks to Bill Hewitt, coordinator of the National Center for State Courts court interpreting research and consulting services, and organizer of the State Court Interpreter Certification Consortium. His contributions to court interpreting, and his dedication to removing the language barrier between the courts and non-English speakers, have earned him numerous accolades from the interpreting profession, judicial leaders, and his colleagues at the National Center for State Courts.

Acknowledgment and thanks to Patricia Michelsen, Federally Certified Court Interpreter and Interpreting Consultant, for providing materials on interpreter's job skills and language problems; Robert Joe Lee, Supervisor, Court Interpreting, Legal Translating, and Bilingual Services Section of the New Jersey Administrative Office of the Courts; Ellie de la Bandera, Federally Certified Court Interpreter and Interpreting Consultant, for test examples; and Joanne Moore, Court Service Specialist and Director of the Court Interpretation Program of the Washington State Office of the Administrator for the Courts, for the audience participation exercises.

The director appreciates the contributions made to this project by Windwalker Corporation of McLean, Virginia. Windwalker Corporation is a performance management and training consulting group, specializing in the design, development, and evaluation of instructional materials and in program evaluation. For this project, Windwalker Corporation provided its curriculum design expertise to ensure an instructionally sound and user-friendly curriculum. Windwalker principals include Hallie L. Shilling, CEO; Barbara J. Waite, Executive Vice President; and Margaret H. Brooks, Associate.

*Preface**

Racial and ethnic bias have no place in the courts or anywhere in the justice system. Eliminating such bias and ensuring its absence is the keystone of equal justice. Eliminating bias involves not just dispensing with systems or procedures or letting go of individuals with a bad attitude, but including some affirmative steps and commitment of resources as well.

Eliminating bias from the courts and other aspects of the justice system is critical. This country and the rights and obligations of all who live here are defined by law—the Constitution and laws passed by Congress, states, and localities. If bias exists in the operation of this system for the enforcement and protection of rights, then a corruption exists that goes to the foundation of the nation. Therefore, this elimination of bias is not an exercise in political correctness; it is of fundamental and structural importance to the viability of our system of government.

Courts should undertake the exercise of self-examination to identify actual prejudice, discrimination, and those practices that appear discriminatory. This exercise is also salutary in and of itself. Effective outreach and a willingness to listen and self-examine bring people into the system and create a confidence in the interest, concern, and goodwill of the system. We must be ready to work together to redesign those aspects that have operated in a discriminatory, exclusionary, or otherwise unfair way. Equally important are the affirmative commitments of resources ranging from funds to time and energy, not just to eliminate the outcroppings of bias, but also to make justice equally available, fair, and impartial.

With so much of our effort to achieve a fair and just society, there is no ultimate right answer to the appropriateness of various initiatives under the Constitution or any philosophic or moral code. They are value choices for Americans to make. We, and those we represent in our local, state, and federal justice systems, must be energetic in devising ways to ensure that the individuals who comprise this pluralistic whole can effectively take advantage of the rights to which they are entitled. Those of us who in effect constitute our justice system, simply must have the judicial system, the most critical component of our democracy, respond to, and embrace the diversity of our country.

* This preface consists of excerpts from a luncheon address by Assistant Attorney General Eleanor D. Acheson entitled “The Importance of Eliminating Bias from Institutions of the Justice System in an Era of Challenges to Remedies for Inequality.” Her address is published in the proceedings of *The First National Conference on Racial and Ethnic Bias in the Courts*, which are entitled *A New Paradigm for Fairness: The First National Conference on Eliminating Racial and Ethnic Bias in the Courts*. The proceedings were written by H. Clifton Grandy and were published in 1995 by the National Center for State Courts.

Foreword

“Equal access” to justice is, in theory, a fundamental characteristic of the courts; however, in practice, “equal access” remains an aspiration for all court systems. The principle of equal access is much broader than the rights of litigants and defendants. Equal access includes access to employment opportunities as part of the court’s staff or as a contract service provider to the court. Our nation’s workforce is rapidly becoming more heterogeneous by race, ethnicity, gender, age, physical ability, religion, language, and educational background. State court judges and managers need to understand how this increasing diversity will present both opportunities and challenges to those who utilize the courts and those who are part of the judicial workforce.

While minorities are overrepresented in the justice system as defendants in criminal cases and as inmates in jails and prisons, they are underrepresented as judges, judicial appointees, and employees. This underrepresentation has been well documented by the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts and individual state commissions tasked with identifying and documenting racial and ethnic bias in the judicial branch. The commissions of Arizona, the District of Columbia, Florida, Massachusetts, Minnesota, New York, New Jersey, Oregon, and Washington State have addressed the underrepresentation of minorities in the work force. For example, the New York commission found that minority underrepresentation in the courts fueled the perceptions of minority communities that the judicial branch is biased.

In March 1994, the American Bar Association in cooperation with the National Bar Association, the Native American Bar Association, the National Asian Pacific American Bar Association, and the Hispanic National Bar Association convened a meeting to explore racial and ethnic bias in the American justice system, the *Summit on Racial and Ethnic Bias in the Justice System*. Thus, the need for the State Justice Institute-funded *First National Conference on Eliminating Racial and Ethnic Bias in the Courts* (“*Conference*”), which was held in March of 1995 in Albuquerque, New Mexico. For the first time in the history of the state courts, more than 425 justices, judges, court administrators, judicial educators, attorneys, and court users gathered to focus on strategies to eliminate racial and ethnic bias in the courts.

Finally, the *Conference* provided an opportunity for participants to network and exchange invaluable information to assist them in addressing racial and ethnic bias in their state’s court system. Several major themes that can be addressed through diversity training emerged from the *Conference*. These themes included staying vigilant against bias through continuous self-examination of court operations, as well as reassessment of mechanisms for addressing the perception of and the existence of biased behaviors on the part of judicial and nonjudicial staff; managing court interpretation problems, which equates to fairness and equal access to justice for non-English speakers; protecting the rights of American Indians as sovereign nations and culturally distinct peoples who are guaranteed unique parental rights under the Indian Child Welfare Act; and mentoring persons of color to judicial service on the bench.

As the series title indicates, "Access to Justice for Persons of Color: *Selected Guides and Programs for Improving Court Performance*," the *Model Guides* are designed to address the above issues through the various programs contained under the following titles:

MODEL GUIDE 1

***A Total Approach to Diversity: An Assessment and Curriculum
Guide for State Courts***

MODEL GUIDE 2

***Bias in the Court! Focusing on the Behavior of Judges, Lawyers,
and Court Staff in Court Interactions***

MODEL GUIDE 3

***Managing Language Problems: A Court Interpreting Education Program
for Judges, Lawyers, and Court Managers***

MODEL GUIDE 4

The Indian Child Welfare Act: A Cultural and Legal Education Program

MODEL GUIDE 5

***Judicial Mentoring: Starting, Organizing, and Sustaining a Program
for Mentoring Persons of Color to the Bench***



NANCY E. GIST
Director
Bureau of Justice Assistance

The Need for Managing Language Problems in the State Courts

One manifestation of bias in the courts that is prominent in the reports of state task forces and commissions relates to communication barriers faced by linguistic minorities—individuals who have limited ability to speak or understand English. The problem is associated with one of the nation's most significant trends for the 1990s and the next century: immigration and rapidly expanding cultural diversity. While the total population of the United States increased by 10 percent between 1980 and 1990, the nation's Asian and Pacific Islander populations increased by 108 percent, the Hispanic population increased by 53 percent, and other language minority populations increased by 45 percent.¹

The problems associated with these trends transcend the challenge of finding qualified, professional court interpreters. Individuals who have limited ability to speak English are often members of subcultures where legal systems, values, and social customs vary widely from those of the majority culture. In many cases, they are also individuals whose experience with government and law is steeped in suspicion, distrust, and fear. Having no interpreter, or having incompetent interpreters, dramatically magnifies the barriers that deny equal access to justice for linguistic minority litigants, and interferes with the court's ability to do justice when linguistic minorities are victims or witnesses.

Problems related to the experience of linguistic minorities in the courts warranted specific policy attention at high levels. Special task forces charged with investigating the nature and extent of the problems and recommending strategies to address them, were created by the Supreme Courts of New Jersey and Utah (which convened an in-house committee), and by the legislature in Washington. In other states where racial and ethnic bias task forces were created, they became the forum wherein the problem repeatedly surfaced. Task forces from states as disparate in geography and population as Florida, Massachusetts, and Michigan, for example, shared obviously common experiences during their investigations.

As it traveled around the state, the Commission received compelling testimony that language barriers often impede the administration of justice to individuals who have difficulty speaking or understanding English.²

At the Commission's public hearings, the most frequently cited instances of bias within our courts were those related to . . . non-English speaking persons.³

Throughout the state considerable testimony was received regarding language issues, the availability of interpreters, the confusion and frustration of individuals who cannot speak or understand English, and those who speak non-standard English.⁴

¹ D. Waggoner, "Six States Have a Million Plus Speakers of Non-English Languages," *Numbers and Needs*, Vol. 3 No. 1, Jan. 1993, p. 2.

² "Where the Injured Fly for Justice," Report and Recommendations of the Florida Supreme Court Racial and Ethnic Study Commission, 1990, p. 10.

³ "Eliminating the Barriers: Equal Justice," Massachusetts Supreme Court Commission to Study Racial and Ethnic Bias in the Courts, 1994, p. 34.

⁴ Final Report of the Michigan Supreme Court Task Force on Racial/Ethnic Issues in the Courts, 1989, p. 6.

In Minnesota, statutes contain relatively strong recognition of the rights of linguistic minorities, and the court's duties in regard to them. (While a few states, e.g., California, Massachusetts, New Mexico, and Washington, have stronger and more detailed statutes related to linguistic minorities than does Minnesota, many states have weaker and less explicit statutes.) Despite this, Minnesota's report eloquently captures the shared theme recounted in state studies and in anecdotal reports from states without formal racial and ethnic bias studies:

This extremely important and fundamental issue [competent foreign language interpreter services] has been . . . understudied, underfunded, and, in terms of its ultimate impact, little understood. . . . The Task Force found that in Minnesota, notwithstanding the existence of a strong statute governing the management of this issue, and despite recent attention from the Conference of Chief Judges, there is much to be done and a long way to go before full compliance with existing law can be achieved.⁵

*Training about the use of interpreters for all personnel within the court system is clearly indicated.*⁶

The findings of the Minnesota Supreme Court Task Force that call for developing and implementing training for judges and court administrative personnel are echoed in the findings of the National Center for State Courts' national study of problems and needs related to linguistic minorities:

[A]t the courtroom level, judges (and others responsible for establishing expectations for the quality of interpreting services, e.g., lawyers, court administrators) are generally unaware that being bilingual is not a sufficient condition for being able to function adequately as a court interpreter. As a consequence, they do not realize how often errors committed by untrained interpreters distort evidence relied on by the court, mislead and threaten the fairness of proceedings and deny non-English speaking people equal access to justice.⁷

This education program is designed to educate judges, lawyers, and court managers about court interpreting competency, testing, and certification by taking them behind the scenes of court interpretation. At the end of the program, participants should know what skills and abilities are required for effective court interpretation and identify ways in which they can determine whether their court interpreters are qualified to fulfill their job requirements.



ROGER K. WARREN

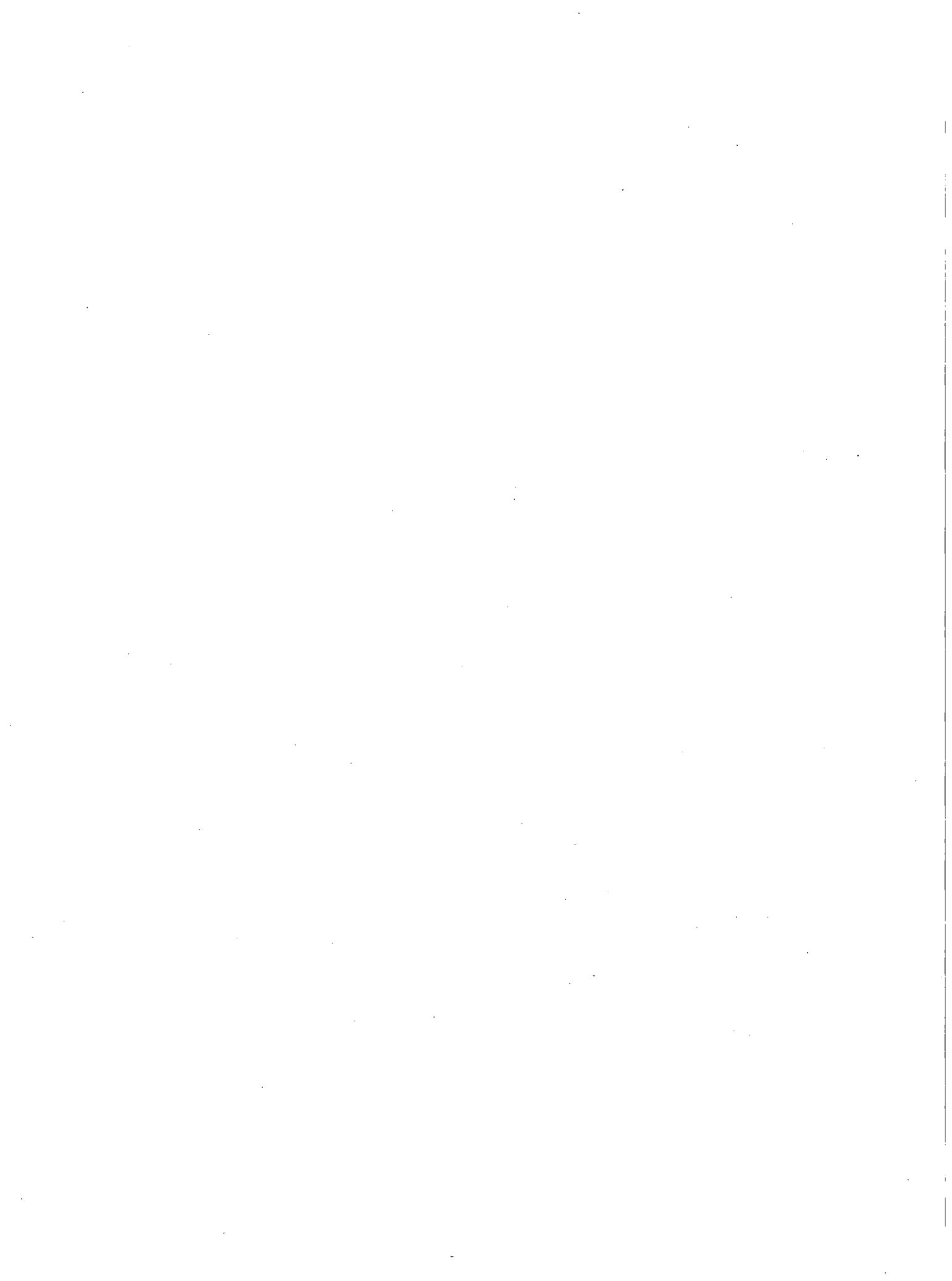
President

The National Center for State Courts

⁵ Minnesota Supreme Court Task Force on Racial Bias in the Judicial System, Final Report, 1993, p. 70.

⁶ Ibid., p. S-23, (emphasis added).

⁷ *Court Interpretation: Model Guides for Policy and Practice in the State Courts*, National Center for State Courts: Williamsburg, VA, 1995, p. 4.



Managing Language Problems:
*A Court Interpreting Education Program for
Judges, Lawyers, and Court Managers*

Managing Language Problems: A Court Interpreting Education Program for Judges, Lawyers, and Court Managers

Table of Contents	Page
Instructor Preparation	III
Program at a Glance	III
Objectives of the Program	IV
Preparation Activities	V
Important Points	VII
Program Overview	1
Introduction	1
Icebreaker	3
Description of Session Content	4
The Interpreter's Job	6
Job Requirements	6
Required Skills	10
Simulation Activity	13
Simultaneous Exercise	13
Consecutive Exercise	16
Behind the Language Barrier	20
Interpreter Testing	26
Introduction to Testing	26
Test Development and Scoring	28
Performance Expectations	29
Inside an Interpreting Test	30

Video: “Working with Interpreters” 34

State Court Interpreter Certification Consortium 37

Court Interpreting for Deaf Persons 40

Appendices:

Appendix A. Simulation Activity Handouts A1

Appendix B. Handout: *The Problems of Idioms and Slang* B1

Appendix C. Handout: *Working with Interpreters* C1

Appendix D. Handout:
***Improving Court Interpreting Services: What the States Are Doing* D1**

Appendix E. Handout:
***Court Interpreting for Deaf Persons: Culture, Communication, and the Courts* E1**

Appendix F. Handout: *Survey of Languages* F1

Overheads Section 1-24

Managing Language Problems: A Court Interpreting Education Program for Judges, Lawyers, and Court Managers

Instructor Preparation

Program at a Glance

- Program Overview
- The Interpreter's Job
- Simulation Activity
- Behind the Language Barrier
- Interpreter Testing
- Video: "Working with Interpreters"
- State Court Interpreter Certification Consortium
- Court Interpreting for Deaf Persons
- Survey of Languages

Objectives of the Program

At the end of this program, participants will be able to:

1. Describe what court interpreters are expected to do when they work in a court.
2. State the qualifications that court interpreters need to meet the expectations.
3. Identify available techniques for determining whether court interpreters possess the required qualifications.
4. Identify issues relating to court interpretation for deaf and hard-of-hearing individuals.

