DOCUMENT RESUME

ED 272 024 FL 015 886

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TITLE Court Interpreter Training: A Growing Need.
PUB DATE May 85
NOTE 53p.; In: Proceedings of the Eastern Michigan University Conference on Languages for Business and the Professions (4th, Dearborn, MI, May 2-4, 1985); see FL 015 835.
PUB TYPE Information Analyses (070) -- Viewpoints (120) -- Speeches/Conference Papers (150)

EDRS PRICE MF01/PC03 Plus Postage.
DESCRIPTORS *Civil Rights; *Constitutional Law; *Court Litigation; *Courts; *Educational Needs; Federal Legislation; *Interpreters; Needs Assessment; Second Language Instruction; State Legislation
IDENTIFIERS Court Interpreters Act 1978; New Jersey

ABSTRACT

Developments in court interpretation are outlined to illustrate the argument that more, and more qualified, interpreters are need to assist in both the federal and state courts. This discussion focuses principally on the criminal justice system, and includes federal statutory developments, especially concerning the implementation and impact of the Court Interpreters Act of 1978; constitutional bases for the appointment of a court interpreter, including federal developments in case law, state cases referring to the Federal Constitution, and state cases referring to state constitutions; a case study of the recent efforts of the State of New Jersey to improve its court interpretation services; the rationale and needed design for court interpretation training; and the current status of court interpreter training in the United States. Educational and administrative needs in the rapidly expanding field are examined. (MSE)

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# COURT INTERPRETER TRAINING:

# A GROWING NEED

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# Court Interpreter Training: A Growing Need

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## I. Introduction

As more and more non-English-speaking people (many of them Hispanic) enter the United States, an increasing number of governmental and nongovernmental agencies and organizations face communication barriers. In their contacts with such groups, people possessing minimal English skills or totally lacking such skills often find themselves at a great disadvantage in many situations which have potentially critical consequences.

One such governmental entity is the criminal justice system. A non-English-speaking defendant's encounter with the courts is often a nightmare. Understandably, a person's inability to comprehend the what is transpiring prevents him/her from fully contributing to his/her own case. For this reason, some courts have recognized the need for qualified interpreters to aid non-English-speakers during courtroom proceedings.

The current paper examines a number of pertinent developments re court interpretation which support the author's contention that more and more qualified interpreters are needed every day to assist in both the federal and state courts. With an emphasis on the criminal justice system, the article specifically discusses federal statutory developments (focusing on the implementation and impact of the Court Interpreters Act of 1978); constitutional bases for the appointment of a court interpreter, including

federal developments in case law, state cases which refer to the Federal Constitution, and state cases which refer to state constitutions; a case study of the recent efforts in the State of New Jersey to improve its court interpretation services; why court interpretation training is needed and what kind of training should be provided; and the current status of court interpreter training in the United States. The study concludes by looking at what remains to be done in the rapidly expanding field of court interpretation.

Even though it is obvious that many minority groups face difficulties in our courts (including the hearing-impaired) (Ingram, in press), the current article concentrates on the plight of the Hispanic since the great majority of cases which require interpretation services involve the Spanish language (Annual Report of the Director of the Administrative Office of the United States Courts 1980, 1981, 1982, 1983, and 1984).1

## II. Federal Statutory Developments

Prior to passage of the Court Interpreter's Act of 1978 (Public Law 95-539), The Criminal Justice Act of 1964, Rule 604 of the Federal Rules of Evidence, and Rule 28(b) of the Federal Rules of Criminal Procedure regulated interpreter use in the federal criminal courts. Rule 604 of the Federal Rules of Evidence is a very important one. It states:

> An interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation that he will make a true translation.

Very importantly, qualifying as an expert witness indicates that interpreting is regarded by the federal courts as a speciality requiring arcane knowledge. In addition, the role which the interpreter plays makes him/her subject to having his/her interpretation challenged and impeached just like any other expert witness. Such a procedure provides a safeguard designed to protect the constitutional and statutory rights of all involved parties. Rule 604 still applies to all interpreters working in the federal courts.

A more detailed examination of Rule 28(b) is also warranted. It states:

> The court may appoint an interpreter of its own selection and may fix the reasonable compensation of such interpreter. Such compensation shall be paid out of funds provided by law or by the government, as the court may direct. (emphasis added)

There are two key points to be made about the wording of Rule 28(b). First of all, "the court may appoint an interpreter" allows the provision of an interpreter to be at the discretion of the court. As a result, even if the defendant has no knowledge of the English language at all, appointment of an interpreter is not mandatory, according to Rule 28(b). Chang and Araujo write:

> [W]e are confronted with the absurdity of a system which grants an attorney to the indigent defendant but refuses to provide an interpreter so he can effectively communicate with counsel (1975:820).

There have been cases in which the courts have blatantly ignored the lack of both communicative and receptive competence in English on the part of the defendant. Such courts have refused to appoint

an interpreter to aid the accused. "Without the aid of an interpreter, the probability of error prejudicial to the defendant is great and the likelihood of detection of such error low" (Chang and Araujo 1975:823). In Diaz v. State 491 S.W.2d 166 (Tex. Crim. App. 1973), for example, the trial court denied interpreter assistance to the accused while he testified. Diaz appealed, noting that he had requested an interpreter in open court, but that his request had been ignored by the judge. The court record clearly demonstrated that Diaz had minimal knowledge of English. As a result, he had great difficulty not only following the attorney's questions but also expressing himself in English during his testimony. In an attempt to have the defendant better understand what was being asked of him, the judge allowed the defense attorney to lead the witness during questioning. The trial court record showed that the judge stated:

> The Court: I will permit you to go beyond the normal English speaking standard, but make your leading to the minimum. . . .
>
> The Court: You just listen very carefully to the man's questions I think you can get along all right, to either of the lawyers, they'll put their questions to you pretty clearly, I think (167).

Even with these glaring problems, Diaz's appeal for a new trial was denied.

Secondly, Rule 28(b) states "...an interpreter of its own selection." A primary consideration in this regard is the ability (or inability) of a trial judge to determine whether or not an interpreter "of [the court's] own selection" is qualified to perform the job. The overwhelming majority of judges are

monolingual English-speakers. They are in no position to assess the competence of a person called to serve as an interpreter. The courts have not always exhibited genuine regard for the welfare of the non-English-speaking defendant. In the past (before passage of the Court Interpreters Act), many federal judges appointed interpreters strictly on an ad hoc basis. For example, bailiffs, secretaries who work in the courthouse, relatives of the defendant, police officers, and even spectators in the courtroom have been called on by the court to provide interpretation services. Since the judge often has no way to assess the interpretation skills or determine the foreign language competence of a person selected to interpret, the completeness and accuracy of the ad hoc interpreters' translations would certainly be in question.

Evidence of concern about the inadequate provisions of Rule 28(b) was noted by Senator John Tunney of California who introduced The Bilingual Courts Act (S.565, 94th Cong., 1st Sess. (1975)). Unfortunately, this bill never became law. However, had it been passed by the Congress, the Act would have required the federal courts to certify interpreters and use them in district courts. As well, it would have allowed tape recordings of the courtroom proceedings so the translated material could be compared with the original language of testimony and examined for accuracy.

Two other similar bills were produced by the 94th Congress: H.R. 4096 and H.R. 2243. H.R. 4096 would have required the

Director of the Administrative Office of the United States Courts (AOUSC) to designate a district as a "bilingual judicial district" if forty thousand or four percent (whichever is less) of the district residents did not understand or speak English. When so designated, each bilingual judicial district would be provided with simultaneous interpretation equipment as well as with other electronic taping equipment so the court proceedings could be recorded. H.R. 2243 would have required a district to have fifty thousand or five percent of its residents demonstrating English language difficulty in order to qualify as a bilingual judicial district. Neither H.R. 4096 nor H.R. 2243 ever became law. Of course, there are some very obvious problems which manifest themselves when one considers the two House bills. First of all, how would the Director of the AOUSC have determined the eligibility of an area to become a "bilingual judicial district?" Would he/she have examined census figures for concentrations of Hispanic people by geographical region? Certainly, that would be a start; however, just because someone checks "Hispanic" as his/her ethnic origin on a census form in no way indicates (or guarantees) that the person does not speak or understand the English language. Without going into more detail, one can quickly identify the potential problems which could arise from the enactment of bills such as these.

Although none of the aforementioned three bills ever became law, we may view them (at least in part) as precursors to the Court Interpreters Act of 1978 insofar as the Act does mandate

that the Director of the AOUSC certify interpreters for use in the federal courts, among other things.

As indicated earlier, the provision for interpreters under Rule 28(b) was inadequate because it left the critical decision of whether or not to appoint an interpreter entirely to the discretion of the court. Moreover, the court was not (and often still is not) qualified to determine the foreign language and interpretation skills of a person designated as the interpreter.

To address the shortcomings of Rule 28(b), and to provide a more organized and professional framework for appointing interpreters in the United States courts, the Court Interpreters Act (Public Law 95-539) was passed by Congress on October 28, 1978. Section 1827, "Interpreters in Courts of the United States," states, in pertinent part:

> (a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of interpreters in the courts of the United States.
>
> (b) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters in courts of the United States in bilingual proceedings ....
>
> (d) The presiding judicial officer, with the assistance of the Director of the Administrative Office of the United States Courts, shall utilize the services of the most available certified interpreter. . . in any criminal or civil action initiated by the United States in a United States district court. . . if the presiding judicial officer determines on such officer's own motion or on the motion of a party that such party (including the defendant in a criminal case), or a witness who may present testimony in such action--
>
> (1) speaks only or primarily a language other than the English language. . .
>
> so as to inhibit such party's comprehension of the proceedings or communication with counsel or the

> presiding judicial officer, or so as to inhibit such witness' comprehension of questions and the presentation of such testimony.

Moreover, Section 1828, "Special Interpretation Services," mandates: "(a). . . The program shall provide a capacity for simultaneous interpretation services in multidefendant criminal actions and multidefendant civil actions."

Since passage of the Court Interpreters Act, the AOUSC has moved ahead to certify Spanish/English interpreters for use in the federal courts. Initially, the AOUSC "focused on identifying those actual tasks regularly performed by federal court interpreters, as well as determining competency levels for successful performance of their duties" (Annual Report of the Director of the Administrative Office of the United States Courts 1980:151). In addition, over 70 people (i.e., leaders of professional interpretation organizations, jurists, academicians, and so on) were interviewed by the AOUSC. Almost everyone in this group urged the AOUSC to develop and implement rigorous standards in its certification procedure so as to best identify the people who possess the requisite knowledge for interpreting in complex courtroom proceedings.

With the aid of several highly qualified consultants, the Personnel Office of the AOUSC developed a certification test in Spanish/English. The examination has two parts. The first section is a written test designed to assess whether or not a candidate is equally proficient in both Spanish and English in the necessarily high register of courtroom language. Candidates

who demonstrate the requisite proficiency on the first part of the examination proceed to the second part, an oral test. Part II basically assesses the candidate's simultaneous and consecutive interpretation skills as well as his/her ability in sight translation.

The written test was developed and first tested in November of 1979. After several minor modifications, the final version was administered in 82 cities nationwide. Announcements for the examination were distributed throughout the federal and superior court systems and to interpretation organizations. A total of 1,336 people actually took the examination and 412 were successful on the written test. Of these 412 candidates, 110 went on to pass the oral test and were subsequently certified by the Director of the AOUSC. A federal judge who observed the administration of the oral test at one of the 82 locations deemed it "an excellent test which clearly identified those who could meet the degree of proficiency required in the courts" (Annual Report of the Director of the Administrative Office of the United States Courts 1980:155).

The certification program was desperately needed for Spanish-English, as evidenced by the following statistics provided by the district courts. Table I indicates the number of times interpreters were used in the United States District and Bankruptcy Courts during the past five years:

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Insert Table I here

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Interestingly enough, except during 1980, the number of cases requiring the use of Spanish interpreters has risen consistently from 1979 through 1983. The increase of almost 12,000 cases during this five-year period indicates very clearly that Spanish interpreters are needed more and more often in the federal courts. One can infer from these figures that the state courts must certainly hear many cases that necessitate Spanish interpreters as well.