Preparation Activities

Things You Need

- Equipment**
- Flip chart (FC), markers, and masking tape
 - Overhead projector
 - Screen

- Instructor material**
- Faculty Guide
 - Overheads (OH) 1 - 24
 - Videotapes
 - "Interpreters: Their Impact on Legal Proceedings"
 - "Working with Interpreters"

Participant material

- Simulation Activity Handouts:
 - Simultaneous Exercise, Person A
 - Simultaneous Exercise, Person B
 - Consecutive Exercise, Person A
 - Consecutive Exercise, Person B
- Handout: “The Problem of Idioms and Slang”
- Handout: “Working with Interpreters”
- Handout: “Improving Court Interpreting Services: What the States Are Doing”
- Handout: “Court Interpreting for Deaf Persons: Culture, Communication, and the Courts”
- Handout: “Survey of Languages”

Things to Do

- Review this Faculty Guide and the workshop overheads.

The Faculty Guide leads you step-by-step through the *Managing Language Problems* workshop. You may follow the script in the right column, or use the call-out notes in the left column. The script provides word-for-word guidance. The call-out notes provide cues.

Notes to the instructor appear in **bold** font in the right column. These notes give you information about the text and provide instructions about actions you should take.

- Prepare FC1: Objectives (refer to page 1).
- Post warm-up questions on FC pages for the icebreaker (refer to page 2).
- Preview the videotapes.
- Practice the Simulation Activity with your session sponsor or other person to prepare for the demonstration. Use the examples at the end of Appendix A for the demonstration.
- Make copies of the Simulation Activity handouts. These handouts are located in Appendix A of this Faculty Guide. Color code the handouts by copying Person A handouts in a different color than Person B handouts.
- Make copies of the handout “The Problem of Idioms and Slang.” Handout is located in Appendix B of this Faculty Guide.
- Make copies of the handout “Working with Interpreters.” Handout is located in Appendix C of this Faculty Guide.
- Make copies of the handout “Improving Court Interpreting Services: What the States Are Doing.” Handout is located in Appendix D of this Faculty Guide.
- Make copies of the handout “Court Interpreting for Deaf Persons: Culture, Communication, and the Courts.” Handout is located in Appendix E of this Faculty Guide.
- Make copies of the handout “Survey of Languages.” Handout is located in Appendix F of this Faculty Guide.

Important Points

If possible, arrange for a court-certified interpreter to present this program. If a court-certified interpreter is not available, arrange for a bilingual person who is a qualified court interpreter to present the program.

The purpose of the **Overview** section is to:

- Engage the audience in the topic, to provide a “hook” by showing them **why** they need to learn the information presented in this workshop.
- Establish an interactive environment for the workshop.
- Identify participant observations that you will connect and comment on during the presentation.
- State the purpose and objectives of the program.

The Interpreter’s Job section discusses the job responsibilities of court interpreters. Participants gain an appreciation for the skills and abilities required for effective court interpretation.

The purpose of the **Simulation Activity** is to heighten awareness about the complexities of court interpretation by giving participants a “hands-on” experience. The activity gives participants an opportunity to get inside the interpreter’s job in a way that doesn’t require knowledge of a foreign language. You will need to do a demonstration of this exercise. Refer to Appendix A for examples to use in the demonstration.

In **Behind the Language Barrier** you will point out some of the challenges that interpreters face when they confront the core responsibilities of their job: serving as the court's agent to facilitate complete and accurate conservation of meaning between source and target languages.

The purpose of the **Interpreter Testing** section is to give the participants information about the structure of interpreter tests, including how they are scored and common errors. Customize the amount of detail you provide in this section depending on the time you have available to deliver the program.

The video "**Working with Interpreters**" provides an opportunity for participants to apply the knowledge they gain in the program. As they watch the video, participants will identify the required skills the interpreters exhibit. Participants will also learn methods for assessing the qualifications of untested interpreters. There is a handout for this video that is located in Appendix C of this Faculty Guide.

In the **State Court Interpreter Certification Consortium**, you will provide a brief overview of the Consortium and introduce the article from the *State Court Journal* entitled "Improving Court Interpreting Services: What the States Are Doing." The article is located in Appendix D of this Faculty Guide.

The purpose of **Court Interpreting for Deaf Persons** is to foster understanding about the complexities of court interpretation for deaf persons and the misunderstandings that interpreters for the deaf often face in courts. The article offers a basic look at the several interrelated issues that judges and court managers should know about to ensure justice and fairness in court proceedings that involve deaf or hard-of-hearing persons. The article from the *State Court Journal* entitled “Court Interpreting for the Deaf: Culture, Communication, and the Courts” is located in Appendix E of this Faculty Guide.

To conclude the program, you will give participants a handout entitled “**Survey of Languages,**” which is a fascinating country-by-country listing of the principal languages spoken in 185 countries. The survey gives participants a glimpse of the many oral languages that exist in our world. It is a fun and informative way to end the program! The survey is located in Appendix F of this Faculty Guide.

Program Overview

Program Overview

Introduction

Note to instructor: **Begin the workshop by welcoming the participants. Introduce yourself by providing brief background information about your experience with court interpretation.**

Describe workshop content During this workshop, we will go behind the scenes of court interpretation. We will discover what skills and abilities are required for effective court interpretation and identify ways in which you can determine whether your court interpreters are qualified to fulfill their job requirements.

Note to instructor: **Prepare FC1 before the workshop by posting the bullet points shown below on a piece of flip chart paper. Tape the piece of paper to the wall so that during the program you can refer to it and point out when you have met each objective.**

Show FC1: Objectives

State objectives

Specifically, at the end of this session, you will be able to:

- Describe what interpreters are expected to do when they work in a court. In other words, their job requirements.
- State the qualifications that court interpreters need to fulfill their job requirements. When we say “qualifications” we are referring to specialized knowledge, skill, and ability.
- Identify available techniques for determining whether court interpreters possess the required qualifications.

Introduce warm-up questions

Let's begin by hearing from you about your experience with and expectations of court interpreters.

Icebreaker

Note to instructor: Step-by-step instructions for conducting the icebreaker are listed below. Post the questions on separate pieces of flip chart paper before the program.

Do not discuss the participants' answers except to clarify what the participant means. Make a note of the comments you will be reinforcing during this program. Note popular misconceptions you will correct or modify during the workshop.

For each question, probe for responses from a representative sample of your audience (e.g., judges, attorneys, court managers, operational personnel).

Ask Question 1 When you use interpreters, what do you expect of them? What do you want them to do for you?

Note to instructor: Pause to allow participants to consider the question and respond. Record responses.

Ask Question 2 What knowledge, skills, and abilities do you expect them to have in order to meet your expectations? What qualifications should they have?

Note to instructor: Pause to allow participants to consider the question and respond. Record responses.

Ask Question 3 How do you know when the person has these qualifications?

Note to instructor: Pause to allow participants to consider the question and respond. Record responses.

- Thank participants for input** Thank you all for your input. You have made some very good points and raised some important issues in response to these questions.
- Conclude icebreaker** Throughout the workshop today, we're going to come back to these questions and examine some of the issues you've raised in more depth. I am going to post these flip chart pages on the wall so we can easily refer to them throughout the day.
- Note to instructor:** **Tape the pages to the wall so that you may connect and comment on the responses during the presentation. You may wish to mention some of the responses that you will be discussing in the workshop.**

Description of Session Content

Show OH1: About This Session

Describe the session

In this session, you are going to have an opportunity to experience firsthand what it's like to be a court interpreter. We'll identify the special skills that court interpreters need and we'll discover the difference between being a bilingual person and being a court interpreter.

State importance for audience

It is important for you to know the role and responsibilities of the interpreter, and the skills that are required for effective court interpretation, so that you can determine whether your court interpreters are qualified.

**Show OH2: What We Will
Accomplish**
Describe learning activities

The substance of an interpreter's job takes place behind a "language barrier." We'll do some activities in this workshop that will take you behind that language barrier. We'll also discuss interpreter proficiency testing and show you some research findings that highlight the importance of testing.

Transition

Let's begin with an overview of the importance of the interpreter's job and what can happen when an untrained or underqualified interpreter is used.

Note to instructor:

Show the video "Interpreters: Their Impact on Legal Proceedings." It is about 16 minutes long. The purpose of the video is to build participants' awareness about the importance of using qualified court interpreters.

After the video, ask participants the following questions:

- **What did you think about the video?**
- **What information in the video was new to you?**
- **What ideas about court interpretation were reinforced for you?**

Link to next section

This program will increase your knowledge about the required skills for court interpretation. We are going to begin by examining the job requirements of court interpreters. What is it that we want court interpreters to be able to do?

The Interpreter's Job

Job Requirements

- Note to instructor:** The point of this section is to clarify expectations by defining exactly what the job requirements are for court interpreters. Begin by briefly reviewing the expectations that participants mentioned earlier in Question #1 of the icebreaker.
- Introduce discussion** We began our discussion of job requirements when we listed our expectations of court interpreters. Some things we expect them to do include:
- **Summarize participant responses to Question #1 of the icebreaker.**
- State learning goal** We're going to clarify these expectations by defining exactly what the job requirements are for court interpreters.
- Explain two methods** There are two methods for determining the job requirements of court interpreters:
1. Examine statutes, court rules, and case law.
 2. Identify the requirements of equal protection of law and equal access to justice.
- Show OH3:
The Interpreter's Job** This overhead summarizes what law and our own common sense tell us about the job requirements of court interpreters.

Note to instructor: Keep OH3 on the projector for the following discussion. The discussion points below refer to the bullet points on OH3.

Define “source language” The source language is the language of the person who has last spoken. This is a relative term because the source language switches as people exchange turns speaking.

Define “target language” The target language is the language into which the interpreter is communicating the meaning of the words spoken in the source language. It is the listener’s language. This is also a relative term.

Discuss #1 on OH3: “meaning” The first major job requirement for court interpreters is to preserve the *meaning* of what is said.

Ask about “verbatim” A popular idea about court interpretation is that the interpreters provide a “word-for-word,” or verbatim, interpretation. What do you think about this? Do we want verbatim interpretations? How might a verbatim interpretation affect the *meaning* of what is said?

Note to instructor: Encourage discussion. State that verbatim interpretation is an idea borrowed from how we think about court reporting. Suggest that this may not be what we want an interpreter to do.

Ask why verbatim interpretation is not desirable. Probe for comments on idioms. If no one mentions idioms, state that all languages have phrases that cannot be interpreted meaningfully in a verbatim translation. In English, these phrases are called idioms.

Ask for examples What are some examples of idioms in English?

Possible examples:

- It was raining cats and dogs.
- I'm going to light a fire under him.
- I'm playing devil's advocate.

Discuss idioms By definition, it is impossible to interpret idioms meaningfully using a word-for-word translation.

Define "idiom" An idiom is an expression that "has a meaning that cannot be derived from the conjoined meanings of its elements."

Link to #1 on OH3: "meaning" So, because we expect interpreters to interpret accurately, without any distortion of meaning, we cannot expect them to provide verbatim interpretation.

Check for understanding Does this make sense? Does everyone understand why we do not necessarily want a verbatim interpretation?

Note to instructor: **Respond to questions and comments as appropriate.**

Discuss #2 and #3 on OH3 So, the interpreter's job is to preserve the meaning of the speaker's statement, without omissions and without additions. This means that the interpreter may not **add** or **delete** information or details, under any circumstances.

This includes situations when the interpreter believes that the speaker is making an error or when the interpreter believes that the non-English speaker cannot understand the questions or statements.

- Discuss #4 on OH3: “style”** “Style” and “register” refer to the tone, emotions, and language used by the speaker.
- Provide examples** Here are some examples of style and register differences:
- “*The suspect fled the scene*” (police jargon, hyper-formal) vs. “*The guy ran away.*”
 - “*It is my habit to eschew obfuscation*” (high register, pompous) vs. “*I’m a plain talker.*”
 - “*A gentleman approached me on the street*” vs. “*This guy came up to me.*”
- Ask why this is important** Why do you think that it is important for interpreters to preserve the style and register of speakers? Why should anyone care if interpreters change the style of speech, as long as they get the meaning right?
- Note to instructor:** **Encourage discussion. Make the point that style and register contribute to the meaning. To interpret accurately, without distorting the meaning (#1 on OH3), it is imperative that the interpreter maintain the style and register of the speaker.**
- Discuss #5 on OH3** Last, but not least, interpreters must possess knowledge and skills that relate to the efficient conduct of court proceedings. We will discuss this point in more depth when we discuss modes of interpreting and the code of professional conduct.
- Summarize learning** So, this overhead lists the specific job requirements of court interpreters. If interpreters meet these requirements, they will fulfill our expectations of them.

Ask for questions Are there any questions about these job requirements?

Note to instructor: **Listen and respond to questions. Refer to FC1: Objectives, and point out that they have met Objective 1. They should now be able to describe the job requirements of court interpreters.**

Transition Now let's talk about the qualifications that interpreters need to meet their job requirements.

Required Skills

Introduce discussion In order to meet our job requirements, we all need to have a set of specific skills and knowledge.

State learning goals We're going to identify the skills and knowledge that interpreters need to meet the job requirements we just discussed. This will give you an idea about the complexity of the job that we expect court interpreters to do.

Note to instructor: **Make a connection between this section and the answers participants gave in response to Question #2 of the icebreaker. Mention that we've already started identifying the required skills and knowledge. Point out relevant skills that participants mentioned.**

Discuss complexity of the job Knowing two languages, or being bilingual, is necessary for court interpretation, but it is not *sufficient*. Being bilingual implies the ability to comprehend and speak two languages. Most bilingual people nevertheless operate monolingually at any given time. Operating monolingually means that the people are functioning only in one language. But interpreters must function in both languages.

Show OH4: Required Skills**Summarize the overhead**

This overhead shows the cognitive and motor skills interpreters need to function in both languages.

**Discuss #5 and #6 on OH4
with regard to meaning**

Remember that one of the interpreter's job requirements is to accurately relate the meaning of what is said. This is difficult because some ideas can be more easily expressed in one of the languages than the other.

People who speak two languages at some level of proficiency have the luxury of switching from one language to another in conversation with other bilinguals. They get to choose which language is going to work best for expressing a particular thought.

Interpreters do not have this luxury. They are required to find a "semantic match" between the source and target languages. They cannot take the easy way out.

Mention #8 on OH4

Monitoring output is important for interpreters to detect and correct their errors. This is a requirement of professional conduct.

Restate complexity

So, as this overhead illustrates, there is much more skill required for effective interpretation than simply knowing two languages.

**Describe additional
considerations**

Here are some additional considerations for you to think about:

- Most people's language skills are developed only to the level that is required to get along in their home and work environment.

- Many bilingual people have a relatively limited command of both languages. This is especially true if they live in parts of the country where they may solve a communication problem by “code switching.”
- Bilingual subcultures often develop speech patterns that are a mix of two languages. For example, English words are imported into home or neighborhood Spanish, or Spanish words into home English. This is the phenomenon of “Spanglish” that is typical of relatively uneducated bilinguals.

Ask for questions Are there any questions about the skills required in court interpretation?

Note to instructor: **Listen and respond to questions. Refer to FC1: Objectives, and mention that we have met Objective 2. They can now identify the cognitive and motor skills that interpretation requires. Note that in addition to these skills, interpreters must know the Code of Professional Conduct. Often, interpreters need special training to learn the responsibilities required by the Code of Professional Conduct.**

Transition to activity Next, we’re going to do an activity that will give you some firsthand experience with a few of the required skills we’ve discussed. This activity will give you an opportunity to get inside the interpreter’s job.

Simulation Activity

Note to instructor: This is a two-part activity. You will conduct Part 1, the Simultaneous Exercise, and then go on to Part 2, the Consecutive Exercise.

Participants will work in teams of two. You will distribute handouts that contain the roles to each team. The handouts are color-coded. When you distribute the handouts, make sure that each pair receives one of each color.

Describe activity In this activity, you will have an opportunity to get inside the interpreter's job in a way that doesn't require knowledge of a foreign language. We are going to simulate two of the basic modes of interpreting:

- Simultaneous interpretation and
- Consecutive interpretation.

Simultaneous Exercise

Describe "shadowing" In the first part of this activity, you will practice "shadowing." "Shadowing," or simultaneous interpretation, is when the interpreter immediately repeats (interprets) what the speaker says.

Define "dual tasking" Shadowing is a form of "dual tasking": the interpreter must listen and talk at the same time. The speaker may not pause or stop between phrases or sentences. The speaker must maintain an even pace.

Note to instructor: Ask the participants to divide into pairs. Distribute the handouts. Make sure that each pair receives a handout in each color.

Note to instructor: This exercise will give participants an understanding of the skill required for simultaneous interpreting. Be sure to review both scripts contained in the handouts of Appendix A. **CAUTION, THE NONSENSE IN EACH SCRIPT IS DELIBERATE.** Before the exercise, inform participants to be prepared to repeat what they hear from their partners—no matter how nonsensical or incoherent. After the exercise, inform participants that the purpose of this exercise is twofold: 1) to help participants relax and feel at ease; and 2) to show them the broad reality of court interpreting—humorous, shocking, tragic, or even nonsensical words are often spoken in court proceedings and an interpreter cannot anticipate or predict what a witness, defendant, attorney, victim, or even judge will say. For example, a hearing involving the involuntary civil commitment of a non-English speaking individual who is mentally ill could be a formidable challenge to even the most experienced court interpreter. In such circumstances, discipline, concentration, and focus are just as important as interpreting skill and linguistic competency.

- Provide overall instructions** You will each have an opportunity to practice simultaneous interpreting in this exercise. Note that your handouts are labeled “Person A” and “Person B.” Person A will read first, while Person B “interprets.” Then you will switch so that Person B reads while Person A “interprets.”
- Give directions to Person A** When we start the exercise, Person A will read the paragraph aloud to Person B.
- Give directions to Person B** Person B, you will immediately begin repeating what Person A says.

Remind Person A about pacing	Person A, do not pause or stop between phrases or sentences. Remember that you must maintain an even pace.
Announce demonstration	Before you start, we will demonstrate how to do this. Then you'll have an opportunity to ask questions.
Conduct demonstration	Do a short demonstration with your session sponsor or someone else you have prepared ahead of time. Use the examples at the end of Appendix A for the demonstration.
Ask for questions	Are there any questions before we start the simulation?
Note to instructor:	Listen and respond to questions.
Start the exercise	O.K., now it's your turn. Don't be shy, get up close so you can hear each other, because it will get noisy in here.
Note to instructor:	Allow about three minutes. Walk around and monitor how the exercise is going. Make note of people who are doing well (most do pretty well). Make note of whether readers are giving the partner a break by pausing. After three minutes, announce that it is time to switch roles. Person B will now read to Person A. Allow about three minutes for Person A to interpret while Person B reads. Then announce the end of the exercise and begin the debriefing.
Debrief the exercise	What did you think about the exercise? • How did you do?

- What was difficult about it?
- What did you discover about interpretation through the exercise?

Note to instructor: **Make the following points about this exercise:**

- **Most people do pretty well. Point out some that you noticed.**
- **Comment if you noticed anyone doing the exercise like a consecutive interpretation, or pausing or slowing down to help their partner.**

Ask about increasing difficulty

Do you think you could do this shadowing exercise while you do something else at the same time? For example, could you count backwards from 100 by fives as you are shadowing the English?

Link to interpreter training

Interpreter skill-building practice involves exercises like this that require dual tasking and concentration.

Note to instructor:

If time permits, ask a volunteer to try the added challenge. Read a script to the volunteer from the examples at the end of Appendix A. Ask the volunteer to shadow while writing the numbers on the flip chart.

Consecutive Exercise

Introduce exercise

Now we're going to simulate the consecutive interpreting mode. This type is required for witness interpreting.

- Describe “consecutive” mode** In consecutive interpretation, the speaker completes an utterance before the interpreter speaks. The interpreter must listen while the speaker talks, remember it all, and then repeat it back. This exercise will test your short-term memory skills.
- Note to instructor:** **Distribute the handouts for this part of the activity. Make sure that each pair receives a handout in each color.**
- Provide overall instructions** Again, you will each have an opportunity to practice consecutive interpreting in this exercise. Note that your handouts are labeled “Person A” and “Person B.” This time, Person B will read first, while Person A “interprets.” Then you will switch so that Person A reads while Person B “interprets.”
- Because we are not going from one language to another in this exercise, we do expect that you “interpret” word for word if possible. At a minimum, we want all the same detail.
- It is OK to take notes while you listen.
- Announce demonstration** Once again, we will demonstrate how to do this before you start. Then you’ll have an opportunity to ask questions.
- Conduct demonstration** **Do a short demonstration with your session sponsor or someone else you have prepared ahead of time. Use the examples at the end of Appendix A for the demonstration.**
- Ask for questions** Are there any questions before we start?
- Note to instructor:** **Listen and respond to questions.**
- Start the exercise** OK, now it’s your turn. Go ahead and get started.

Note to instructor: Allow about three minutes. Again, walk around and monitor how the exercise is going.

After three minutes, announce that it is time to switch roles. Person A will now read to Person B. Allow another three-minute period.

Debrief the exercise What did you think about using the consecutive mode?

- How did you do?
- What was difficult about it?
- Was it more difficult than the shadowing exercise?
- Did anyone get all of the detail?
- What did you discover about interpretation through this exercise?
- Did anyone take notes? What was difficult about note-taking? Did anyone get too involved in trying to write and lose track of what the reader was saying?

Discuss note-taking skill Efficient note-taking is one of the abilities an interpreter needs to develop. This is another qualification that interpreters need to meet their job requirements.

Point out that this is one way to identify trained interpreters

Judges, one clue that indicates that interpreters are trained is that they always have a pad and pencil with them and use it at the witness stand. If an interpreter does not take notes, you may want to further examine his or her qualifications.

Discuss length of utterances Did anyone notice that the passage Person A read for Person B to interpret was longer? This made it more difficult. Person A probably had more success at this exercise than Person B for this reason.

Note to instructor: Establish the relationship between success at the exercise and length of the utterance. Tie it into practical realities of courtroom testimony.

Tell participants that interpreter tests rarely include 40-word utterances, and they never include anything over 50 words.

Conclude exercise So, this exercise gave you some experience with the challenges of court interpretation. Remember, everything we did was English-to-English. We did not practice any of the “processing” related to:

- Abstracting the message from the source language,
- Searching for meaning equivalents in the target language, or
- Rendering the message in the target language.

Think about how difficult the exercise was without these extra processing tasks. Then think about this: We take for granted that all of these activities are going on properly when we use an interpreter.

Transition In the next section, we’ll examine some of the special challenges of conveying meaning between source and target languages.

Behind the Language Barrier

Note to instructor: The purpose of this section is to provide examples of some of the differences between English and Spanish that pose problems for interpreters. Be sure to point out that each language has its own special challenges for interpreters.

The amount of time you devote to this section and the way in which you use the overheads will vary with the audience.

The examples are most effective when the presenter is a skilled Spanish interpreter.

Link to Simulation Activity

One of the purposes of the activity you just completed was to expose you to some of the challenges of the demanding profession of interpreting that are unrelated to “bilingualism.” In other words, the skills we practiced did not include switching languages.

State learning goals

In this section, we’ll introduce you to some of the challenges that interpreters confront in the core responsibilities of their job: serving as the court’s agent to facilitate complete and accurate conservation of meaning between source and target languages.

Note to instructor:

Select at least one or two examples from OHs 5 through 10 to discuss. At a minimum, make the points outlined below.

Show OH5: Legalese and Elliptical Language

Note to instructor:

Cover the last line (“rape a defendant”) as you discuss this point.

- Ask for interpretation** What do we mean when we say in court “To violate a defendant?”
- Note to instructor:** **Pause and allow participants to respond.**
- Discuss elliptical expressions** This is an example of an elliptical expression. The language spoken in legal settings often uses elliptical expressions such as this one. Elliptical expressions are a type of “shorthand” that convey much more than the actual words used.
- Discuss meaning** Most people know that when an elliptical expression is used, its full meaning entails the idea that “some form of pleading has been filed accusing a person of violating some term of an order of probation (or maybe parole).”
- Ask how this could be interpreted** How might a “naive” bilingual person interpret an expression such as this?
- Note to instructor:** **Encourage responses.**
- Point out what could happen** If interpreters do not know what this elliptical expression means, they may fall back on literalism, as in the example.
- Note difference in Spanish** In addition, there are usually more syllables in Spanish than in English. So, phrases such as this may take longer to say. This makes simultaneous interpreting more difficult.
- Show OH6: Legalese and Elliptical Language**
- Note to instructor:** **OH6 provides another example of legalese and elliptical language. Reiterate the points you made with OH5.**

**Show OH7:
Noun and Adjective Position**

Note to instructor: **Make the point that word ordering is different in Spanish than in English. Interpreters need to wait for the “whole” message before starting to render the interpretation.**

Discuss challenges of grammar Grammar issues present yet another challenge to interpreters. The examples I am about to show you illustrate how fairly subtle things can go wrong during the examination of a witness.

Highlight differences with “they” Spanish uses constructions with the pronoun “they” that require passive voice renderings in English. Let’s look at some of the challenges this issue alone can create when interpreters do not render the translation properly.

Note to instructor: **OHs 8, 9, and 10 illustrate passive/active voice issues between Spanish and English.**

**Show OH8:
Passive/Active Voice
Ask for results of this error** Note the difference between the incorrect and the correct interpretation of this phrase. On cross-examination, if the interpreter says, “They knocked at the door” instead of “There was a knock at the door,” what might the attorney’s next question be?

**Show OH9: Scenario
Discuss possible results** The attorney would then ask “Who knocked at the door?” This overhead illustrates how the questioning might proceed. Is it possible that a line of questioning will begin that will make the witness appear confused or uncooperative? Or make it seem that the witness is changing testimony?

**Show OH10:
Passive/Active Voice
Briefly discuss overhead**

This overhead gives some more examples of how this grammar difference can present interpretation problems for untrained interpreters.

Note to instructor:

Discuss the notion of limited English ability and why people who speak some English may need an interpreter. Many people know enough English to go shopping, ask directions, and conduct daily affairs, but not enough to testify in court. Make the following points:

- **The limited English speaking witness will be cross-examined by a skilled lawyer who is often trying to make the witness look bad, to discredit the testimony.**
- **Rosa Lopez in the O.J. Simpson trial is a useful example of “simple” English versus well-developed language skills.**
- **Ask “How would you like to be a witness under such circumstances?”**

Ask for questions

Are there any questions about the challenges we have just discussed?

Note to instructor:

Listen and respond to questions.

Discuss challenges of slang

We tend to think of court language as very formal. But the opposite is also true: nearly anything can come up. As we mentioned earlier, idioms and slang pose additional challenges to interpreters.

Note to instructor:

Distribute Handout: The Problem of Idioms and Slang.

Review the handout Take a look at this handout. Some of the idioms include:

- “Into the fray”
- “Go nose to nose”
- “Gives me ‘the finger’”

Ask how to translate Those of you who have studied a foreign language, how would you interpret expressions like these?

Introduce the issue of obscenity Obscenity presents yet another challenge. Remember that interpreters should not edit or change what the speaker says.

Note to instructor: **Ask for a volunteer to read the second paragraph of the handout aloud. This paragraph provides discussion material to reinforce the significance of the rule that interpreters should not edit or change what the speaker says. This illustrates one of the situations interpreters encounter where the temptation to edit is powerful.**

Ask about untrained interpreters How might a bilingual person without formal training in the responsibilities of court interpreting handle such a situation? Is it likely that such a person will know what he or she is supposed to do in situations like this? Isn't it likely that they will clean up the language?

Mention the code of professional conduct

These examples illustrate how important it is that interpreters have special knowledge in addition to bilingualism. In this case, we see that they need knowledge about the code of professional conduct. Because the temptation to edit obscenity is strong, interpreters must know that they are required to render the meaning without additions or omissions. They must interpret in the same style by preserving the obscenity.

Note to instructor: **Mention that when interpreters attend basic training (our two-day workshop), invariably some people decline to repeat obscenity as a matter of personal principle. You may wish to ask, “What is one of the most common sources of interpreters?” The answer is church charitable organizations and missionaries.**

Ask for questions Are there any questions about the interpreter’s responsibility in rendering slang and obscenity from the source language to the target language?

Note to instructor: **Listen and respond to questions.**

Transition What we’ve been working on so far is raising everyone’s consciousness about what court interpreting involves: the skills and training required for the job. Next, we’re going to address the question: “How do we know when an interpreter is qualified to meet our expectations?”

Interpreter Testing

Introduction to Testing

Note to instructor: **The purpose of this section is to explain and instill confidence in the testing process. Point out that interpreter testing is a reliable way to determine whether an interpreter is qualified.**

Ask about own expectations If you were arrested in a foreign country and were brought into court for the first time, how much of what was being said would you want to be able to understand?

Note that we are referring to “proceedings interpreting” In our country, this is the service provided by interpreters when they sit or stand next to the defendant and provide what is called “proceedings interpreting” in the simultaneous mode.

Note to instructor: **Pause and allow participants to respond.**

Ask follow-up questions If you were on trial in a foreign country, how much of the witness testimony against you would you want to be able to understand? How much of your own testimony would you want the interpreter to get exactly as you said it?

Note to instructor: **Encourage discussion. Ask participants to give you an answer in terms of a percentage. Be a bit of a devil’s advocate also. Suggest that perhaps there is some stuff that they don’t need to understand?**

Introduce testing We test interpreters to determine how accurately they render information from the source language to the target language. We use carefully constructed tests that require the interpreter to demonstrate proficiency in the three modes of interpreting.

**Acknowledge limited access
to tests**

At this point, very few judges and courts have access to interpreter tests or testing programs. We are going to talk more about that later in the program. We will also discuss how to identify unqualified people in the absence of testing.

Introduce discussion of data

In a moment we will take a closer look at what the tests are like, but first we are going to examine some data that will answer these important questions:

- What do we know about the results of testing?
- How many of the people who consider themselves qualified to interpret in court are able to pass the tests?

**Show OHs 11, 12, 13, and 14:
Test Results**

Note to instructor:

OHs 11, 12, 13, and 14 show test result data. The general pattern is fairly self-evident. Adapt discussion of the overheads to fit the time available. *It is not necessary to talk about every example.*

Avoid getting trapped into responding in-depth to questions about details of statistical differences. Instead, emphasize the *overall similarity*. If necessary, state that many factors contribute to statistical differences. These include:

- Differences in demographics
- Differences in quality of recruiting and training programs
- Relatively minor differences in the testing programs
- Pass/fail standards

If you have time, this is an opportunity to talk briefly about which jurisdictions have formal judicial-branch-sanctioned testing programs.

Conclude discussion of data

What these test data show is that relatively few people who think they are qualified to work as interpreters can pass the tests.

Transition

The question is “Why is this so?”

Test Development and Scoring

Open the discussion

Does anyone suspect that there is something wrong with the tests? Could that explain why the pass rate is so low?

State learning goals

In this section, we will provide you with information to help you answer that question for yourselves. We will examine:

- The structure of the tests,
- How the tests are scored, and
- Types of errors people make that are counted against them in scoring.

**Show OHs 15, 16, 17, and 18:
Test Structure and Scoring**

Note to instructor:

Review OHs 15, 16, 17, and 18. Adapt the material to audience needs and the time available. The point of this section is to convey that test development is formalized and scientific.

Do not spend too much time discussing technical details of testing such as the linguistic features represented by scoring units. It is better NOT to display some of the overheads than to spend too much time on details.

Note to instructor: Keep the discussion concrete. Move quickly to examples of scoring units and move on when participants understand.

Provide the following information about how the test is administered and rated:

- Simulation of actual interpreting.
- Tape recorded to preserve “evidence” and facilitate independent review, if necessary.
- More than one rater.
- Raters have established credentials.

Ask for questions Are there any questions?

Note to instructor: Again, avoid discussing this in too much detail. If a participant has detailed or technical questions, offer to discuss the question in more depth during a break or after the program.

Conclude discussion Skills testing is not a simple or inexpensive undertaking, but it is the most reliable way we know to assure judges that interpreters are qualified.

Transition So, what do we mean by “qualified”? Given our look at the test data, what is “qualified”? That question is what we are going to look at next as we talk about our performance expectations.

Performance Expectations

State the objective of testing Our objective in testing is to identify, with a reasonable degree of certainty, individuals whom we can refer to trial judges as being minimally qualified to interpret in court.

Ask about audience expectations With that in mind, what do you think should be a passing score on the test? What percentage of the test-scoring units should candidates interpret correctly?

Note to instructor: Usually, participants initially require very high scores. If the scores they suggest are mostly in the 90% range, remind them that this is a testing situation and that people are nervous. Ask for more responses.

Summarize the range and central tendency of the responses so that there is a sense of the general expectation of the group.

Give the passing scores Minimum passing scores are:

- Federal = 80%
- State tests = 70%

Note to instructor: Refer back to the passing score data.

Transition How can we explain these passing score data? What kind of errors are interpreters making, even experienced ones? Let's take a look.

Inside an Interpreting Test

Introduce examples I am going to show you some examples of a wide range of responses given by experienced interpreters.

State from where examples come These examples were provided by several people who took a New Jersey interpreting test that is no longer in use.

Describe the test question In the test question, the scoring unit type is a number/name. It is an address.

**Show OH 19 or OH 20:
Test Responses**

Note to instructor: Use OH 20 if time is very limited; it shows only two responses.

Cover the last response. You may want to lead up to it with humor.

Do not attempt to read every example. Let the participants see for themselves. Just point out a few examples.

If time permits, you may want to take one example and ask the audience to speculate about what may happen to the witness, and to the attorney's line of questioning, when the misinterpreted question is delivered by the interpreter. How might the confusion affect the fact finder's opinion of the witness?

Summary/transition These examples showed various responses to just one test question. We don't know anything about the experience of the people who made those interpretations. Now, we are going to look at the performance of specific individuals whose experience is known, and whose overall test scores are known.

**Show OHs 21 through 23:
Examples of Test Errors**

Note to instructor: As you show each overhead, point out the interpreter's experience and overall performance on the test. Tell participants that these are examples of typical errors.

Ask participants to comment on some of the examples

What do you think about these examples? Remember, these individuals are experienced court interpreters.

- All of these renditions were scored as incorrect by the test raters. Do you see any for which the candidate should have been given credit?
- Do you see any errors that you think would be no real cause for concern if they happened during an actual examination of a witness? In other words, errors that are “harmless.” Note: Be prepared to acknowledge that some errors might actually be “harmless.”
- Which of these interpretations, if any, would you be very concerned about? Why?

Introduce discussion about untested interpreters

These examples of errors made by experienced court interpreters may seem surprising. They probably raise questions in your mind about how to determine whether an interpreter is qualified. After all, doesn't it seem like a person with 38 years of experience would be a qualified interpreter? At least able to pass the test? Experience alone is not enough to make a person a qualified court interpreter.

Ask participants how to assess qualifications without tests

We have seen that testing is a reliable way to determine whether an interpreter is qualified. But what if testing is not possible?

- What do you think judges would like to know about untested people if they were questioning them about their qualifications?
- In addition to years of experience, do you think judges would like to hear that the interpreter had a college degree? How about an advanced degree? How about formal training in the law?

- Note to instructor:** Make a list of questions that judges could ask on the flip chart. This list will start the participants thinking about how to determine whether an untested interpreter is qualified.
- Show and Discuss OH24:
Examples of Test Errors** This overhead shows errors made by an interpreter who has formal training in the law. This illustrates how difficult it may be to determine whether an interpreter is qualified. Even formal training in the law combined with 12 years of experience does not guarantee that a person is qualified for court interpreting.
- Summarize learning** It is important for court officials to know about the complexity and difficulty of court interpretation. This program has shown the many skills that are required to be an effective interpreter. Now that you know the required skills, you can better assess and monitor the effectiveness of the interpreters in your court.
- Note to instructor:** Post the bullet points, below, on the flip chart.
- Review required skills** In addition to knowing two languages, a court interpreter must:
- Possess the required cognitive and motor skills,
 - Apply the code of professional conduct,
 - Function in two languages simultaneously, and
 - Be able to interpret legalese and elliptical language.
- Transition** We are going to watch a video that demonstrates how you can use your knowledge of these required skills to increase the quality of interpretation in your courtroom.