With respect to the AOUSC's Federal Court Interpreter Certification Program, it is noteworthy that, as of April, 1984, there are 263 federally certified court interpreters in Spanish/English in the United States. Upon examination of the roster of "Certified Spanish/English Interpreters" compiled by the AOUSC, one discovers, however, that these 263 individuals are domiciled in only 24 of the 50 states as well as in the District of Columbia and Puerto Rico. Those 24 states include Arizona, California, Florida, Illinois, New Jersey, New Mexico, New York, and Texas, all of which have significant Hispanic populations. In fact, 65.7% of the total number of federally certified court interpreters are domiciled in these 8 states, which represent only 16% of the 50 United States. Table II provides a distribution of federally certified Spanish/English interpreters in the aforementioned states as well as the Hispanic population of those states:

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Insert Table II here

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Surprisingly, Illinois with a Hispanic population of 636,000, has only 3 federally certified interpreters while Florida (with only 22,000 more Hispanics than Illinois) has 31 federally certified court interpreters, more than 10 times the Illinois figure. Also of interest is the fact that Texas, with a Hispanic population nearly twice as large as that of New York, has only 5 more certified court interpreters than does the Empire State.

As I conducted my research on the ratio of federally certified court interpreters to the Hispanic population in the United States, I found it rather peculiar that Colorado, with a population of approximately 340,000 Hispanic residents, does not have even one federally certified interpreter. However, in a conversation with Mr. Jon Leeth, Special Assistant to the Assistant Director of the AOUSC, he told me that, surprisingly enough, there are very few requests from the federal district courts in Colorado for Spanish/English interpreters (Personal communication, March 29, 1985).

One question which often arises is whether the AOUSC will develop and implement additional certification programs for the federal courts in other languages and, if so, in which languages. According to Jon Leeth, a team in New Mexico has just completed work on a Navaho/English court terminology glossary with the intent of developing a certification examination in Navaho/English. It is not yet certain, however, when this project will be undertaken.

Another recent development at the AOUSC was the awarding of a contract to the University of Arizona to develop the materials for and administer the Spanish/English Federal Court Interpreter Certification Examination. University personnel will henceforth take full responsibility for sending out the announcements of subsequent examinations and processing the applications received. Moreover, a team of experts will assemble at Arizona each year to write a new version of the test. Its work has already begun, as the AOUSC has authorized scheduling the 1985 examinations, the fifth round of federal certification testing. The written portion of the examination will be administered throughout the country in June, and the oral part will follow sometime in late August for those candidates who successfully complete the written test.

Continuing with my discussion of federal statutes which address interpretation services in the courts, I wish to draw attention to the following section in the Code of Federal Regulations:

> Interpreter.
> Any person acting as an interpreter in a hearing under this part shall be sworn to interpret and translate accurately, unless the interpreter is an employee of the [Immigration and Naturalization] Service, in which event no such oath shall be required (8 CFR Sec. [illegible], Jan. 1, 1985; 22 FR 9797, Dec. 6, 1957).

Robert L. Miller wrote an interesting article in 1983 which described a deportation hearing at which he was a spectator. The interpreter, as an employee of the Immigration and Naturalization Service (INS), was not required to swear that his interpretation

would be accurate. This difference between the INS employee and other interpreters implies that the INS employee is more trustworthy. During the course of the proceedings, the person being investigated tried to explain (at two separate times during the hearing) that he, in fact, had a "permiso." Miller writes:

> The interpreter failed on both occasions to interpret what the respondent had said. In response to a question as to whether he would be willing to depart voluntarily, the respondent answered with his own question "don't my three children born here count for anything?" The interpreter, however, translated "can I take my three children with me?" (Miller 1983: 4)

Miller understands Spanish and so he was able to pinpoint the faulty interpretation ("to the consternation of the interpreter") (1983:4). However, he makes an excellent point. The judge did not understand the respondent's answers which were spoken in Spanish. As a result, the court had to rely entirely on the incorrect, incomplete interpretation provided by the INS interpreter and base its decision solely on the interpreter's translation of the testimony.

Moreover, Miller rightly raises the question of the quality of interpretation services when less common languages require the use of an interpreter. In the case of Swahili or Tagalog, the respondent and the interpreter may be the only two people in the courtroom who speak the language. Therefore, there would be no means whatsoever of comparing the foreign language version with the interpreted version. Perhaps requiring the INS interpreter to swear to provide a truthful translation of the testimony would not change or improve the situation. What is critical

here, however, as in any case, is the need for the ability to verify that what a witness has said has been correctly and completely translated by the interpreter. In this connection, Miller closes by advocating

> . . . that some independent third-person interpreter also be present to assure than [sic] some head is not improvidently cut off because some part of the question or answer is left out or changed (4).

Unfortunately, in an otherwise pertinent and timely article, Miller fails to make it clear whether the INS interpreter was simply incompetent or if he acted in bad faith to prejudice the case against the respondent by taking the side of his employer.

Many states have statutes which provide for the appointment of interpreters. Most of them are modeled on Rule 28(b) of the Federal Rules of Criminal Procedure. Unfortunately, the state statutes and accompanying relevant cases are too numerous to address within the scope of this paper.

## III. Constitutional Bases for Appointment of Court Interpreters

### A. Federal Developments: Case Law

Portions of two amendments to the Federal Constitution are often cited in both federal and state level criminal cases as justifying appointment of court interpreters. The Sixth Amendment of the Federal Constitution states, in pertinent part:

> In all criminal prosecutions, the accused shall enjoy the right to. . . be informed of the nature and cause f the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his Defence.

This amendment is the major federal source of the right to an interpreter. The states are bound to obey the dictates of the Sixth Amendment due to its incorporation into the Fourteenth Amendment through the due process clause. Section I of the Fourteenth Amendment to the Federal Constitution states, in pertinent part:

> . . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

During the past fifteen years, the federal courts have grown increasingly more sensitive to the plight of the non-English-speaking defendant.

In 1970, a decision was handed down by the United States Court of Appeals for the Second Circuit which has been cited hundreds of times subsequently in similar cases. That decision was in the case of United States ex rel. Negron v. New York 434 F2d. 386 (2d Cir. 1970). The Second Circuit granted a habeus corpus petition, stating that an indigent defendant who has extreme English comprehension and communication problems is entitled to the services of an interpreter as a constitutional right. If the court is notified that the accused does not speak or understand the English language, then it is the court's responsibility to "make unmistakeably clear to [the defendant] that he has the right to have a competent translator assist him, at state expense if need be, throughout his trial" (391). In Negron, when the interpreter was present in the courtroom, "she

never translated English testimony for Negron while the trial was in progress" (388). Only summaries were provided to the defendant at intervals throughout the trial. The opportunities for Negron to communicate with his attorney, witnesses, and other officers of the court through an interpreter were "spasmodic and irregular" (388). In fact, there were only two brief recesses of 10-20 minutes throughout Negron's 4-day trial during which witnesses' testimony was summarized by the interpreter. The Second Circuit opinion stated:

> Apart from [the interpreter's] occasional ex post facto resumes -- the detail and accuracy of which is not revealed in any record -- none of this [state's testimony against him] . . .was comprehensible to Negron (388).
>
> However astute [the interpreter's] summaries may have been, they could not do service as a means by which Negron could understand the precise nature of the testimony against him. . . (389).