Video: “Working with Interpreters”

Note to instructor: **The handout that accompanies this video is located in Appendix C. Make copies before the program.**

Preview video content This video demonstrates effective methods for working with interpreters. It shows specific ways to:

- Determine whether a person needs an interpreter,
- Determine whether a candidate is qualified to interpret, and
- Interact with interpreters during court proceedings.

Link to required skills for interpreters The interpreters in the video demonstrate some of the required skills that we have discussed in this program.

Tell participants what to look for As you watch the video, make note of the actions that you can apply in your courtroom. Watch the interpreters and identify the skills they are exhibiting that we’ve discussed in this program.

Discuss handout I am going to distribute a handout for your reference during the video.

Note to instructor: **Distribute the handout. Then begin the video. The video is approximately 23 minutes long.**

Debrief the video What did you think about the video?

- What skills did you observe the interpreters demonstrating?
- Which of the judge's actions were particularly effective in increasing the quality of interpretation?

Note to instructor: **Probe for the following responses to the second bullet, above. Ask for specific examples if time allows.**

- **The judge observed and monitored the interpreter's performance. Make the point that knowing the required skills enables you to better observe and monitor an interpreter's performance.**
- **The judge directed and corrected the interpreter's behavior, when necessary.**
- **In selecting a candidate, the judge asked a variety of questions to determine her qualifications. (See extended discussion, below, about this point.)**

Discuss the type of questions to ask untested candidates

There was a section in the video where a judge demonstrated how to select an interpreter. The judge asked some very specific questions to determine the candidate's qualifications. What were some of those questions?

Note to instructor: **Use the flip chart to list the questions the judge in the video asked the interpreter in the video. Ask participants to call out the questions they recorded. Some of the questions include:**

- **How did you learn both Cantonese and English?**
- **Have you had any formal training in either language?**
- **What is that training?**
- **Where have you interpreted and in what types of cases?**
- **How would you become familiar with medical or technical terms?**
- **Have you received special training in court interpreting?**
- **Are you familiar with the professional ethics code?**
- **Have you met with the plaintiff?**

Summarize learning

This video provided you with an opportunity to apply your knowledge of the skills required for effective court interpretation. Observing, monitoring, and directing the behavior of court interpreters are ways in which you can improve the quality of interpretation. Asking specific questions will help you select qualified candidates in the absence of testing.

Transition

Asking detailed questions is important when an interpreter-testing program is not available. However, testing is the most reliable method for assessing an interpreter's skills. At this time, I am going to briefly describe an innovative program to make proficiency testing in many languages available to any state.

State Court Interpreter Certification Consortium

Review the challenges of interpretation

As we have seen in this program:

- Qualified court interpreters require specialized skills beyond bilingualism.
- Interpreting errors may impede access to justice for non-English speakers.
- Testing is a reliable method for determining whether a candidate is qualified to interpret in court.
- In the absence of testing, there are other methods for screening candidates and for monitoring their performance. However, these methods are less effective than testing.

Discuss difficulty of establishing testing programs

Implementing statewide testing and certification programs is expensive. Many state and local courts lack the financial resources and expertise to implement valid skills tests for interpreters.

State the mission of the Consortium

The State Court Interpreter Certification Consortium addresses these challenges by providing a vehicle for the exchange of expertise and the sharing of financial resources. The Consortium makes valid and reliable interpreter proficiency tests available to state courts at affordable costs.

State formal objectives The formal objectives of the Consortium are to “establish court interpretation test development and administration standards, and *provide testing materials*, in order that individual states and jurisdictions may have the necessary tools and guidance to implement certification programs.”¹

Discuss creation of Consortium The State Court Interpreter Certification Consortium was created by the National Center for State Courts and the states of Minnesota, New Jersey, Oregon, and Washington. It is maintained by the National Center for State Courts under the policy direction of a steering committee composed of representatives from member states.²

Introduce article I am going to distribute an article that provides more information about the Consortium. It also provides recommendations for establishing a program for improving the quality of court interpretation.

Note to instructor: **Distribute the article entitled “Improving Court Interpreting Services: What the States Are Doing.” It is located in Appendix D of this guide. Make copies before the program.**

If you have time, allow participants to read the article during the workshop. If time is short, conclude this part of the program by asking participants if they have any questions about the content of the article.

¹ State Court Interpretation Certification Consortium, *Guidelines for Consortium Organization and Operation*. (For more information contact William E. Hewitt at the National Center for State Courts, Williamsburg, VA.)

² Sue Dosal, state court administrator of Minnesota, chairs the four-person steering committee. Other members are Kingsley Click, state court administrator of Oregon, and Robert Joe Lee and Joanne Moore, the court interpreting program managers of New Jersey and Washington, respectively.

Transition

Certified, professional interpreter services are also vital to persons who use visual modes of communication, such as sign language. This next section will help you understand and identify the unique problems encountered by deaf and hard-of-hearing individuals in court proceedings.

Court Interpreting for Deaf Persons

Introduce issues Court interpreting for deaf and hard-of-hearing individuals involves four interrelated issues:

- Cultural misunderstandings and misconceptions about deafness can destroy fairness in court proceedings involving deaf or hard-of-hearing individuals.
- Visual modes of communication provide a vast range of utility, lexical meaning, and level of complexity.
- Skills and services professional interpreters for the deaf can offer the courts.
- Obstacles and problematic practices that experienced interpreters for the deaf routinely encounter in court proceedings.

Discuss cultural considerations Hearing persons generally consider oral communication as the *only* legitimate form of communication and, thus, tend to:

- React negatively to the seemingly strange physical behavior of deaf individuals “speaking” or signing.
- Stigmatize deaf individuals as unintelligent or mentally defective.
- Avoid deaf persons to the point where they are *outsiders* in a hearing world.
- Act on these and other misconceptions and misunderstandings about deafness, even in courts of law.

**Discuss visual modes
of communication**

Just as there are many oral languages, there are also many forms of sign language. For example, American Sign Language (ASL), is a highly developed and complex language that is completely different and independent from English. ASL contains more than 4,000 signs and is communicated through facial expressions, body posture, shapes and movements of the hands and arms, and movements of the eyes and head:

- The upper part of the face conveys syntax and the type of sentence (interrogative, declarative, or imperative).
- The lower part of the face conveys descriptors, such as adjectives and adverbs.
- Shifting the head, torso, and eyes can designate subject, object, preposition, and tense.

**Discuss skills and services
professional interpreters
can offer courts**

Certified, competent, and professionally trained interpreters for the deaf help courts bridge the gap between deaf and hearing individuals. Just as oral language interpreters, interpreters for the deaf or sign language interpreters must have the following skills:

- The required cognitive and motor skills (including facial expressions, body posture, shapes and movements of the hands and arms, and movements of the eyes and head),
- Apply the code of professional conduct,
- Function in two languages simultaneously,

- Be able to interpret legalese and elliptical language.

Discuss certification standards for interpreters for the deaf

The most common requirements that states have established for interpreters for the deaf are set by the National Registry of Interpreters for the Deaf (NRID), which tests and certifies interpreters based on:

- Evaluation of a candidate's interpretation skills and knowledge of the NRID Code of Ethics.
- Minimum level of competence, representing a starting point for interpreters.
- Continual skill progression through professional interpreter workshops and seminars.

Discuss practices that hinder interpreters for the deaf

The most common practices that prevent professional interpreters for the deaf from performing effectively in courts stem from the attitudes of judges, lawyers, and court staff who do not understand visual modes of communication. For example:

- Lawyers, who consider the facial expressions and body movements of interpreters to be overly dramatic and object to the way the interpreter is "acting."
- Judges, who find an interpreter's "behavior" distracting and ask interpreters to "tone it down," or even order them to refrain from using "animated" movements while interpreting.

Discuss consequences Unfortunately, the above examples are common among the experiences of professional interpreters in courts of law. Objections, rulings, and orders that constrain the movement and expression of an interpreter severely limit communication between deaf persons and the hearing court and, therefore, limit, distort, or completely destroy the facts of a case. Actions such as these completely undermine justice and fairness and reinforce the belief that courts are hostile environments for deaf persons.

Ask participants the following: How effective would an attorney, oral language interpreter, witness, or other court participant be if he or she was ordered to refrain from using his or her lips, teeth, or tongue when speaking? Think about it. Asking court interpreters for the deaf to refrain from using facial expressions or to “tone down their behavior” is similar to asking a person who uses oral language to communicate without using their lips, teeth, or tongue.

Introduce article I am going to distribute an article that provides a basic look at these issues. This article will give you a better understanding of deafness and interpreting for the deaf, as well as help you consider ways to ensure justice and fairness in court proceedings involving deaf or hard-of-hearing individuals.

Note to instructor: **Distribute the article entitled “Court Interpreting for Deaf Persons: Culture, Communication, and the Courts.” It is located in Appendix E of this Faculty Guide. Make copies before the program.**

If you have time, allow participants to read the article during the workshop. Then allow time for questions.

If time is short, conclude this section of the program by asking participants if they have any questions about the content of the workshop.

Transition To close this workshop, I am going to distribute a list of the primary languages spoken throughout the world, entitled *Survey of Languages*. The handout was compiled by Emily Shin and was excerpted from the Massachusetts Bar Association's publication *Ensuring Equal Justice*. The survey is a fascinating country-by-country reference of the principal languages spoken in 185 countries. The handout will give each of you a glimpse of the many oral languages that exist in our world.

Note to instructor: Distribute the list entitled "Survey of Languages." It is located in Appendix F of this Faculty Guide. Make copies before the program.

Appendix A

Simulation Activity Handouts

Appendix A. Simulation Activity Handouts

Contents

This Appendix contains the handouts required for the *Simulation Activity*.

The following materials are provided for reproduction and use during the activity:

- Simultaneous Exercise:
 - Person A script
 - Person B script
- Consecutive Exercise:
 - Person A script
 - Person B script
- Additional examples for demonstration exercises.

Note to instructor: This exercise will give participants an understanding of the skill and discipline required for simultaneous interpreting. **CAUTION, THE NONSENSE IN EACH SCRIPT IS DELIBERATE.** Before the exercise, inform participants to be prepared to repeat what they hear from their partners—no matter how nonsensical or incoherent. After the exercise, inform participants that the purpose of this exercise is twofold: 1) to help participants relax and feel at ease; and 2) to show them the broad reality of court interpreting—humorous, shocking, tragic, or even nonsensical words are often spoken in court proceedings and an interpreter cannot anticipate or predict what a witness, defendant, attorney, victim, or even judge will say. For example, a hearing involving the involuntary civil commitment of a non-English speaking individual who is mentally ill could be a formidable challenge to even the most experienced court interpreter. In such circumstances, discipline, concentration, and focus are just as important as interpreting skill and linguistic competency.

Simultaneous Exercise

You are Person A ¹

You read, while Person B simultaneously repeats what you are saying.

Well your honor, I do not believe this hearing is called an arraignment. When the officer approached me, he told me that I was being charged with a crime and advised me of my rights.

He said I have the right to a lawyer. Then he told me I have the right to buy lotto tickets. If you win, you will not be entitled to a public defender. You will be entitled to buy a red convertible. This is not a prosecution, but a persecution.

You have the right to have a trial. At your trial, if you want to, you can testify and tell your side of things, but you might not want to spill your guts, so you can decide to just sit there and rest on your laurels, rest your case and cite the authorities above stated for your position, even if it is untenable, or play tennis, or quote Tennyson. See RCW 2.42.040 and 113 Wn.2d, 486, CJS, ALR, ABC, and QZ8.

¹ These exercises and examples are provided for adaptation courtesy of Joanne Moore, Washington State Office of the Administrator for the Courts.

Simultaneous Exercise

You are Person B ²

**You read, while Person A
simultaneously repeats
what you are saying.**

My attorney and guardian angel advises me that if I plead guilty I am giving up my right to have a trial. I can be sentenced up to 10 years, but the standard range is 4 to 6 months. If you hear that she is here, we can go to the store and buy some potatoes. Then you can appeal to the court of last resort, and the resort is at Lake Chelan.

The challenge to change the tone and meaning of this inquest is one that can be seen by any literary critic writing for the Seattle Times, published in Volume 1, number 128, page 7 and following and in the WAC 128.134, (a)(i)(b), with parallel cite at 42 Wash. App. 123, 1987.

Your argument is without foundation. Your appeal is denied. I impose sentence. Guard, remove the offender from my sight.

²These exercises and examples were provided for adaptation courtesy of Joanne Moore, Washington State Office of the Administrator for the Courts.

Consecutive Exercise

You are Person A

**While you read, Person B listens.
When you are through, Person B
will repeat verbatim what
you have said.**

There were three passengers in the car, northbound. The driver seemed to be a tall red-haired man. Mr. Taylor was sitting in the passenger seat, and right behind him was the woman I also saw at the pharmacy the day before. They were going about 35 miles per hour.

(49 words)

Consecutive Exercise

You are Person B

While you read, Person A listens.
When you are through, Person A
will repeat verbatim what you
have said.

At about 7:15 p.m., a blue station wagon, maybe a 1981 Ford, southbound, approached the intersection of 35th Ave. N.E. and N. 27th. There was a stop sign, I think, but the driver did not stop. Then he turned left and speeded away. I could just make out his license plate. I believe it was WKH 392.

(57 words)

Additional Examples for Demonstration Exercises

These can be used by the faculty member (skilled interpreter) to demonstrate what trained interpreters can do.

Someone helps the faculty person by reading the passages aloud while the interpreter demonstrates.

Question Can you describe your income?

Answer My income varies a great deal. Er...I can earn \$2375.59 a month, but, well...some months I earn \$890. Last year I made \$33,050, but with the car payment and rent, insurance of different sorts, I don't know, food, you know, I'm lucky if I can put \$60-70 in the bank a month.

Question Who was in the car with the defendant?

Answer The defendant was in the car with four other people. He was sitting in the back seat, in the middle. When the car came to a stop he put out one arm through—can you believe it?—the right front window. In the left back seat I could see a very short person, maybe a child; then, on the right, was Wilfred, what's his name—you know who I mean. In the passenger seat there was some lady in a red coat and a blue hat, and Chuck was driving.

Appendix B

Handout: The Problem of Idioms and Slang

Appendix B. Handout: The Problem of Idioms and Slang

Contents

This Appendix contains the handout required in the section **Behind the Language Barrier**.

The following materials are provided for reproduction and use during the activity:

- “The Problem of Idioms and Slang . . . *and obscenity*”¹

¹ From a municipal court trial transcript, California, cited in Susan Berk-Seligson, “A Linguistic Analysis of Selected Proceedings in the Courts of California,” in William Hewitt, *Report to the California Judicial Council Court Interpreter Advisory Panel on a Proposed Court Interpreter Testing and Certification Program*, Appendix 2 (National Center for State Courts, June 15, 1994).

**THE PROBLEM OF IDIOMS AND SLANG . . .
... and obscenity¹**

The third time he goes up to him, he says, “Mr. Young gives me ‘the finger’,” and this is the person that Ms. Keglär describes as somebody who’s trying not to get involved, trying to remain cool. When Mr. Young supposedly gives him the finger across the room, then again he goes right into the fray, nose to nose with him, and says, “What’s up?” This is not a peacemaker to me. This flies in the face with the other women’s testimony, Ms. Keglär and Ms. Hammons.

When she was uncomfortable, when I asked her questions that appeared like inconsistencies like, “Did you really tell Mr. Nash that you heard Mr. Young come up and say, ‘You’re a punk, mother fucker?’” she got very uncomfortable with that.

¹ From a municipal court trial transcript, California, cited in Susan Berk-Seligson, “A Linguistic Analysis of Selected Proceedings in the Courts of California,” in William Hewitt, *Report to the California Judicial Council Court Interpreter Advisory Panel on a Proposed Court Interpreter Testing and Certification Program*, Appendix 2 (National Center for State Courts, June 15, 1994).

Appendix C

Handout: Working with Interpreters

Appendix C. Handout: Working with Interpreters

Contents

This Appendix contains the handout required for the video *Working with Interpreters*.

Distribute the worksheet before you begin the video.

Appendix D

Improving Court Interpreting Services: What the States Are Doing



**Appendix D.
Improving Court Interpreting Services:
What the States Are Doing**

Contents

This Appendix contains the article
“Improving Court Interpreting Services:
What the States Are Doing” by Catherine
Gill and William E. Hewitt.

This article is taken from *State Court
Journal*, Volume 20, Number 1, 1996.

Improving Court Interpreting Services: What the States Are Doing

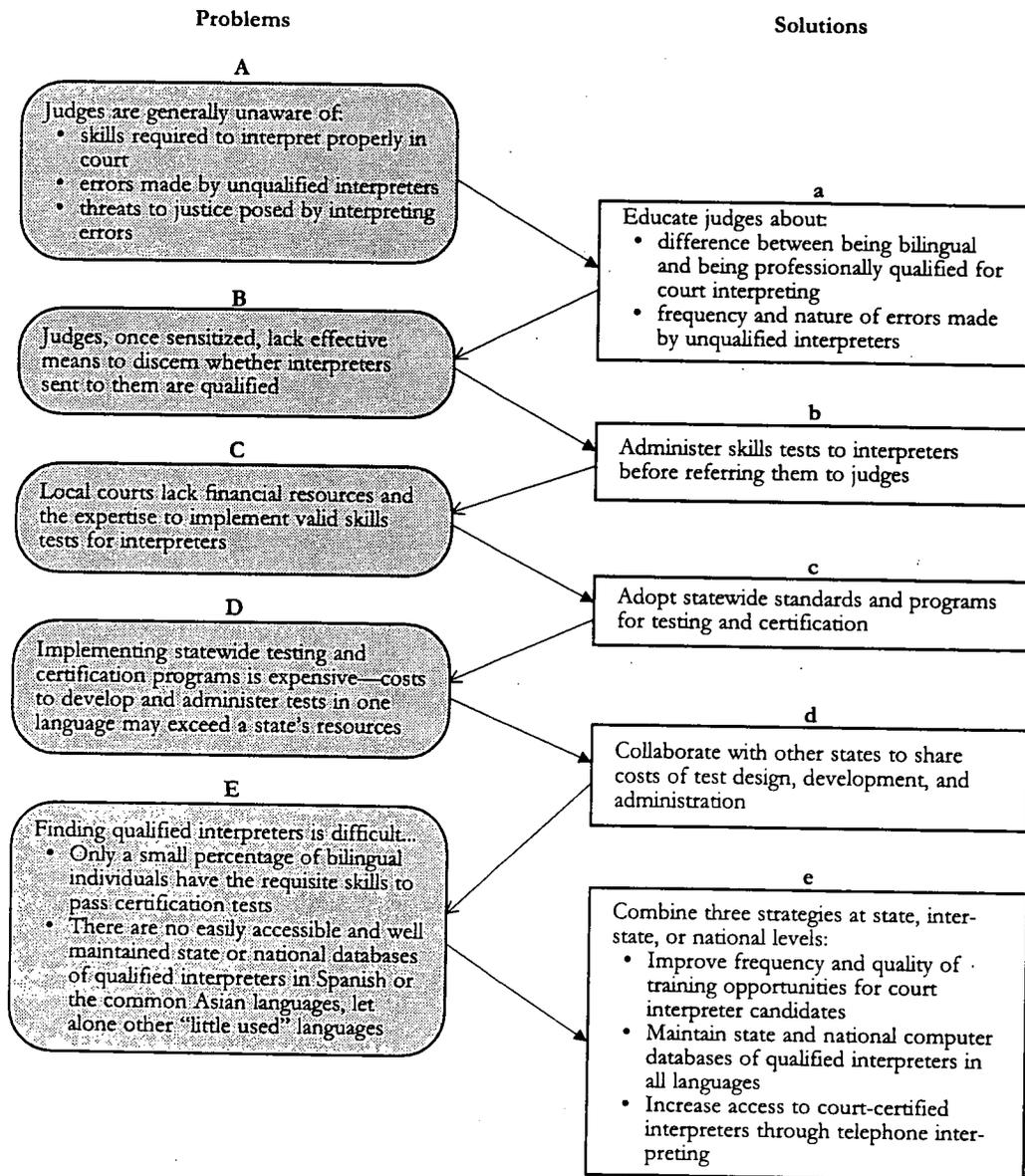
Catherine Gill and William E. Hewitt

Access to justice for millions of non-English-speaking American residents and citizens is impeded in a meaningful way by their inability to participate in and comprehend fully proceedings in state courts and tribunals in which they are involved. Myriad factors—from a lack of understanding about when to provide an interpreter in a court proceeding to the dearth of qualified interpreters and professional standards—contribute to the miscarriage of justice that is perpetrated each time a person is before a court without an understanding of what is taking place.

In recent years, state task forces and commissions charged with identifying issues faced by racial and ethnic minorities have concluded that the plight of non-English speakers in the state courts is one that is compelling and requires immediate and drastic action. Effective communication and understanding is the key to the constitutional protections each of us is guaranteed. A steadily increasing number of states are beginning to appreciate the need to address the concerns of the non-English speakers in their state courts. These states are looking for ways to rationally apply their limited resources to create an efficient and effective system of court interpreting services. Figure 1 summarizes the nature of and possible solutions for the problems that state courts face. It also illustrates how problems faced by judges in the trial courts tend to call for solutions that require response at the state level or even interstate collaboration.

This article offers a series of recommendations for a phased-in program for improving interpreting services in state courts. The recommendations respond to frequently asked questions received at the National Center for State Courts about how to begin programs to improve interpreting services. The recommendations offered are based on steps that have been followed in states that have been successful in launching and sustaining interpreting service improvements. The shared elements of these programs are known to the authors through past research by the National Center for State Courts and, more significantly, through participation in a steadily expanding network of cooperative activity and information exchange known as the State Court Interpreter Certification Consortium.

Figure 1
Improving Interpreting in the State Courts:
The Rationale for Collaborative Problem Solving



What Is the State Court Interpreter Certification Consortium?

Interpreter proficiency testing—the objective determination of an individual’s interpreting skills—is an essential component of programs to improve interpreting services. In fact, most states that have addressed the issue have determined that using untrained and untested interpreters in the courts allows inaccurate and incomplete information to be passed on to both the judge and the non-English-speaking party or witness. However, few states have the demand, resources, or expertise to develop appropriate and reliable tests of competency for court interpreters in *any* language, much less in several. The State Court Interpreter Certification Consortium was created by the National Center for State Courts and the states of Minnesota, New Jersey, Oregon, and Washington to remedy this problem by providing a vehicle for exchange of expertise and the sharing of financial resources. Essentially, the Consortium is a “test bank” maintained by the National Center for State Courts under the policy direction of a steering committee composed of representatives from member states.¹ As such, it is a vehicle for making valid and reliable interpreter proficiency tests available to state courts at affordable costs. The formal objectives of the Consortium are to “establish court interpretation test development and administration standards, and *provide testing materials*, in order that individual states and jurisdictions may have the necessary tools and guidance to implement certification programs.”² The State Justice Institute contributed substantially to the effort through grant support to the research project that gave birth to the idea of a Consortium and then in the form of grant support for test development.

Five other states—New Mexico, Virginia, Maryland, Utah, and Delaware—have joined the Consortium since it was founded in July 1995. It is anticipated that Illinois will have joined by the time this article goes to press. Since its inception, the Consortium has developed tests in Spanish, Hmong, Korean, Russian, and Vietnamese that are now available to member states.³

New Jersey and Washington, two of the founding member states of the Consortium, have long-standing testing programs and a wealth of expertise in test development and administration. Before joining the Consortium, New Jersey and Washington had tested more than 2,500 interpreters in Spanish and several other languages.⁴

Five other Consortium states (Minnesota, New Mexico, Oregon, Utah, and Virginia) have now completed certification testing in Spanish. Table 1 summarizes the results of the individual testing effort in those states. Approximately 344 individuals have been tested in those five states. Fourteen individuals passed the test in Minnesota, 13 in Oregon,⁵ 12 in Utah, and 24 in Virginia. New Mexico (which in years past had a testing program that it was forced to discontinue because it had “overused” its single test) will be adding 11 new interpreters to its roster of certified interpreters, bringing its total to 32 (an increase of about 30 percent).

Maryland is scheduled to begin testing in September 1996. New Jersey, Oregon, and Washington have begun to expand their testing to include Russian, Korean, and

Vietnamese using Consortium tests. Minnesota also will begin to expand its testing to include these three languages in September 1996.

State	Number who took screening test	Number who qualified to take final test	Number who took final test	Number who passed final test	Success rate*
Minnesota	40	15	15	14	35% (14/40)
New Mexico	74	13	13	11	15% (11/74)
Oregon	76	29	20†	13	19% (13/67)
Utah	63	17	14	12	20% (12/60)
Virginia	n/a	n/a	91	24	26%** (24/91)
All States	253	74	153	74	22% (74/332)††

* The success rate is calculated by dividing the number of individuals who passed the test by the number of candidates who took the screening test minus the number of individuals who qualified for but were unable to take the final test.

† Floods in Oregon prevented several candidates qualified to take the final test from taking the test on the scheduled day. These candidates will complete the testing in the summer of 1996.

** Because Virginia's testing procedure did not employ a screening phase, Virginia's success rate is calculated simply dividing the number of individuals who passed the test by the number of individuals who took the test.

†† This figure (332) is the number of candidates who took the screening test in Minnesota, New Mexico, Oregon, and Utah minus the number of individuals who qualified for but were unable to take the final test in these states, plus the number of candidates who took the test in Virginia.

The programs in New Jersey and Washington did not spring into existence overnight, nor will an effective interpreting program get off the ground in other states without preparation, time, commitment, and resources. But the job is now much easier than it was for the "pioneer" states like New Jersey, Washington, and California because of the models these pioneer states have provided. Both New Jersey and Washington began their state initiatives with the formation of task forces to oversee research and policy development and to assist in efforts to secure funding for the programs.

As other states become aware of the task before them and begin to explore ways to effectively conduct and maintain an interpreting service program, they look to those states that have led the way in establishing and promoting viable interpreter programs. It is not necessary to reinvent the wheel; in fact, the greater the uniformity among the states, the greater the accomplishment for all.

The following recommendations are intended to be helpful both to states that are just starting to develop a court interpreter program and to those that are trying to improve established programs and services.

Recommendation 1

Establish a Supreme Court Interpreter Policy Advisory Committee

A planning and advisory group charged by the supreme court to develop recommendations for statewide policy and practice governing interpreters is an effective way to ensure that the state's policies and plans for improving interpreter services reflect an appropriate mix of best practice and practical constraints. Establishing a comprehensive court interpreter program is a significant undertaking requiring specialized experience and expertise. Neither the supreme court nor the typically configured state administrative office has the expertise or experience in language interpretation to develop, on its own, detailed policies and procedures required to implement a statewide interpreter program. That specialized expertise must be recruited and used to develop and recommend to the supreme court the standards for the appointment of interpreters, as well as the criteria for interpreter qualifications, duties, professional conduct, and compensation. Such expertise is available in most states from professionals employed in the fields of languages, interpreting, and occupational testing and from judges and attorneys who have worked extensively with interpreters.

Experience in states with well-developed programs suggests that the advice and services of such individuals can be obtained pro bono by forming a Court Interpreter Advisory Panel. Staff support for the advisory committee should be provided by the administrative office of the courts. Ideally, the committee would be chaired by a member of the supreme court. If this is not possible, the committee chair should be a judge in whom the court has the highest confidence. Figure 2 outlines suggestions for the composition of the committee.

Costs

Costs for this initiative presumably can be absorbed largely within existing operational capacity of the supreme court or the administrative office of the courts.

Recommendation 2

Educate the advisory committee, judges, and other key court personnel about court interpreter issues

The National Center for State Courts (NCSC) has developed a workshop presentation and materials for offering a lively program to sensitize judges, lawyers, and court managers to the differences between "bilingual people" and "court interpreters" and to alert them to important interpreter issues. Depending on the time available, the program integrates lecture, audience participation exercises, videotape material and discussion, and question/answer formats as educational techniques. The program covers seven topic areas, modified as needed for the time available: (1) what goes on "behind the language

barrier” when interpreters are used in court; (2) what knowledge and skills are required for interpreting adequately in court, and what goes wrong when interpreters are unqualified; (3) clues for discerning the difference between qualified and unqualified interpreters; (4) information about interpreter skills testing (how it works and why it is important); (5) guidelines for effective and efficient use of interpreters; (6) what options are available for improving the court’s access to qualified interpreters; and (7) how to conduct voir dire to determine the need for a qualified interpreter.

Figure 2
Suggested Composition of a Court Interpreter
Advisory Committee

- the state court administrator or designee
- at least two trial judges (one metro, one rural)
- at least two district court administrators
- one prosecuting attorney who has experience working with non-English speakers
- one defense attorney who has experience working with non-English speakers
- one to three representatives who provide court-related services to the state’s major non-English speaking populations
- two professional foreign language interpreters (these individuals should have formal training in languages and interpreting and maintain an affiliation with at least one professional interpreting or translating association)
- one certified sign language interpreter

Costs

Costs for this program will range from \$1,000 to \$1,500, depending on the scope of the presentation and the particular need of the state. While workshop materials are provided by the NCSC at no cost, the cost for travel, per diem, and time for a trained NCSC associate and an interpreter consultant will have to be absorbed by the participating state. However, it is possible that funding for the time of the associate and the interpreter consultant is available through the NCSC’s Court Services Division Technical Assistance Program.

Recommendation 3

Adopt a code of professional responsibility for court interpreters

A code of professional responsibility for court interpreters provides a crucial foundation for a state’s interpreter program. It provides an authoritative reference to what trial judges, lawyers, and administrators should expect of interpreters, and study and

discussion of the code becomes a featured element in the state's training programs for interpreters. Familiarity with the code can then also become a required element in the state's program of certification: all interpreters, regardless of the language they speak, should be thoroughly familiar with the code of professional responsibility.

A Model Code of Professional Responsibility for Interpreters in the Judiciary is published in Chapter 9 of *Court Interpretation: Model Guides for Policy and Practice in the State Courts* (Williamsburg, Va.: National Center for State Courts, 1995). One of the initial activities of the advisory committee should be to review the Model Code and adapt it as appropriate for the state in question. The work group charged with this activity should consist of judges, lawyers, and interpreters.

States that have a code of professional responsibility for interpreters similar to or based on the Model Code include California, Maryland, Massachusetts, Minnesota, Oregon, New Jersey, Utah, Virginia, and Washington. Hawaii, Nebraska, and Nevada are also considering adopting the code.

Costs

As with Recommendation 1, costs for this recommendation should be easily absorbed within the existing operational capacity of the supreme court or the administrative office of the courts.

Recommendation 4

Provide mandatory minimum training for all interpreters

The third step in the program is to offer and require all court interpreters to attend a two-day basic orientation and fundamentals training workshop, patterned after the model presented in Chapter 4 of *Court Interpretation*. Offering such workshops is a significant step in the process of improving the qualifications of interpreters. In addition to other benefits, implementing these workshops in advance of a certification testing program provides a forum to introduce and explain the reasons for the testing program. It also provides an opportunity to explain the general nature and content of certification tests, how they are conducted, and how interpreters can prepare for them.

Six states with which the NCSC has worked in 1995 and 1996 have elected to establish mandatory minimum training standards for all interpreters as a prerequisite for continued employment in the courts. The workshops offered through these states include both small and large group discussions, skills practice, ethical considerations, basic court and legal procedural issues and terminology, and certification testing preparation. Moreover, these valuable workshops provide the attendees with an opportunity to gather with other professionals, to exchange information and ideas, and to gain valuable contacts. Figure 3 is a sample agenda outlining the program content for a two-day workshop.

Figure 3
Sample Agenda
Introductory Workshop for Court Interpreters

Day 1

8:30 am	Registration
9:00 am	Introduction, Overview and Goals
9:30 am	Workshop Pretest
9:45 am	Review and Discussion of Pretest
10:15 am	Break
10:30 am	The Role of the Interpreter and Introduction to Ethics (lecture and demonstration)
11:00 am	Small Group Discussion of Ethical Issues (requires qualified small group leaders)
Noon	Lunch
1:00 pm	The Skills and Modes of Interpreting: Simultaneous and Consecutive Interpreting and Sight Translation (lecture and demonstration)
2:00 pm	Small Group Skills Practice, Discussion
2:30 pm	Court and Justice System Structure
3:00 pm	Break
3:15 pm	The Roles of Court Officials and Related Agencies
4:15 pm	Review and Question and Answer
4:30 pm	Wrap-up

Day 2

9:00 am	Criminal Procedure (and procedure in other case types)—and the Role of the Interpreter (lecture and demonstration)
10:00 am	Interpreting in Other Settings: Attorney/Probation Interviews, Lock-up, Jails, Mental Health, etc. (lecture and demonstration)
10:30 am	Break
10:45 am	Practical Realities of Courthouse and Courtroom Procedure
11:45 am	Terminology: Introduction to Common Court Terms, Including Advisements and Forms
12:15 pm	Lunch
1:15 pm	Small Group Practice—Interpreting Standard Forms
1:45 pm	Terminology: Resources and Research
2:15 pm	Break
2:30 pm	Overview of Self-Study Techniques and Additional Resources (lecture and discussion)
3:15 pm	Study Groups: Small Group Practice
4:00 pm	Certification Examinations: What and Why (lecture and discussion)
4:45 pm	Wrap-up

Costs

A standard workshop curriculum and materials are available through the NCSC at no cost. Some adaptation of these materials will be required. We strongly recommend that states obtain the services of expert interpreter training consultants to assist them in planning and implementing an initial cycle of these programs. The NCSC also provides a list of the consultants who have contributed to the development of these materials and who have been retained as workshop faculty by other states.

Specific costs for these programs need to be estimated based on the scope of the program, travel required for consultants, etc. Consultant fees for experienced workshop faculty range from a minimum of \$300/day to \$500/day.

Recommendation 5

Initiate mandatory written testing about the code of professional conduct, court procedure, and court and legal terminology for all interpreters

The objective of a written test on the code of professional responsibility is to ensure that all interpreters—regardless of *interpreting* skills—are minimally competent in written English, understand the requirements of the code of professional responsibility, and are familiar with very basic legal and technical vocabulary and concepts. No standard written test covering all of these elements has been developed through the Consortium (see Recommendation 6), which so far has focused on oral proficiency certification tests. However, similar written tests have been developed in Oregon and Minnesota, and these can be made available for adaptation and use by other states.

Costs

Costs for test development or adaptation would be modest. The development of an entirely new test would be less than \$5,000. Test administration costs would also be modest: no outside expertise is required to either administer or score the tests. It is very likely that test administration expenses could be defrayed entirely by test registration fees.

Recommendation 6

Become a member of the State Court Interpreter Certification Consortium

This recommendation is requisite for the recommendations on testing that follow. As discussed above, the Consortium makes valid and reliable interpreter proficiency tests available to state courts at affordable costs. The Consortium provides for standards for general administration, test administration, training, and security for court interpreting programs. Any state that agrees to pay the membership fee and to observe the terms and conditions of membership in the Consortium is welcome to join.⁶

While applications for membership in the Consortium by jurisdictions other than states (e.g., counties, individual trial courts, etc.) will be given due consideration, it is preferred that a state be the joining entity because of the importance of coordination at the state

level. It is important to have uniform standards for interpreter proficiency across the state, and usually the financial commitments required to support testing and educational programs make more sense as state-level commitments.