Negron, then, was not able to respond to testimony as it was given. He was also deprived of attorney-client communication which, among other things, prevented him from contributing to his own defense. The Second Circuit viewed the provision of an interpreter "as a matter of simple humaneness" (390) and stated that "Negron deserved more than to sit in total incomprehension as the trial proceeded" (390). Finally, Negron himself spoke on the matter during a hearing before Judge Bartels. He testified:

> I knew that I would have liked to know what was happening but I did not know that they were supposed to tell me (390).

The year 1973 saw another case during which the question of the right to an interpreter arose, but the result was not a completely happy one. In United States v. Carrion 488 F.2d 12 (1st Cir. 1973), cert denied, 416 U.S. 907 (1974), the right to an interpreter even if the defendant has limited ability to communicate in and comprehend English was addressed. The First Circuit stated that it was the responsibility of the trial court to investigate the defendant's English language ability and, in doing so, determine whether an interpreter was required. It also indicated that the defendant's right to confront the witnesses against him "would be meaningless if the accused could not understand their testimony" (14). A regard similar to that of the Second Circuit in Negron was expressed by the First Circuit in Carrion when it examined the concept of fundamental fairness:

> The right to an interpreter rests most fundamentally, however, on the notion that no defendant should face the Kafkaesque spectre of an incomprehensible ritual which may terminate in punishment (14).

Even after what appeared to be a rather enlightened look at the issue of the right to an interpreter, the First Circuit affirmed Carrion's conviction, but also stated: "Whenever put on notice that there may be some significant language difficulty, the court should make such a determination of need" (15).

B. State Criminal Cases Which Refer to the Federal Constitution

In many state court cases, the reasoning parallels the already stated reasoning in the federal court cases regarding the Sixth and Fourteenth Amendments. In State v. Vasquez 101

Utah 444, 121 P.2d 903, a 1942 case, the Utah Supreme Court held that the trial court's denial of an interpreter to Vasquez, who neither spoke nor understood English, was a reversible error. In its appellate review, the Utah Supreme Court addressed the right of confrontation. It rightly pointed out that just because the defendant is able to see and hear a witness does not guarantee his/her understanding of the proceedings. The Utah Supreme Court opinion stated:

> If the defendant cannot understand what the witness is relating, from some points of view it is analogous to being out of hearing. . . . Suppose a defendant were placed in a transparent compartment where he could see all that took place, yet was deprived of hearing what was said because all sound was cut off, could it be said that such a situation were less than a deprivation of the constitutional right of confrontation? (905)

Furthermore, the Utah Supreme Court, in a rare instance, "put the shoe on the other foot" when it commented on the hypothetical situation of the attorneys, judge and jury not understanding a witness' testimony:

> A witness fluently giving a narrative, understood by him but not by the court or jury, may, so far as reaching a comprehensive result is concerned, be telling of the gold, gum, salt, and ivory of Timbucktu. May it be said to be a fair trial if a defendant is in the same position? (906)

The Arizona Supreme Court found that the defendant in State v. Natividad 111 Ariz. 191, 526 P.2d 730 (Ariz. S. Ct. 1974) was denied due process when the trial court did not provide him with an interpreter. No interpreter was present at the preliminary hearing, but the prosecutor did consent to short recesses so that the defense attorney "could attempt to explain

the proceedings and testimony to his client" (732). However, the Arizona Supreme Court opinion states that there was "[no] evidence as to whether the appellant's attorney was able to speak Spanish" (733). The judgement against Natividad was reversed when the Arizona Supreme Court found that he was denied his constitutional guarantee of the right to cross-examine, the right to confront the witnesses against him, and the right to be present at his own trial. Judge Lorna Lockwood wrote:

> The inability of a defendant to understand the proceedings would be not only fundamentally unfair but particularly inappropriate in a state where a significant minority of the population is burdened with the handicap of being unable to effectively communicate in our national language. A defendant's inability to spontaneously understand testimony being given would undoubtedly limit his attorney's effectiveness, especially on cross-examination (733).

Natividad was remanded to the trial court with the instructions that it investigate the language difficulties of the defendant.

In a 1977 case, Gonzales v. State 372 A.2d 191 (De. S. Ct., 1977), the arresting police officer served as the accused's interpreter both at the time of the arrest and at the trial. Although many cases have been documented in which the use of ad hoc interpreters was not viewed as an abuse of discretion on the part of the trial court, the Delaware Supreme Court recognized that the defendant's case could be prejudiced by the use of such an interpreter. In reversing the judgement against Gonzales, the Court wrote:

> We hold that there is an inherent possibility of bias, and a violation of due process rights, whenever an arresting police officer is called upon to serve as the defendant's interpreter at trial (192).

> It was reversible error for the Trial Judge not to appoint an unbiased and impartial interpreter for the defendant or, alternatively, to grant a continuance of the case until the defendant could procure the services of such a person (193).

C. State Cases Which Refer to a State Constitution

A number of states, responding to particular needs within their jurisdiction, have enacted statutes requiring interpreters in various situations. The most far-reaching of these enactments are constitutional provisions. Currently, the California and New Mexico Constitutions require interpreters. Article I, Section 14 of the State of California Constitution, adopted November 5, 1974, states that:

> [A] person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings.

Article II, Section 14 of the State of New Mexico Constitution states, in pertinent part:

> In all criminal prosecutions, the accused shall have the right to appear and defend himself in person, and by counsel; to demand the nature and cause of the accusation; to be confronted with the witnesses against him; to have the charge and testimony interpreted to him in a language that he understands. . . .