Costs

To become a member of the Consortium, states must agree to abide by the Consortium's guidelines governing test administration standards, test security, minimum educational standards for interpreters, and financial support. Under the Consortium's guidelines, most states are expected to contribute a one-time fee of \$25,000 to defray the costs of current and future test development and maintenance. The Consortium's steering committee will consider proposals from states for fee payment schedules or for proration of the fee based on the number of languages the state may wish to include in its testing program. For example, it is possible that a "Spanish only" membership fee may be negotiated at a reduced cost.

Recommendation 7

Initiate certification testing in Spanish (might be another language in a few states)

A detailed description of the testing process adopted by the Consortium is beyond the scope of this article. However, both the tests and a test administration procedure are available through the Consortium. Most Consortium member states (Minnesota, New Mexico, Oregon, Utah, Maryland, and Delaware) have elected to contract with the NCSC to administer the tests until in-state experience and expertise in test administration has been acquired through participation in one complete testing cycle. Tests are administered in two phases (screening and final certification), and the entire process (including planning, test administration, and return of final results) takes about four to six months.

Costs

Certification testing is expensive, especially in the initial implementation stages when it is necessary to rely almost exclusively on outside consultants to oversee the test administration process and to serve as test administrators and test examiners. As testing experience is gained, however, we continue to find ways to reduce testing costs. As a rule of thumb, however, states should not consider initiating a first-time testing program for less than \$20,000 to \$25,000 to complete one testing cycle for about 50 to 75 candidates in Spanish. Depending on the state's policy choices, about one-half to two-thirds of the costs of this first-round testing program can be recovered through test registration fees. As the program continues and stabilizes—with increased in-state experience and decreased numbers of test takers—test administration costs decrease, possibly to the point where the program can be sustained with fee revenue.

Recommendation 8

Expand the testing program to additional languages

In the year following implementation of Spanish testing, states should consider extending the testing program to include the two or three most frequently encountered languages other than Spanish. Tests in Hmong, Korean, Russian, and Vietnamese are now available to Consortium member states. Additional examinations will be completed in 1996. The prioritization of test development for other languages will depend on the needs and requests of member states. In the near future, new tests will likely include Arabic, Cambodian, Cantonese, Haitian Creole, Laotian, Mandarin, and Polish.

Conclusion

Language and communication should not create a barrier to the state courts for non-English speakers. States should and must take the requisite steps to ensure that access to justice is uniform. The recommendations here are intended to provide a framework for a state's research and planning efforts in the area of court interpretation. By educating the judiciary and other key court personnel on the need for qualified court interpreters, by educating and training the interpreters themselves, and by insisting on standards of ethical and professional conduct, states will be able to uphold the integrity of the court proceeding, maintain public confidence and support in the judicial system, and utilize precious resources efficiently and effectively.

Endnotes

¹ Sue Dosal, state court administrator of Minnesota, chairs the four-person steering committee. Other members are Kingsley Click, state court administrator of Oregon, and Robert Joe Lee and Joanne Moore, the court interpreting program managers of New Jersey and Washington, respectively.

² State Court Interpretation Certification Consortium, *Guidelines for Consortium Organization and Operation*. (For more information contact William E. Hewitt at the National Center for State Courts, Williamsburg, VA.)

³ Language tests in Arabic, Cambodian, Cantonese, Haitian Creole, Laotian, Mandarin, Polish, and Portuguese are also available to members of the Consortium but require adaptation to the Consortium test format.

⁴ New Jersey has tested 1,059 interpreters, and Washington has tested 1,497.

⁵ Oregon's final testing was interrupted by the flood of 1996. Screening test results suggest that Oregon will certify about 25 Spanish interpreters after its first round of testing is completed.

⁶ For additional information about the Consortium and how to join, please contact William Hewitt at the National Center for State Courts, 300 Newport Avenue, Williamsburg, VA 23185; (757) 253-2000.

Appendix E

Court Interpreting for Deaf Persons: Culture, Communication, and the Courts



Appendix E. Court Interpreting for Deaf Persons: Culture, Communication, and the Courts

Contents

This Appendix contains the article “Court Interpreting for Deaf Persons: Culture, Communication, and the Courts” by John G. Richardson.

This article is taken from *State Court Journal*, Volume 20, Number 1, 1996. The article was condensed from a chapter written by John G. Richardson, entitled “Visual Modes of Communication: Interpreting for Deaf Persons” in *Court Interpretation: Model Guides for Policy and Practice in the State Courts*.

Court Interpreting for Deaf Persons: Culture, Communication, and the Courts

John G. Richardson

Introduction

At some time, most people experience what it is like to be unable to hear—no sound from the television, or loud background noise that interferes with hearing what someone is saying. Imagining deafness helps a hearing person understand what it is like for people who lose their hearing after growing up in a hearing world; it does not equal the experiences of people who are born deaf or become deaf early in life. The absence of the sense of hearing interferes with communication in ways that are more profound than simply not being able to hear.

This article offers a basic look at several interrelated issues on deafness and interpreting for the deaf that judges and court managers should know about to ensure justice and fairness in court proceedings that involve deaf or hard-of-hearing individuals: (1) cultural issues related to deafness, (2) the mechanics of visual modes of communication, (3) the skills and services professional interpreters have to offer the courts, and (4) problematic practices that experienced interpreters for the deaf routinely encounter and urge the courts to remedy.

Cultural Issues Related to Deafness

In the United States there is a large community of deaf individuals who have their own visual language, American Sign Language (ASL). Most members of this “culturally deaf” community are *prevocationally* deaf; that is, they suffered hearing loss before the end of adolescence.¹

Interestingly, persons who are *audiologically* deaf do not necessarily consider themselves part of the deaf community. This group is much larger than the culturally deaf community and consists of individuals who, despite being deaf or hard of hearing, maintain a primary language and cultural affiliation with the oral-language-speaking community. These individuals almost always developed their hearing impairment or deafness later in life or were raised as children by hearing parents who did not expose them extensively to members of the culturally deaf community. Their inability to hear does not mean that they are unable to communicate through oral language. Deaf individuals who are members of the hearing society are more likely than culturally deaf individuals to rely on languages or modes of communication other than ASL. This group of individuals, having grown up in the hearing world, tends to prefer the society of hearing persons to that of the culturally deaf community. Hearing aids, cochlear (inner ear) implants, and intensive training in lipreading are among the adaptive mechanisms that help late-deafened people preserve their established ties to the hearing community.

Among deaf individuals who are not members of the culturally deaf community, the phrases *hearing impaired* or *hearing disabled* may be preferred to the word *deaf*. These phrases include hard-of-hearing people as well as people who cannot hear at all. But their use also sometimes reflects an effort to avoid labels and negative connotations traditionally associated with culturally deaf persons.

Because members of the deaf culture are “outsiders in a hearing world,” they are often suspicious and wary of people who can hear. That wariness and distrust stems from a history of misunderstanding and injury to members of the deaf community by the wider dominant hearing society. For example, within the wider hearing society, there is a strong inclination to equate spoken communication skills with intellectual capacity. In general, culturally dominant hearing people tend to consider oral language as the only *legitimate* form of communication.

Since culturally deaf individuals lose their hearing ability early in life, they experience difficulty speaking English fluently and articulately or are unable to do so. Consequently, culturally deaf individuals who cannot communicate in spoken Standard English may be stigmatized as unintelligent or mentally defective by people who can hear.

Deaf individuals and interpreters for the deaf are aware that such harm can be inflicted even in the relatively enlightened setting of a court of law.² Without a proper understanding of visual modes of communication, judges and lawyers can unknowingly destroy the fairness of court proceedings by constraining the work of a court interpreter for the deaf. Some judges and lawyers do not understand the seemingly strange physical behavior of deaf persons as they “speak,” and they restrict an interpreter’s use of facial grammar or body shifting. This seriously interferes with communication during the proceeding, and facts may be lost or distorted. Such rulings limit the effectiveness of the interpreter’s professional language skills and, thus, limit the effectiveness of the court.

One compelling example of profound and hurtful misunderstanding is evident when judges and lawyers ask, and at times order, ASL interpreters to refrain from using facial grammar and body movements that are essential to ASL. Such requests and orders are issued on the grounds that the movements are “distracting” to other court participants.³ Such rulings reinforce the deaf person’s sense that the courtroom is a hostile environment rather than a neutral forum.

Trust is an important concept within deaf culture. Most interpreters can hear and are commonly perceived by members of deaf culture to be part of the hearing society, which does not understand them. Deaf defendants, who must rely on the services of the interpreter in what they already perceive as a hostile atmosphere, are especially vulnerable to mistrust, since the court system is dominated by people who can hear.

For individuals who are members of nonwhite racial or ethnic backgrounds, these problems are compounded, because the vast majority of court interpreters are white. The number of interpreters from various racial and ethnic backgrounds needs to be increased significantly. The dynamics of race and ethnicity, as well as the interactions between hearing and deaf cultures, can profoundly undermine the trust between the interpreter and the deaf person. This, in turn, inhibits the very thing that is essential to any court proceeding: communication. What follows is a basic overview of the visual modes of communication used by deaf individuals and interpreters for the deaf.

Modes of Communication

What people who cannot hear have in common is that they rely on “information they can see” to communicate.⁴ Beyond that, it is difficult to generalize. The preferred or most effective means of communication for deaf people varies widely, often depending on the age at onset of hearing loss, the severity of the loss, how the person has been educated in language after the hearing loss, and, importantly, what languages or modes of communication people in a given setting have in common.

Judges and other court officers should at least be aware of the several recognized methods or modes of communication used by deaf and hard-of-hearing individuals. These include speech reading or lipreading; gesturing (the most rudimentary and limited form of communication); written communication, including computer-aided real-time transcription; and sign language.

Sign language is the use of visual signs to convey information and ideas. There are three basic categories of sign languages, each with its own range of utility, depth of lexical meaning, and level of complexity: (1) independent languages such as American Sign Language; (2) speech-equivalent-signing systems; and (3) finger-spelling systems. The most advanced forms of sign language are not just manual representations of oral language; they are independent languages, such as ASL, British Sign Language (BSL), Danish Sign Language (DSL), and others. When combined with facial grammar and body shifting, as in ASL, sign language conveys rich meaning, humor, pathos, and many other subtleties of communication.

Sign languages have a structure of comparable complexity to spoken and written language and perform a similar range of functions. There are rules governing the way signs are formed, and how they are sequenced—rules that have to be learned, either as children (e.g., from deaf parents) or as adults (e.g., when working with deaf persons).⁵

Beyond the issues surrounding the complexities of any single sign language is the fact that there are many sign languages just as there are many oral languages.

As a result of linguistic change and independent creation in different parts of the world, no single sign language exists. There are many such languages (e.g., American, English, French, and Danish), and they are not mutually intelligible. They use different signs and different rules of sign formation and sentence structure. Even within an area that uses the same spoken language, the differences may be so great as to preclude mutual comprehension—as happens, for example, between British and American Sign Language.⁶

There are many forms of sign language, but among them, ASL appears to have the greatest inherent capacity for effective and efficient communication.

ASL is a highly developed language with a structure that can be described in its own terms. About 4,000 signs are used in ASL. The vocabulary, grammar, idioms, and syntax of ASL are completely different from English. The linguistic units and structure of ASL consist of facial expressions, body posture, and shapes and movements of hands, arms, eyes, and head.

There are two categories of *facial grammar* (often incorrectly referred to as facial expressions). The first category refers to the messages that are conveyed by different parts of the face. The upper part of the face conveys syntax and the type of sentence that is being communicated (e.g., interrogative, declarative, or imperative). The lower part of the face conveys descriptors, such as

adjectives and adverbs. Finally, the shifting of the head, torso, and eyes can designate subjects, objects, and prepositions as well as references to things present and not present. The second category of facial grammar is referred to as effective display or emotions. This is the manner in which humor, anger, sadness, or even sarcasm is communicated.

Given the range and complexity of ASL and other sign languages, it is clear that culturally deaf people need neither adaptive mechanisms nor the assistance of interpreters when they communicate *with each other*. Members of the culturally deaf community view deafness as a “disability” only in contexts in which communication is required with individuals who are *not* members of the deaf culture, such as a courtroom. The range and complexity of ASL also makes it apparent that interpreters need to be extremely knowledgeable and adept at recognizing and overcoming barriers to communication. Therefore, because ASL is the primary language of the American deaf community, learning ASL is prerequisite for certification as an interpreter for the deaf.

Certified interpreters for deaf persons can help minimize the effects that common misconceptions about sign languages can have on court proceedings. These misconceptions interfere with the best practices that courts should follow to facilitate communication with a deaf person. Contrary to popular belief, a person who is fluent in ASL is likely more able to participate fully, and more efficiently, in court proceedings than a hearing-impaired person whose primary language is English and who does not also know ASL. For example, misconceptions about ASL such as the following are not uncommon among court officials who have some knowledge of court interpretation: “American Sign Language is not word-for-word, and should cause concern as to its use for a verbatim record.”⁷

The foregoing comment illustrates two prevalent misconceptions, the first about language and interpreting generally and the second about ASL. The first is that proper interpretation between *any* two languages should always be “word for word.” Despite legal language that is often phrased to the contrary, acceptable interpretation from one language to another is *often* not “word for word.” In fact, some word-for-word translations between languages result in nonsense or, at least, in the loss or distortion of meaning. Idiomatic expressions are good examples. One of the specific abilities that interpreters are tested for is whether they can *conserve meaning* in such situations, rather than resorting to nonsensical or misleading word-for-word interpretations. The second and most widely unchallenged misconception is that ASL is some form of “shorthand English” rather than a separate, distinct, and fully developed language. There are signing systems that mirror spoken English language, which are referred to as speech-equivalent-signing systems.

Speech-equivalent-signing systems are less sophisticated than ASL. Generally, speech-equivalent-signing systems were developed with the aim of bringing visual communication closer to the structure of spoken language, particularly oral English. Manually Coded English, Seeing Essential English, Signed English, and other similar systems were designed to help educators communicate with and improve the academic achievement of deaf students in the “hearing world.” Each of these systems aims to reflect the structure and word order of English, but they do so in different ways (e.g.) the ways in which hand signs are formed. However, it must be clearly understood that speech-equivalent-signing systems are not equal to ASL or any other separate, distinct, and independent sign language.

Another system, which is less sophisticated than either ASL or speech-equivalent signing, is referred to as “finger spelling.” Finger-spelling systems are typically used in classrooms with young children rather than in social interactions among deaf adults. In this system, which can be applied to any language that has an alphabetic writing system, each letter of the alphabet has its own sign. The main strength of finger spelling is its scope and flexibility. It is quick to learn and can be used to sign an indefinite number of words. It is particularly useful for signing proper names, which are not given their own signs in other sign systems. However, it is a slow system to use, rarely exceeding 300 letters per minute (about 60 words), and it cannot be used at all unless one is able to spell (a problem for young children, who also have difficulty controlling the hand shapes required). It is also difficult for receivers to distinguish the hand shapes at a distance. If the rate of signing speeds up in response to rapid speech, the signer will begin to omit letters and the receiver may begin to lose comprehension. Finger spelling is best thought of as an auxiliary signing system, a convenient bridge between spoken or written language and sign language.⁸

Judges and other court officials should also be aware of other modes of communicating with deaf or hard-of-hearing individuals, particularly if the deaf person is not capable of using sign language. A deaf person may or may not be able to speech read (commonly referred to as lipreading). Under normal conditions, deaf people will be unable to comprehend most of what is being said if they rely solely on speech reading because only 26 percent of speech is visible on the lips.⁹ Facility in speech reading also varies, as does facility in any mode of communication: given two equally intelligent people with identical training, one may be an excellent speech reader, the other poor.

Hearing-impaired persons who prefer speech reading as their chosen mode of communication may require “oral interpreters,” professionals specifically trained to present information through mouth movements only. Oral interpreters do not use sign language; instead, they use clear mouth movements and rephrase words that are difficult to speech read. For example, the words *green* and *red* sound different, but they look the same on the lips. If the words *red* and *green* appeared in the same sentence or paragraph, an oral interpreter might replace the word *red* with *maroon*, *mauve*, *dark pink*, or another synonym for red.

Written communication is a way to communicate with a deaf person, providing that the deaf person knows English (or some other oral and written language) *and can read*. Because English may be a second language for many deaf persons, some have limited competence in writing and reading English. In these cases, the use of concrete images and simple sentence structures is important. A deaf person will usually want important information, such as appointment dates and times, confirmed in writing.

Computer-aided real-time transcription (CART) also can be used to communicate with the deaf. A skilled court reporter keys the shorthand notes of spoken language into a stenotype machine, and the words spoken in court are concurrently translated into English text. CART systems send the shorthand output from the stenotype machine directly into a personal computer that translates the shorthand instantaneously and displays it on a monitor. This makes it possible for courtroom observers to read a written version of courtroom speech while the record is being made. It also makes it possible to print the transcript at a moment’s notice. This method of communication is both efficient and effective for hearing-impaired individuals who are comfortable reading English.

Courts need to be vigilant, however, to avoid a misuse of CART. CART work is usually done by court reporters. If CART communicative assistance is done by the same person who is the official court reporter, special arrangements will be required for the hearing-impaired person to communicate with counsel during the proceeding. The official reporter cannot both make the record and assist the deaf person. This is not a problem if a special reporter is brought in solely for the purpose of assisting the hearing-impaired person.

Gesturing is the most rudimentary form of visual communication. While sign language can express the same range of meaning as speech, gesturing is far less systematic and comprehensive. There are very few hand gestures, and these are used in an ad hoc way to express a small number of basic notions.

Some deaf people have never forged meaningful ties in either the culturally deaf or the oral language cultures. They have learned so little language that they are identified as “minimally language competent” (MLC). MLC deaf people have *no* systematic means of communicating ideas or feelings through the use of conventionalized signs. They have no ability to communicate in American Sign Language or in Sign English, they have no lipreading abilities, and they cannot read or write English. MLC people communicate through their own idiosyncratic gestures, which are usually unfamiliar to anyone but the MLC deaf person, his or her family, and others with whom the MLC deaf person has substantial contact. MLC individuals may know isolated signs or be able to write or recognize a few specific written English words, but they have no meaningful understanding of books, telecaptioning, or newspapers. Their world is restricted to personal experience; therefore, communication is subject to the confines of a limited and personal frame of reference. Consequently, the ways in which MLC deaf people communicate vary widely, reflecting modes specific to each individual’s frame of reference.

The inability of MLC people to communicate meaningfully excludes them from membership in both the deaf and hearing communities. While some MLC people may not be totally isolated from a deaf community, others may have no contact with a deaf community whatsoever.

The court must give special consideration in communicating with MLC people. Even when special consideration is given, however, MLC deaf people are often unable to participate in court proceedings or assist counsel to any meaningful degree, given their limited ability to understand a concept, process, or action. In fact, it is unlikely an MLC deaf person will understand the purpose of an oath; the function of the judge, attorneys (including the distinction between a defense attorney and prosecutor), or the jury; the roles of ancillary courtroom personnel, including interpreters, courtroom clerks, or court reporters; or the meaning and practical significance of probation, parole, and diversionary programs.

Establishing meaningful communication with MLC individuals, especially in a court, requires extraordinary measures that are beyond the scope of this article. However, professionally trained interpreters for the deaf can identify MLC individuals and advise the court about the best ways to establish communication.¹⁰ The use of “relay” or intermediary interpreters will always be required. Relay interpreters may be either lay people who have special knowledge of the “home signs” of an MLC person, or they may themselves be deaf individuals who have special training and skills in both ASL *and* in other modes of visual communication.

Certification of Interpreters for the Deaf

As is true in the case of foreign language interpreters, courts often compromise best practice and use individuals who have no formal training in legal procedure or interpreting for deaf persons. This adds to the distrust and alienation that deaf persons generally feel when they are thrown into unavoidable communication with hearing society and culture. This mistrust affects communication and the quality of evidence during the proceedings. The irony here is that using an incompetent interpreter could result in having a deaf person *talk down* to the court. For example, if a deaf person determines that the interpreter is minimally skilled or incompetent, he or she may try to help the interpreter by avoiding the use of linguistically complex ideas and sentences. The deaf person may also attempt to aid the interpreter by leaving out details, subtleties, nuances, or even subtextual information, knowing that the interpreter is likely to either misunderstand what he or she is communicating or render an inaccurate translation or miscommunication.

A problem related to using unqualified interpreters is that intermediary interpreters are not used enough when they are needed. Most highly skilled interpreters will request or insist upon having intermediate interpreters when necessary, but less skilled professional interpreters often will not. It is suspected that less skilled interpreters may believe that the use of a relay interpreter could be misconstrued as a sign of incompetence.

Unfortunately, there is an extreme shortage of *competent* court interpreters for the deaf. Because many states establish requirements for the qualifications that interpreters for the deaf must possess, certified, highly skilled interpreters are in great demand. Advance notice of several weeks is usually required to secure the services of a qualified interpreter. The longer the proceeding, the more advance notice required.

The most common requirement that states have established for interpreters for the deaf is certification by the National Registry of Interpreters for the Deaf (NRID). NRID certification is based on a rigorous evaluation of the candidate's interpretation skills and knowledge of the NRID Code of Ethics by a group of professional peers. The NRID certification system establishes minimum levels of achievement, representing a starting point for interpreters, varying according to certification area and level of competence. Certified interpreters are expected to improve their skills by attending workshops and training seminars and through frequent use of sign language.

Current NRID certificates include the following:

Certificate of Interpretation (CI):

ability to interpret between ASL and spoken English in both sign-to-voice and voice-to-sign.

Certificate of Transliteration (CT):

ability to transliterate between signed English and spoken English in both sign-to-voice and voice-to-sign.

A series of other certification classifications have been used in the past by NRID. While these certificates are no longer being awarded under the new testing system, they continue to be recognized as valid assessments of specialized skills.¹¹

Many states refer to the NRID certification in their laws, and NRID certification is generally recognized in the policies of agencies that are responsible for establishing standards for the qualification of interpreters for deaf persons. In Massachusetts and New Jersey, for example, NRID certification is the basis for general interpreter certification. When an individual who does not hold a valid NRID certificate applies to work as an interpreter for the deaf in these states, the agencies screen the interpreters using their own screening standards. Standards for referrals to interpret in court and legal settings usually exclude interpreters who do not hold an NRID certificate. For example, standards for court and legal interpreting referrals in Massachusetts require:

- NRID certification,
- graduation from an interpreter-training program (preferably a two- to four-year bachelor degree program),
- several years of interpreter experience, and
- completion of specialized, intensive legal interpreting training.

California's *Guidelines for Approval of Certification Programs for Interpreters for Deaf and Hard of Hearing Persons* defines a qualified court interpreter as someone who has been certified as competent to interpret court proceedings by a testing organization, agency, or educational institution approved by the Judicial Council as qualified to administer tests to court interpreters for the deaf and hard of hearing.¹² The certification process stresses a comprehensive knowledge of all aspects of the court interpreting process, including:

1. Translation and transliteration competency that includes:
 - a. American Sign Language competency
 - b. English Language competency
 - c. Competency in interpreting language and terminology common to court proceedings
2. The role, function, and techniques for working with an intermediary interpreter or other intermediaries, or for working as an intermediary interpreter
3. The understanding of social, cultural, and linguistic aspects of the local, state, and national communities of deaf people
4. The role and function of court interpreters, including court etiquette
5. The various court proceedings that commonly and frequently require the use of interpreters
6. A code of conduct and professional ethics

Conclusion

Judges routinely contend with cultural differences among people who come before them, and they cannot be experts on all cultures. However, judges are better prepared to ensure the fairness and integrity of court proceedings when they understand the effect that cultural factors have on how people communicate. In particular, judges will recognize the importance of both securing the services of properly trained sign language interpreters and relying on them for advice regarding how communication with deaf persons can best be effected.

Endnotes

¹ Paul C. Higgins, "Outsiders in a Hearing World," *Urban Life* 8 (April 1979): 5.

² For example, in a letter addressed to the interpreter coordinator for the state of Michigan, Attorney Roger A. Lange recounts examples of parental rights of deaf parents being terminated almost immediately after the birth of the child, solely on the basis of their deafness. He also describes a felony case in which child abuse was alleged, which "degenerated into a trial by innuendo, myth and stereotype, and included a pattern of attacks on ASL and deaf culture by the prosecutor. During this case, a deaf witness was portrayed as 'stupid.' The prosecutor equated deaf family dynamics with a mother to be feared by the child. The prosecutor portrayed the defendant as a person making outlandish statements because she used common signs for 'I heard,' which no deaf person associates with hearing or vocal speech." Letter dated December 29, 1992, copy on file with National Conference Center...staff.

³ This problem was strongly emphasized, with numerous examples, in interviews conducted by staff of the National Center for State Courts with M. J. Bienvenue and Gay Koenemann, both highly skilled interpreters. Ms. Bienvenue is deaf and a member of the deaf culture; Ms. Koenemann is a hearing person who is "wise" in the ways of deaf culture.

⁴ Rita Jo Scarcella, "Professional Sign Language Interpreters," *New Jersey Lawyer*, Spring 1987 (No. 119).

⁵ David Crystal, *The Cambridge Encyclopedia of Language* (Cambridge: Cambridge University Press, 1987), 220.

⁶ Ibid.

⁷ Gary Cramer (Court Reporter, Los Angeles Municipal Court), personal correspondence with William Hewitt, December 22, 1992. The comment is intended to support an assertion that communicating with deaf individuals with the use of computer-aided real-time transcription should be preferred over the use of ASL.

⁸ Crystal, *op. cit.*, 225.

⁹ New Jersey Department of Human Services, Division of the Deaf and Hard of Hearing, "Deafness and Interpreting," October 1991, 4.

¹⁰ For detailed information about working with MLC individuals, see Sharon Neumann Solow, "Interpreting for Minimally Linguistically Competent Individuals," *Court Manager*, Spring 1988, and Court Interpreting, Legal Translating, and Bilingual Services Section of the New Jersey Administrative Office of the Courts, "Working with Minimal Language Competent People in Court" (draft document), May 1989.

¹¹ For a detailed review of these certificates, see New Jersey Department of Human Services, *op. cit.*, 15-17.

¹² The guidelines referred to in this article are based on an undated report obtained from the Judicial Council on February 24, 1993.

Appendix F

Survey of Languages



Appendix F. Handout: *Survey of Languages*

Contents

This appendix contains the handout *Survey of Languages*, compiled by Emily Shin. The handout was excerpted from the Massachusetts Bar Association's publication *Ensuring Equal Justice*. The survey is a fascinating country-by-country listing of the principal languages spoken in 185 countries. The handout gives participants a glimpse of many of the oral languages that exist in our world. It is a fun and informative way to end your program!

Survey of Languages*

This country by country survey of languages offers an at-a-glance listing of the principal languages spoken in 185 countries. It is not a comprehensive list, and may not cover every language (indigenous or otherwise) and dialect spoken in each country.

Languages are listed in approximate order of most—to least-spoken for each respective country. Official languages are in boldface type. The “official language” is the language which the government of a country deems official in the state and does not necessarily reflect how much the language is spoken in the nation.

- Afghanistan:** Pashto, Persian, Uzbek, Turkmen.
Albania: Albanian, Greek.
Algeria: Arabic, Kabyle, Shawia, Tamashek, French.
Andorra: Catalan.
Angola: Portuguese, Mbundu (Umbundu and Kimbundu), Kongo, Chokwe, Lwena, Lunda.
Argentina: Spanish, Italian, German, Yiddish, other indigenous languages.
Armenia: Armenian, Russian.
Australia: English, Aranda, Murngin, other indigenous languages.
Austria: German, Croatian, Slovenian.
Azerbaijan: Azerbaijani, Russian, Armenian, Lezgin.
Bahamas: English.
Bahrain: Arabic.
Bangladesh: Bengali.
Barbados: English.
Belarus: Belorussian, Russian.
Belgium: Flemish, French, German.
Belize: English, Spanish, Maya or Yucatec, Kekchi, Carib.
Benin: French, Fon, Bariba, Yoruba.
Bhutan: Jonkha (written in Tibetan script), Nepali.
Bolivia: Spanish, Quechua, Aymara, Chiquito, Guarani, Tacana, other indigenous languages.
Bosnia and Herzegovina: Serbo-Croatian
Botswana: English, Tswana, Bushman.
Brazil: Portuguese, German, Italian, Spanish, Polish, Japanese, Tupi, Arawak, Carib, Ge, Guarani, Panoan, other indigenous languages.
British Honduras: See Belize.
Brunei: Malay, English, Chinese.
Bulgaria: Bulgarian, Turkish.
Burkina Faso: French, Mossi (More), Dyula, Fulani, Gurma, Senufo, Tuareg, Tamashek.
Burma (Myanmar): Burmese, Karen, Shan, Mon, Chin, Kachin, Palaung, Wa (Kawa).
Burundi: Rundi, French, Swahili.
Cambodia: Khmer, French, Chinese dialects, Vietnamese, Cham, other tribal languages.
Cameroon: French, English, Fang, Bulu, Fulani, Yaunde, Duala, Mbum, Pidgin English, other native languages.
Canada: English, French, Italian, Chinese, German, Portuguese, Ukrainian, Polish, Spanish, Dutch, Greek, Cree, Ojibwa, other indigenous languages.
Cape Verde: Portuguese, Portuguese creole.

* Compiled by Emily Shin; from *Ensuring Equal Justice: Addressing Cultural and Linguistic Issues in the Courts of Massachusetts*, Maria C. Walsh ed.; Massachusetts Bar Association © 1995. Reprinted with permission. All rights reserved.

- Central African Republic:** French, Sango, Gbaya, Banda.
- Ceylon:** See Sri Lanka.
- Chad:** French, Sara, Arabic, Maba, Teda (Tibbu), Mbum.
- Chile:** Spanish, German, Araucanian, other indigenous languages.
- China:** Mandarin, other Chinese dialects.
- Colombia:** Spanish, Arawak, Carib, other indigenous languages.
- Congo:** French, Lingala, Kongo, Kituba, other indigenous languages.
- Costa Rica:** Spanish, Bribri, Cabecar.
- Croatia:** Serbo-Croatian.
- Cuba:** Spanish.
- Cyprus:** Greek, Turkish.
- Czech Republic:** Czech.
- Dahomey:** See Benin.
- Denmark:** Danish.
- Djibouti:** French, Arabic, Somali, Afar.
- Dominica:** English, French creole.
- Dominican Republic:** Spanish.
- Ecuador:** Spanish, Quechua, Jivaro, other indigenous languages.
- Egypt:** Arabic.
- El Salvador:** Spanish.
- Equatorial Guinea:** Spanish, Fang, Bubi.
- Eritrea:** Tigrinya, Tigre, Afar, Beja, Saho, other indigenous languages.
- Estonia:** Estonian, Russian.
- Ethiopia:** Amharic, Tigrinya, Gurage, Harari, Orominga, Sidamo, Somali, English, Arabic, Italian.
- Fiji:** English, Fijian, Hindi, Urdu, Tamil, Telugu.
- Finland:** Finnish, Swedish, Lappish.
- France:** French, German dialect, Breton, Catalan.
- French Guiana:** French, French creole.
- Gabon:** French, Fang, other Bantu languages.
- Gambia:** English, Malinke, Fulani, Wolof, Dyola, Soninke.
- Georgia:** Georgian, Russian, Armenian, Azerbaijani, Ossetian, Abkhazian.
- Germany:** German, Sorbian, Frisian.
- Ghana:** English, Twi, Fanti, Ewe, Ga, Adangme, Gurma, Dagomba.
- Gibraltar:** English, Spanish.
- Great Britain:** See United Kingdom
- Greece:** Greek, Turkish, Macedonian, Albanian.
- Greenland:** Greenlandic, Danish.
- Grenada:** English, French creole.
- Guatemala:** Spanish, Quiche, Cakchiquel, Mam, Kekchi.
- Guinea:** French, Fulani, Malinke, Susu, Kissi, Loma.
- Guinea-Bissau:** Portuguese, Portuguese creole, Balante, Fulani, Malinke.
- Guyana:** English, Hindi, Tamil, Arawak, other indigenous languages.
- Haiti:** French, French creole.
- Honduras:** Spanish, Lenca, Carib, English (on the Bay Islands).
- Hong Kong:** Cantonese, English.
- Hungary:** Hungarian.
- Iceland:** Icelandic.
- India:** There are over 150 languages spoken. Most widely spoken are Hindi, Urdu, Bengali, Marathi, Maharashtra, Gujarati, Bihari, Oriya, Orissa, Punjabi, Rajasthani, Assamese, Bhili and Sindhi. Major languages of southern India include: Telugu, Tamil, Kanarese, Malayalam. In central India: Gondi, Kurukh, Kui, Santali, Mundavli, Ho, Korku, Savara, Bodo, Garo, Meithei, Lushei, Khasi. English, understood by only a small percentage of the population, is still the most likely means of communication between people from different parts of India.

Indonesia: Indonesian. Major languages spoken in **Java and Madura:** Javanese, Sundanese, Madurese and Minankab. Languages in **Sumatra:** Minangkabau, Achinese, Batak. In **Celebes:** Buginese. In **Bali:** Balinese.

Iran: Persian, Azerbaijani, Gilaki, Mazanderani, Kurdish, Baluchi, Arabic, Turkmen, Armenian, Assyrian.

Iraq: Arabic, Kurdish, Armenian, Assyrian.

Ireland: English, Irish (Gaelic).

Israel: Hebrew, Arabic.

Italy: Italian, German, French, Rhaeto-Romanic, Albania, Greek.

Ivory Coast: French, Dyula, Senufo, Agni, Baulie, Malinke, other tribal languages.

Jamaica: English.

Japan: Japanese.

Jordan: Arabic.

Kazakstan: Kazak, Russian, German, Ukranian, Uzbek, Tatar, Uigur.

Kenya: Swahili, English, Kikuyu, Luhya, Kamba, Kissi, Meru, Luo, Kalenjin, Suk (Pokot), Somali, Orominga, other indigenous languages.

Korea: Korean.

Kuwait: Arabic.

Kyrgyzstan: Kirgiz, Russian, Uzbek.

Laos: Lao, Miao or Meo, Yao, Vietnamese, Chinese, French, other tribal languages.

Latvia: Latvian (Lettish), Russian, Belorussian, Ukrainian, Polish.

Lebanon: Arabic, French, Armenian, Assyrian.

Lesotho: English, Sotho, other native languages.

Liberia: English, Kpelle, Vai, Kru, Grebo, Kissi, Gola, Loma, other native languages.

Libya: Arabic, Tuareg.

Liechtenstein: German.

Lithuania: Lithuanian, Russian, Polish, Belorussian, Ukranian.

Luxembourg: French, German, Luxembourgian.

Macedonia: Macedonian, Albanian, Turkish, Serbo-Croatian, Bulgarian, Greek.

Madagascar: Malagasy, French

Malawi: Nyanja (Chewa), English, Lomca, Yao, other indigenous languages.

Malaysia: Malay, Chinese, Tamil, other tribal languages.

Maldives: Maldivian.

Mali: French, Bambara, Senufo, Fulani, Soninke, Malinke, Songhai, Tuareg (Tamashek), Dyula.

Malta: Maltese, English.

Mauritania: Arabic, Wolof, Soninke, Fulani.

Mauritius: French creole, Hindi, Bhojpuri, Urdu, Tamil, Chinese, English (spoken little).

Mexico: Spanish, Nahuatl, Maya, Tzotzil, Tzeltal, Chol, Zoque, Chontal, Zapotec, Mixtec, other native Indian languages.