In addition to the right of an interpreter provided for in the California Constitution, the wording of the Constitution has very serious implications. The phrase, "throughout the proceedings" has been the cause of many reversals by the higher courts, even though an interpreter (or two or more) has been provided for the defendant(s) during the trial. Several recent cases have referred to the "borrowing" of the defendant's interpreter (the interpreter who is seated at counsel table, simultaneously

interpreting the ongoing courtroom proceedings for the benefit of the defendant) when non-English-speaking witnesses have been called to testify. The defendant's interpreter then becomes what Chang and Araujo call a "witness interpreter" (1975:802) when he/she leaves the accused's side to work at the witness stand. The California appellate courts have stated that, during this time, the defendant is deprived of his/her right to communicate with counsel. Furthermore, exchanges between the judge and the attorneys and the judge and the witnesses, for example, are not interpreted for the defendant while his/her interpreter assists a witness.

In People v. Menchaca 194 Cal. Rptr. 691 (Cal.App. 2 Dist.-1983), the judgement was reversed by a strict application of the phrase "throughout the proceedings". The opinion stated:

> . . . we conclude that a third-party witness interpreter cannot effectively discharge the translating responsibilities owed to a defendant. Moreover, a defendant's "presence", his sensibility and comprehension of the criminal trial process, is impaired in other ways by sole reliance on a witness interpreter. When acting in that capacity, an interpreter does not provide the defendant of the court's rulings or of open-court colloquy between the bench and counsel. These are integral parts of the "proceedings" (694).

As well, in a similar case People v. Mata Aguilar 677 P.2d 1198 (Cal. S. Ct. 1984), an interpreter was taken from the defendant's side to interpret for the testimony of two Spanish-speaking witnesses for the prosecution. The California Supreme Court found "constitutional error in the proceedings" (1199). Justice Cruz Reynoso, writing for the majority in the 5-2 opinion, stated:

> California's Constitution does not provide a half measure of protection. Thus, the "borrowing" of the interpreter, the accused's only means of communicating with defense counsel and understanding the proceedings, was a denial of a constitutional right (1201).

Although Aguilar may have been able to understand the Spanish-speakers' testimony, there is no guarantee that the defendant was able to clearly hear or comprehend the questions which were asked in English during that period of the trial (Carrizosa 1984: 1). In reversing the judgement, Justice Reynoso also wrote:

> In the ethnic richness of California, a multiplicity of languages has been nurtured. Historically, many peoples speaking diverse tongues have formed large portions of our population. The people of this state, through the clear and express terms of their Constitution, require that all persons tried in a California Court understand what is happening about them, for them, and against them. Who would have it otherwise? (1205)

Finally, in People v. Rodriguez 205 Cal. Rptr. 556 (Cal. App. 2 Dist. 1984), there were two defendants. Each defendant had been provided with his own interpreter; however, when 3 Spanish-speaking witnesses testified, one of the defendant's interpreters was used as a witness interpreter, thus leaving only one interpreter at counsel table. Once again, the appellate court found constitutional error in this procedure and reversed the judgements against the defendants. The opinion stated:

> This is unacceptable because while the interpreter was acting on behalf of one defendant as a "defense interpreter", the other defendant would be without a "proceedings interpreter". . . .[T]he constitutional right to an interpreter cannot be impaired by requiring joint use of the same interpreter at counsel table (560).

The California Constitution is exemplary in its provision of comprehensive protection of non-English-speaking defendants in criminal proceedings. It not only furnishes interpretation services (which is an accomplishment in itself), but it mandates the use of more than one interpreter should the trial require this step.

## IV. The New Jersey Supreme Court Task Force on Interpreter and Translation Services

At present, the State of New Jersey is looking into the status of court interpretation services in its judicial system. New Jersey's recent work in this area represents a well thought-out and organized effort.

### A. Background

The New Jersey Judiciary is very independent with respect to the administration of its affairs (Lee 1983: 2). Administrative authority is provided to the Judiciary by the 1948 New Jersey State Constitution. Article 6, Section 3, Paragraph 3 states:

> The Supreme Court shall make rules governing the administration of all courts in the state and, subject to the law, the practice and procedure in all such courts.

In addition, Article 6, Section 7, Paragraph 1 mandates:

> The Chief Justice of the Supreme Court shall be the administrative head of all the courts in the state. He shall appoint an Administrative Director to serve at his pleasure.

The New Jersey Supreme Court exercises its autonomous administrative authority through (1) rules (which have the same effects as laws); (2) the Administrative Code of the New Jersey Judiciary

(some sections of which are still in development); (3) directives; and (4) standards and guidelines (Lee 1983: 3).

B. Creation of the Task Force

On May 19, 1982, the Chief Justice of the New Jersey Supreme Court, Robert N. Wilentz, announced the establishment of a 13-member Task Force on Interpreter and Translation Services

> . . . to evaluate existing interpreter and translation services in the court system, and make recommendations to ensure equal access to the courts for those who do not speak English or who have an auditory handicap (News Release, May 19, 1982).

In creating the Task Force, Judge Wilentz stated:

> We have been able to obtain the services of an outstanding group of people who are extremely knowledgeable on these issues and I look forward to their report and recommendations (News Release, May 19, 1982).

1. A Historical Perspective

It is useful to examine the origins of the New Jersey Supreme Court Task Force. Almost 11 years ago, the Administrative Office of the Courts of New Jersey awarded a research grant to a team of investigators at Glassboro State College. The research project was directed by Leonard J. Hippchen. In general, the study undertook to examine the utilization of bilingual interpreters in the New Jersey court system. More specifically, the goals of the project were:

> (1) To conduct a research study of the problem and needs for bilingual court interpreters in the criminal courts of New Jersey. . . .
>
> (2) To develop a recommended state-wide plan for the recruitment, training and certification of bilingual court interpreters, including:

> . . . d) orientation and in-service training; e) standards, job descriptions and classifications, examinations of competency and qualifications, and procedures for examination and certification.
>
> (3) To develop a working handbook for bilingual court interpreters, identifying specific tasks and responsibilities at important process points, from arrest to sentencing. . . .
>
> (4) To develop a guide and procedural instructions manual for use in a courtroom and in each court-related department, which describes court interpreter duties and responsibilities. . . . The manual was also to include recommendations for . . . bilingual forms for notifying Spanish-speaking persons (Hippchen 1977:259-60).

The research project was conducted from July 1, 1974 to December 31, 1974.

Of particular interest is the fact that, even though the Hippchen study conducted rather extensive research on a number of salient issues, nothing was ever done to implement any of its recommendations. One can only speculate that perhaps funding was not readily available at that time or that those in power when the project was completed were not interested in or sensitive to the problems identified by the research.