Moldova: Moldavian, Ukrainian, Russian.

Monaco: French, Italian.

Morocco: Arabic, Shluh, Tamazight, Riffian, French, Spanish.

Mozambique: Portuguese, Makua, Tsonga, Lomwe, Yao, Makonde, Zulu.

Myanmar: See Burma

Namibia: Ambo, Herero, Hottentot, Bushman, Afrikaans, German, English.

Nepal: Nepali, Tibetan, Bihari, Newari, Murmi.

Netherlands: Dutch, Frisian.

Netherlands Antilles: Dutch.

New Zealand: English, Maori (native language).

Nicaragua: Spanish, Miskito (native language).

Niger: French, Hausa, Djerma, Fulani, Tuareg, Kanuri, Sonhai, Tida, other native languages.

Nigeria: English, Hausa, Yoruba, Fulani, Kanuri, Efi Ibibio, Tiv, Ijo, Edo, Urhobo, Nupe, Idoma, other native languages.

Norway: Norwegian, Lappish

Oman: Arabic.

- Pakistan:** Urdu, Punjabi, Sindhi, Pashto, Baluchi, Brahui.
- Panama:** Spanish, Guaymi, Cuna, other native languages.
- Papua New Guinea:** Pidgin English, Police Motu, Enga, Chimby, Gagen, Kâte, Yabim, Motu, Tolai, other languages.
- Paraguay:** Spanish, Guarani.
- Peru:** Spanish, Quechua, Aymara, Panoan, Jivaro
- Philippines:** Tagalog (Pilipino), Cebuano, Hiligaynon, Samaritan, Ilocano, Bikol, Pampangan, Pangasinan, Maranao.
- Poland:** Polish, Kashubian (considered by some as a Polish dialect).
- Portugal:** Portuguese
- Puerto Rico:** Spanish, English.
- Qatar:** Arabic.
- Rumania:** Rumanian, Hungarian, German.
- Russia:** Russian, Ossetian, Yiddish, Mordvin, Udmurt (Votyak), Mari, Komi, Tatar, Chuvash, Bashkir, Kumyk, Karachai, Tuvian, Yakut, Buryat, Chechen, Avar, Lezgin, Kabardian, other languages.
- Rwanda:** Ruanda, French, Swahili.
- San Marino:** Italian.
- Saudi Arabia:** Arabic.
- Senegal:** French, Wolof, Fulani, Serer, Dyola, Malinke.
- Seychelles:** English, French, French creole.
- Sierra Leone:** English, Mende, Temne, Vai, Kissi, Gola, variety of Pidgin English (Krio).
- Singapore:** Chinese, Malay, Tamil, English.
- Slovakia:** Slovak, Hungarian.
- Slovenia:** Slovenian, Serbo-Croatian.
- Somalia:** Somali, Arabic, Italian, English.
- South Africa:** Afrikaans, English, Zulu, Xhosa, Tswana, Sotho, Pedi, Tsonga, Ndebele, Venda, Fanakalo, Bushman.
- South West Africa:** See Namibia.
- Spain:** Spanish, Catalan, Galician (dialect of Portuguese), Basque.
- Sri Lanka:** Sinhalese, Tamil.
- St. Lucia:** English, French creole
- Sudan:** Arabic, Nubian, Beja, Fur, Dinka, Nuer, Shilluk, Zande, Bari, Lotuko.
- Suriname:** Dutch, Taki-Taki (variety of Pidgin English), Hindi, Javanese, Saramacca, Carib, other languages.
- Swaziland:** Swazi, English.
- Sweden:** Swedish, Finnish, Lappish
- Switzerland:** German, French, Italian, Romansch. Note: Standard German is the written language and is used in the government, universities, and churches. Swiss German, a distinctly different local dialect of German, is used in everyday speech.
- Syria:** Arabic, French, Kurdish, Armenian, Circassian, Assyrian, Aramaic.
- Taiwan:** Mandarin, Fukienese (Amoy).
- Tajikistan:** Tajik, Uzbek, Russian.
- Tanzania:** Swahili, English, Sukuma, Nyamwezi, Chagga, Makonde, Hehe, Yao, Masai, Sandawe, other indigenous languages.
- Thailand:** Thai, Chinese, Malay, Khmer, Tribal Languages: Mon, Karen, Meo.
- Togo:** French, Ewe, Kabre, Gurma.
- Trinidad and Tobago:** English, French creole, Hindi, Tamil.
- Tunisia:** Arabic, French.
- Turkey:** Turkish, Kurdish, Arabic, Circassian, Armenian, Greek, Georgian, Ladino, Aramaic.
- Turkmenistan:** Turkmen, Russian, Uzbek.
- Uganda:** English, Ganda (Luganda), Nkole (Nyankole), Chiga, Gisu, Toro, Nyoro, Lango, Acholi, Alur, Teso, Karamojong, Lugbara, Madi, Swahili.
- Ukraine:** Ukrainian, Russian, Belorussian, Polish, Yiddish.
- United Arab Emirates:** Arabic, Persian, other Indian and Pakistani languages.

United Kingdom: English, Welsh, Scottish, Gaelic

United States of America: English, Spanish, French, German, Italian, Chinese, Tagalog, Polish, Korean, Vietnamese, Portuguese, Japanese, Greek, Arabic, Hindi, Russian, Yiddish, Thai, Persian, Armenian, Navajo, Hebrew, Dutch, Khmer, Gujarati, Ukrainian, Czech, Sioux, Cherokee, Apache, Choctaw, Papago, Keresan, Zuni, Ojibwa, many other indigenous languages.

Upper Volta: See Burkina Faso.

Uruguay: Spanish.

Uzbekistan: Uzbek, Russian, Tajik, Kara-Kalpak.

Vanuatu: English, French, Melanesian languages.

Venezuela: Spanish, Arawak, Carib, other indigenous languages.

Vietnam: Vietnamese, Chinese, Khmer, French (in official circles), Muong, Nung, Meo, Yao, Jarai, Rhade, Bahnar, Sedang, other tribal languages.

Western Samoa: Samoan, English.

Yemen: Arabic.

Yugoslavia: Serbo-Croatian, Albanian, Hungarian.

Zaire: French, Lingala, Kingwana (dialect of Swahili), Kongo, Ngala, Luba, Mongo, Rwanda, Zande, Rundi, Mangbetu, Chokwe.

Zambia: English, Bemba, Tonga, Nyanja, Lozi, Tumbuka, Lwena (Luvale), Lunda.

Zimbabwe: English, Shona, Ndebele, other native languages.

References

Kenneth Katzner, *The Languages of the World* (New York, 1995).

Funk and Wagnalls, *The World Almanac and Book of Facts 1995* (New Jersey, 1994).

Overheads

*Managing Language Problems:
A Court Interpreting Education Program for
Judges, Lawyers, and Court Managers*

What Is This Session About?

The difference between being a *bilingual person*

... even a highly educated one ...

and being a *court interpreter*.

What We Plan to Accomplish

- Provide an “inside” view of the interpreter’s experience.
- Discuss interpreter proficiency testing and why we think it’s important.

What Is the Interpreter's Job?

To render everything said in court in the source language into the target language:

1. Accurately, without any distortion of *meaning*
 2. Without omissions
 3. Without additions
 4. Without any changes in style or "register"
 5. *With as little delay or interference in the routine pace of court proceedings as possible!!*
-

Required Cognitive and Motor Skills

1. Listen
 2. Comprehend
 3. Abstract the message from the words and word order
 4. Store ideas
 5. Search for the conceptual and semantic matches
 6. Reconstruct the message in the other language
 7. **WHILE** . . . Speaking and listening for the next chunk of language to process
 8. **WHILE** . . . Monitoring their own output
-

Legalese and Elliptical Language

“To violate a defendant”
(8 syllables)

Correct Spanish:

“Acusar de una infraccion a un acusado bajo libertad condicional.”

(24 syllables)

Verbatim Spanish: (incorrect)

“Violar a un acusado.”

(“Rape a defendant”)

Legalese and Elliptical Language

“Motion to strike priors.”
(6 syllables)

Correct Spanish:

“Petición para eliminar condenas anteriores.”
(16 syllables)

Noun and Adjective Position

“The long, hard rocky road to success.”

“El camino largo, duro y accidentado hacia el
éxito.”

Passive/Active Voice

“Golpearon a la puerta.”

Incorrect: “They knocked at the door.”

Correct: “There was a knock at the door.”

“Me dijeron eso.”

Incorrect: “They told me that.”

Correct: “I was told that.”

Scenario: Passive Voice Error by Interpreter

Q: Please tell us again: What happened at 8 p.m. that evening?

A: Golpearon a la puerta.

A-INT: They knocked at the door.

Q: ¿Que? No entiendo.

A-INT: What? I don't understand.

Q: You said, "They knocked at the door."
Just tell us who these people were, or describe them for us. (And so on)

Passive/Active Voice

“Me lo robaron.”

Incorrect: “They stole it from me.”

Correct: “It was stolen from me.”

“Me vieron.”

Incorrect: “They saw me.”

Correct: “I was seen.”

Test Results: Spanish

# Tested	# Passed	% Passed
<u>Total</u> 17,741	784	4.4
<u>Federal</u> 15,588	559	3.6
<u>N.Jersey</u> 977	78	8.0
<u>WA State</u> 1,176	147	12.5

Test Results: Haitian Creole

# Tested	# Passed	% Passed
<u>Total</u> 356	15	4.2
<u>Federal</u> 339	13	3.8
<u>N.Jersey</u> 17	2	11.8

Test Results: Asian Languages

**Total for all Asian Languages
from Washington State**

# Tested	# Passed	% Passed
564	67	11.8

Test Results: Asian Languages

From Washington State

Asian Language	# Tested	# Passed	% Passed
Cambodian	55	4	7.3
Cantonese	185	30	16.2
Korean	182	22	12.1
Laotian	26	1	3.8
Vietnamese	116	11	9.5

Structure of Certification Tests

Tests have three parts:

1. Sight translation of documents:
 - a. Foreign language into English
 - b. English into foreign language
2. Consecutive interpretation of testimony
3. Simultaneous interpretation of an attorney's opening or closing argument to the jury.

**All are simulations of what interpreters do
in court**

Test Scoring Units

What are they?

- Underlined words or phrases in the text.
- Preselected items representing special linguistic characteristics.
- The language characteristics interpreters must know and render accurately and completely.

What Scoring Units Look Like

On July 7, 1995,¹ the defendant² in this case was
observed^{5,6} walking quickly⁴ away from a
convenience store,³ shortly before⁴ it began to
rain. He appeared to be intoxicated.^{5,7}

1. Numbers/names
2. “Legal” terminology
3. General vocabulary
4. Modifiers/emphasis
5. “Register” (style)
6. Grammar/verbs
7. False cognates

Scoring Units: Complete List

- Grammar and syntax
 - False cognates/interference
 - General vocabulary
 - Technical vocabulary (“legal,” “court”)
 - Idioms and expressions
 - Conservation of style
 - Numbers, names, dates (accuracy)
 - Modifiers and emphasis
 - Position (words likely to be left out)
-

Test Responses: “Now, Mrs. Peña . . .”

Attorney Question:

Now, Mrs. Peña, you indicated that you live in East Orange at 5681 Grand Street.

Interpreter Versions:

1. You say that you live in East Orange.
 2. You told me that you lived in the west of Orange, at 56 Grand Street.
 3. Now, you told me that you lived at 4581 East Orange.
 4. Em, em, I live at 58 on, on, Hunt Street.
 5. I understand that you said that you lived in West Orange.
 6. And tell me whether you live on, on Grand Street, Senora Peña.
 7. You live in East Orange at 81 Grand Street.
 8. **You say that you were eating an orange?**
-

Test Responses: “Now, Mrs. Peña . . .”

Attorney Question:

Now, Mrs. Peña, you indicated that you live in East Orange at 5681 Grand Street.

Interpreter Versions:

1. You indicated earlier that you lived at 5681 Grant Avenue in East Orange. Is that right? *
2. **You say that you were eating an orange?**

* This examinee had 38 years of experience and had passed an Executive Branch Civil Service test.

Examples of Test Errors

Staff interpreter: 38 years of experience

Overall test score: 44% correct scoring units

Text to be interpreted	Interpretation
Now, there were no <u>injuries</u> in this accident.	Now, there were no <u>insults</u> in this accident.
... but <u>thought nothing of it.</u>	... but <u>did not think about it at all.</u>
It <u>had to be</u> dark.	It <u>was</u> dark.
... continuing <u>to harass</u> him.	... continuing <u>to offend</u> him.

Examples of Test Errors

Staff interpreter: 22 years of experience

Overall test score: 36% correct scoring units

Text to be interpreted	Interpretation
I was on the second floor, in my <u>bedroom</u> .	I was on the second floor, in my <u>dormitory</u> .
Were you able to <u>actually</u> see . . .	Were you able to <u>presently</u> see . . .
There was a <u>very big</u> crash . . .	There was a <u>car accident</u> . . .
. . . a <u>shotgun</u>	. . . a <u>firearm</u>

Examples of Test Errors

Staff court interpreter: 12 years of experience

Overall test score: 29% correct scoring units

Text to be interpreted	Interpretation
. . . but <u>thought nothing of it</u>	. . . but <u>took nothing out</u>
<u>It sure did!</u>	<u>Yes, I think so.</u>
And could you tell us what floor you were on <u>at about midnight . . .</u>	And can you tell me what floor you were on <u>at midnight . . .</u>
. . . were you able to actually see where the broken glass <u>had come from?</u>	. . . could you see where <u>they broke the glass . . .</u>
I don't intend <u>to rehash</u> the evidence.	I don't intend <u>to hear</u> the evidence.

Examples of Test Errors

Lawyer and free-lance interpreter: 12 years of experience

Overall test score (took test twice): 41% and 41%

Text to be interpreted	Interpretation
<u>I met</u> Mr. Torres five years ago . . .	<u>I knew</u> Mr. Torres five years ago . . .
I looked for a jacket that <u>I had just bought</u> , I hadn't put it on yet, and it <u>was missing</u> .	I <u>picked up</u> a jacket which I had not worn then and I <u>put it on</u> .
Well, because at one time we were <u>sweethearts</u> .	Yes, we were <u>friends</u> at one time.
\$3,500	\$35,000

The National Center for State Courts

*Promoting Justice by Providing
Leadership and Service to State Courts*

The National Center for State Courts

Promoting Justice by Providing Leadership and Service to State Courts

The National Center for State Courts stands in a unique place in this country, as the only institution representing all of the state courts. The work of the National Center seldom produces headlines; it does produce a higher quality of justice for our citizens. The past year has been marked by change and introspection as the National Center positions itself for an even stronger role in the administration of justice.

*Ohio Chief Justice Thomas J. Moyer, Past Chair,
National Center for State Courts Board of Directors, 1996*

For more than twenty-five years, the National Center for State Courts has been the focal point of research, information, education, and hands-on assistance for the nation's state courts. Formed in 1971 by Chief Justice Warren E. Burger and other state judicial leaders, the National Center has helped courts to reduce backlogs and delay, to improve public accessibility, to bring technology into the courts and courtrooms, to improve jury systems, to make informed decisions about court operations, to understand the demands of management and leadership in the state judicial system, and to improve relations between state courts and federal courts. Today, the National Center for State Courts works in partnership with state and local court leaders to improve the delivery of justice in America's state courts.

The National Center for State Courts has been called an "irreplaceable resource for the state courts." No one state has the capacity on its own to create anything like the National Center. Because twenty-five years ago the nation's state judicial leaders agreed to pool their resources and because today's judicial leaders continue to care deeply about justice and its administration in the states, there is a National Center for State Courts.

The National Center's 21-member Board of Directors represents all levels and jurisdictions of state courts and those who use the courts. The Conference of Chief Justices, the Conference of State Court Administrators, and the National Association for Court Management hold standing positions on the Board.

The National Center for State Courts is supported by voluntary assessments from the states; seminar and conference fees; state, federal, and international grants and contracts; and private contributions from corporations, law firms, and citizens. The National Center is a nonprofit, tax-exempt organization in accordance with Section 501(c)(3) of the Internal Revenue Service.

PROPERTY OF
National Criminal Justice Reference Service (NCJRS)
Box 6000
Rockville, MD 20849-6000

Executive Officers

Roger K. Warren
President

Donald Cullen
Vice President, Operations

Linda D. Caviness
Executive Director, International Programs

Victor E. Flango
Vice President, Research Division

Francis P. Gavin
Executive Director, Institute for Court Management

Thomas A. Henderson
Executive Director, Office of Government Relations

James D. Thomas
Vice President, Court Services Division

Christine K. Polk
Controller

Brenda A. Williams
Director, Association Management

HEADQUARTERS

300 Newport Avenue
Williamsburg, VA 23185
(P.O. Box 8798, Williamsburg, VA 23187-8798)
(757) 253-2000 • fax: (757) 220-0449

- Association Services
- Court Technology Programs
- Development
- Fiscal/Administrative Services
- Human Resources
- Information Service
- Institute for Court Management
- Institute on Mental Disability and the Law
- International Programs
- Library
- Office of the President
- Research Program
- Library

COURT SERVICES DIVISION

1331 Seventeenth Street, Suite 402
Denver, CO 80202-1554
(303) 293-3063 • fax: (303) 296-9007

- Consulting Services
- Technical Assistance Projects

WASHINGTON OFFICE

1700 North Moore Street, Suite 1710
Arlington, VA 22209
(703) 841-0200 • fax: (703) 841-0206

- Center for Jury Studies
- Office of Government Relations

For more information about the National Center, you will find us on the
World Wide Web at <http://www.ncsc.dni.us>

The National Center for State Courts welcomes private contributions. Friends interested in learning about ways to support the work of the National Center are invited to contact the President of the National Center for State Courts, 300 Newport Avenue, Williamsburg, Virginia 23185 or call (757) 253-2000.