More recently, in 1982, a very important case was decided by the New Jersey Supreme Court. In Alfonso v. Board of Review 89 N. J. 41 (1982), the Court examined the right to notice in Spanish. The 5-2 ruling stated that the use of such bilingual documents is not required by the constitution. Chief Justice Wilentz, dissenting, wrote the following:

> Due process requires notice. . . . When the State knows the claimant or litigant does not understand English, the State has the obligation to provide notice that can be understood. The constitutional

> guarantees of non-English speaking persons cannot be left to the protection of hoped-for humanitarian acts. These guarantees are theirs by right, not by charity (60).

Alfonso was decided only three weeks before Chief Justice Wilentz announced the creation of the New Jersey Supreme Court Task Force on Interpreter and Translation Services.

2. New Jersey's Linguistic Diversity

The status of interpreter and translator services in the New Jersey judicial system "is an area of concern for the court, particularly in light of the recent increase in New Jersey's non-English speaking population" (News Release 1982, quoting Judge Wilentz). The 1980 Census figures indicate that New Jersey has a Hispanic population of approximately 492,000 (Statistical Abstract of the United States:1985). As well, additional census figures "projected that 14.7% of New Jersey's residents five years old or older speak a language other than English at home" (Lee 1983:5).

(This percentage includes Hispanics, Italians, Germans, and Poles, to name only a few of the non-English-speaking groups.) Also taking into consideration groups such as (1) immigrants who have arrived in the United States since 1980; (2) deaf individuals; and (3) undocumented aliens, the Task Force estimates that "between 18% and 20% of persons five years old or older in New Jersey speak a language other than English at home" (Lee 1983:5). Within the state, linguistic minorities are found to be unevenly divided among counties. For example, Hudson

County is 26% Hispanic. One can easily conclude from the above data that New Jersey is characterized by a rich linguistic diversity which represents a significant percentage of the total population. In fact, during the course of its inquiry, the Task Force has discovered that approximately 8% of all New Jersey courtroom proceedings require the services of an interpreter.

3. Mandates to and Agenda of the Task Force

Four mandates were outlined to the Task Force by Chief Justice Wilentz:

> 1. To identify all areas within the Judiciary where equal access to all courts may not be fully available due to linguistic barriers;
>
> 2. To document the nature and extent of those linguistic barriers presently existing and to evaluate current policies and practices regarding the interpreting and translating services;
>
> 3. To recommend policies and ongoing programs to ensure equal and adequate access to linguistic minorities, including the physically handicapped;
>
> 4. To submit strategies for implementing these policies and programs (Lee 1983:8).

When one compares the above mandates with the goals of the Hippchen study outlined earlier, it is quite evident that many of the same concerns are included in both projects.

According to its agenda, the scope of the Task Force's investigative work is broad and far-reaching. For example, a total of 22 "Background Reports" have been written on topics including "Legislative History of Court Interpreting in New Jersey", "Interpreting and Translating as Professions", "Language Rights in the United States", and "The Cross-Cultural Delivery

of Human Services." Additional Background Reports examine the perspectives of judges, court interpreters, public defenders, bilingual attorneys, prosecutors, and trial court administrators on the present status and quality of court interpretation services in the State of New Jersey.

The Supreme Court Task Force is scrutinizing interpreter services in all of New Jersey's state and local courts. It is researching in a very detailed manner the requisite qualifications for a highly professional interpretation staff. In this connection, the Task Force is investigating the need for interpreter training as well as for certification procedures (Project Outline 1982:2).

Since the work of the Task Force will remain largely confidential until the Final Report has been submitted to the Supreme Court and, in turn, released to the public at large, it is rather difficult to speculate on what its findings and recommendations will be. (The Final Report is currently in preparation, and is expected in the next several months.) Most of us who have been involved in its work and have followed its progress are optimistic about the future of interpretation services in the New Jersey judicial system. Let us all hope that the words of Robert Joe Lee will soon become a reality: ". . . that New Jersey [will take] a leadership role in ensuring equal access to the courts for all linguistic minorities" (1983:17).

## V. Why Court Interpreter Training is Needed

### A. Introduction

The Court Interpreters Act of 1978 has helped to establish a professional status for interpreters in the federal courts. The Act has also contributed to a greater awareness on the part of court and non-court personnel of the role and responsibilities of the interpreter in a courtroom. It has established very high standards for court interpreters in Spanish/English through its certification program. In doing so, this statute has made great strides in the war against due process violations when non-English-speaking defendants are involved. In fact, a number of states (notably New Jersey and Texas) as well as the District of Columbia are currently considering legislative and judicial proposals modeled on the Court Interpreters Act in an attempt to better address the problems of non-English-speakers in the courts at the state and local levels. Even though the Court Interpreters Act has forced the federal courts to take interpretation services more seriously and has, in only 7 years, had far-reaching consequences, it is by no means complete in its mandates for the courts.

For example, the Act does not provide for training of interpreters to be used in the federal courts (See, for example, Arjona 1983:4). However, of interest is the fact that all of the announcements for the "Court Interpreters Certification Written Examination, Spanish/English" contain the following paragraph:

> Qualifications: There are no formal educational requirements for certification, either in languages or in interpreting. However, the difficulty of the bilingual examination is at the college degree level of proficiency

> and successful completion of the oral skills portion would normally require prior training or professional experience in simultaneous, consecutive, and summary interpreting. (emphasis added)

In sum, then, the AOUSC indicates that "training or professional experience" in interpretation would be necessary for most people to pass the Certification Examination. On the other hand, the Court Interpreters Act does not stipulate that pertinent training courses or programs be developed in order to prepare people to take the test.

During a March 8, 1985 telephone conversation with Jon Leeth of the AOUSC, he told me that, at present, no training courses or programs are envisioned under the auspices of the AOUSC.

## B. Required Training for Court Interpreters

### 1. Qualifications

Before a prospective interpreter can even think of undertaking training, he/she must be bi- or multi-lingual; that is, be able to express him/herself equally fluently in those languages he/she wishes to use in interpreting. In addition to a high level of competence in at least two languages, broad knowledge of the cultures in question is imperative. A candidate's personality is something that must be considered. Interpreters generally agree that one must be rather aggressive and extroverted, intellectually curious, and capable of dealing with the unexpected (Schweda-Nicholson 1984).

### 2. Course Content

The very most basic content areas to be addressed in any court interpretation training course or program are:

(1) Development of simultaneous and consecutive (with and without notes) interpretation skills as well as sight translation and tape transcription;

(2) Legal terminology;

(3) Understanding of the concepts behind the law;

(4) Courtroom procedure;

(5) The professional role of the interpreter;

(6) Duties and responsibilities of the interpreter;

(7) Ethics, including confidentiality.

Training in simultaneous and consecutive interpretation, sight translation, and tape transcription is best obtained through a specialized course of study. A small number of court interpretation courses/programs currently exists. (See Section VI of the current paper.) As to the technique of teaching the requisite skills, much has been written. (See, for example, Delisle 1981, Gerver and Sinaiko 1978, Herbert 1952, Schweda-Nicholson 1985, and Seleskovitch 1978, 1975.) The professional interpreter is just that; a well-trained, highly qualified person capable of providing a complete and accurate interpretation, whether at an international conference or in a courtroom. There is some overlap between the training of the conference interpreter and the court interpreter, most specifically in the area of mastering basic interpretation skills.

Knowledge of legal terminology, the concepts underlying the law, courtroom procedure and the structure of both the American and foreign legal systems is imperative (Berreby 1982; Frankenthaler and Zahler 1984: 87-88).

One may group Points 5, 6, and 7 above together for purposes of a general discussion of the interpreter's function and position within the judicial system. As a result of the formal nature of courtroom proceedings and the seriousness of the potential consequences, training in duties, responsibilities, and ethics must be an integral part of any court interpreter program.

Fortunately, a number of excellent "codes of ethics" for court interpreters currently exist. The Preamble to the California Court Interpreters Association (CCIA) Code of Ethics very effectively describes the interpreter's critical contribution to courtroom proceedings:

> The court interpreter, as the only medium of communication between the parties involved, plays a vital role in the administration and preservation of justice. The fulfillment of this part requires an understanding by the interpreter of the difficult task to be performed, and the fundamental ethical principles to be obeyed (n.d.:1).

As well, the Code of Ethics of the court interpreters in the Los Angeles County Superior Court includes a section entitled, "Standards of Court Conduct and Professional Responsibilities" (Almeida and Zahler 1977:6-13). The Agricultural Labor Relations Board Interpreter Code of Ethics of the State of California is based on the CCIA Code of Ethics and also on Section 18.3 of the Standards of Judicial Administration Recommended by the

Judicial Council of California. There is no "code of ethics" issued by the AOUSC for the federally certified Spanish/English court interpreters. The above "codes of ethics" discuss such relevant topics as conflicts of interest, confidentiality, how to interpret during testimony, and the importance of continuing education to constantly upgrade skills and knowledge. Court interpreters are also ethically bound to accept only those assignments for which they are qualified, to correct any mistakes that are made immediately, to interpret verbatim what is being said, and not to paraphrase or explain. The goal of court interpretation is for the defendant to hear the trial as he/she would hear it if the trial were being conducted in his/her native language. The Court interpreter's Manual of the Court of Common Pleas and Municipal Court, City of Philadelphia states:

> . . . [T]he interpreter's job is to interpret everything which the defendant, judge, attorneys, or others present would understand if no language barrier existed (n.d.:1). (emphasis in original)

(For more discussion of this issue, see Carrizosa 1984:15; Frankerthaler 1984:85; and "Court Interpreting: From Nice Little Ladies to Navahos" 1984:2.)

If one aims, then, for the goal of native language equivalency, it is important not to go beyond it through explanation or paraphrase. Dena Kohn states:

> The interpreter must never and should never edit, select and improve. A good interpreter repeats nonsense when it is nonsense, repeats lucidity if it's lucidity (Berreby 1982:3).

One must remember that many Americans whose native language is English have great difficulty following legal language and understanding the concepts behind the law. In this connection, the non-English-speaker should not have an advantage over the English-speaker in courtroom proceedings through explanations and clarifications provided by an interpreter. Astiz writes:

> I do not believe that the criminal justice system should do for the non-English speaking individual what it does not do for the English-speaking majority; in other words, deficiencies . . . in the criminal justice system that are not caused by somebody's inability to speak English can not be solved for a certain group only (1980:3).

Finally, Judge Ricardo M. Urbina of the Superior Court of the District of Columbia, the only Hispanic judge in the city of Washington, addressed himself specifically to Hispanics' encounters with the courts:

> We are not trying to give Hispanics more than what they deserve. We just want to bring parity into the criminal justice system where Hispanics are concerned (Valente 1983:A-12).

The case for professional interpreter training can only be further strengthened by citing several examples of unethical behavior. The judge, jury and attorneys assess the credibility of a non-English-speaking witness not only through his/her demeanor but through the interpreter's language and demeanor as well (See, for example, Bergenfield 1978:552). In United States v. Anguloa 598 F2d 1182 (1979), some difficulties arose while the defendant was testifying through an interpreter. The judge suggested that the prosecutor and interpreter proceed "slowly and bit by bit" (1184). In response to the judge's request,

the interpreter stated: "It's not necessarily the questions. It's the way the defendant changes the subjects into different things at times" (1184). The judge then instructed the interpreter to provide a literal translation of what the defendant was saying. The interpreter responded: "He says a lot of mumbo-jumbo that doesn't mean a lot of things" (1184). The judge, of course, ordered that the interpreter's disparaging remarks about the defendant be stricken from the record. However, the jury did hear these negative statements. The judge was concerned about the jury allowing the remarks to influence its assessment of the defendant's credibility. The judge dismissed the interpreter and replaced her with a new one. Before the trial continued, however, the judge instructed the jury:

> Obviously, an interpreter is not a participant in the trial. An interpreter only really acts as a transmission belt or telephone. In one ear should come in English and out comes Spanish. . . . [A]ny remarks, if any she did make, with respect to the witness other than translating his answers or his statements as best she could or as best she thought she could, you must disregard entirely (Reporter's Transcript: vol.III, pp. 105-07).

As well, in People v. Starling, the interpreter was frequently reprimanded by the judge for carrying on personally initiated conversations with the accused. The above examples clearly illustrate why training in courtroom ethics must be included in any court interpretation course of study.

## VI. The Current Status of Court Interpreter Training

The Court Interpreters Act of 1978 does not provide for court interpreter training, nor does the AOUSC have plans to

do so in the future. However, the need for competent interpreters in the state and local courts is growing daily. Where can bilingual individuals who are equally fluent in both languages obtain court interpretation training? Presently, there are a limited number of courses and programs in existence. These court interpreter educational efforts have been made only recently, during the past two years.

A. Academic Year Courses/Programs

Within its Master of Arts Program in Intercultural Communication, the Monterey Institute of International Studies (MIIS) developed two court interpreter training courses. They were first offered in 1983 and continue to be part of a diverse curriculum. Course topics include an overview of the United States criminal justice system and legal terminology. The San Diego State University Department of Spanish and Portuguese offers an undergraduate certificate in Court Interpreting. Students complete 15 credits, only 6 of which deal specifically with court interpretation. Florida International University (FIU) currently has a 33-credit certificate program in court interpretation and legal translation. The coursework includes training in simultaneous and consecutive interpretation skills, specialized skills for court interpreting, and additional related offerings. Very recently, a court interpretation training program was launched at Miami Dade Community College in an attempt to meet the tremendous need for Spanish/English interpreters in the South Florida courts.

B. Summer Courses

The MIIS offered two courses in court interpretation for the first time in the summer of 1983. During the summer of 1984, it held an 8-week training program which was divided into two sections: Session I from June 11-July 6, and Session II from July 9-August 3. This program will be offered once again during the summer of 1985: Session I from June 17-July 12; Session II from July 15-August 12. In order to register for the program,

students must have "superior knowledge of Spanish and English." As well, the MIIS prefers that court interpretation students have a Bachelor's Degree. Course content includes training in simultaneous and consecutive interpretation, sight translation, the American legal system, courtroom procedure, slang, and non-standard Spanish.

In 1983, the first University of Arizona Summer Institute for Court Interpretation was held in Tucson from June 20-July 15. The Summer Institute was again offered in 1984 from June 18-July 13. In addition, the first ever Institute for the Training of Trainers of Court Interpreters was held during summer, 1984 from June 25-July 13, also in Tucson. Unlike the Summer Institute (which trains Spanish/English bilinguals in the techniques of court interpretation), the Institute for Trainers brought together experienced, practicing court interpreters as well as academics already involved in conference interpreter training. The goal of the Trainers' Institute was to prepare the participants (some of whom came from as far away as Australia) to educate others to be court interpreters when they returned to their respective cities and countries. The author was a participant in the first Institute for the Training of Trainers. As an educator of conference interpreters, she was pleased to have learned much about courtroom procedure, legal terminology, and the numerous ethical considerations involved.

Both the Summer Institute and the Institute for Trainers will be offered at the University of Arizona in Tucson during

the summer of 1985. In addition, for the first time, to respond to a need for court interpreter training on the East Coast, the Summer Institute will also be held at Montclair State College in Upper Montclair, New Jersey, from June 14-July 6. The author looks forward to participating as a faculty member in the Institute at Montclair State.

Finally, a general interpretation and translation course as well as an advanced court interpretation course were offered at the University of California at Berkeley in the summer of 1983.

C. Special Court Interpretation Courses and Programs

An experimental one-quarter course, "Introduction to Court Interpretation", was offered during Winter Quarter 1985 at Georgia State University in Atlanta, Georgia by Alba Males, a federally certified Spanish/English court interpreter. Students met for five hours per week. Classwork included a broad overview of the legal system, with an emphasis on courtroom procedure and ethics. According to the instructor, the coursework was prepared according to the various stages of a trial, from the complaint to sentencing. As a result, many areas were covered, such as pre-trial motions, motions to suppress, bond hearings, and so on. Guest speakers (attorneys, court administrators, Legal Aid volunteers, and a Drug Enforcement Agency (DEA) agent) participated in skits involving, for example, cross-examination of witnesses. The skits (which were a highlight of the class) were videotaped for use with subsequent classes. Since the

course was experimental, it has not yet been decided when it will be offered in the future. However, it is possible that the class will be taught in 1986 during Winter Quarter once again.

In 1981, the National Judicial College on the Reno Campus of the University of Nevada sponsored two 3-day seminars for court interpreters. As well, a one-semester Spanish/English court interpretation class was offered during 1981, 1982, and 1983 at Rice University in Houston, Texas. The course, entitled "Court Judiciary Interpreting," included basic courtroom terminology, an overview of the judicial system structure, and extensive interpretation practice through role-playing in scenarios. According to Eta Trabing, the course instructor, these scenarios were acted out in county courtrooms which were made available to the class after hours. In this way, students were able to learn much about courtroom procedure (Personal communication, June 10, 1985). A $100,000 grant provided for the development of the Hispanic Community Program Internship in Law from 1978-1981 at Montclair State College. Spanish/English bilingual students are trained in basic interpretation and translation skills so they may assist indigent Hispanics who have legal problems.

D. Future Plans for Court Interpreter Training

The University of Delaware Certificate Program in Conference Interpretation has plans to expand sometime in the next several years to offer court interpretaion training as well. The Conference Interpretation Program at Delaware was established in 1979.

The one-year, 12-credit series of four courses has been offered continuously since that time during the academic year. Our working languages are English, Spanish, and French. Considering the great need for Spanish/English interpreters, our court interpretation training courses would be offered for those languages only. There are currently no federally certified Spanish/English court interpreters in the entire State of Delaware, yet Wilmington alone has a significant Hispanic population. The author has been working with the Wilmington Department of Justice, hoping to secure funding so as to improve the caliber of court interpreters in the state and local courts. Currently, the Delaware courts rely heavily on the services of volunteers and also on court personnel who are employed in other capacities.

In the spring of 1984, the Haitian community of Dade County, Florida, approached Florida International University (FIU) with a request to establish a Haitian Creole/English translation program. FIU has submitted its proposal to the Title VI International Research Studies Program. With the large numbers of Haitian refugees in the Miami area, such a program could certainly help to break down the existing language barriers in the courts as well as in other areas of ever day life.

## VII. Conclusion

The current paper has examined a number of areas which pertain to interpretation services, with an emphasis on the criminal justice system. Although the criminal courts were

the focus of this study, perhaps a word about developments in the civil courts is in order.

The Court Interpreters Act provides for court-appointed interpreters in civil suits only when they are initiated by the United States Government. In Jara v. Municipal Court 21 Cal. 3d 181, 578 P.2d 94, 145 Cal. Rptr. 847 (1976), cert. denied, 99 S. Ct. 833 (1979), California was the first jurisdiction to address the issue of a civil defendant's constitutional right to an interpreter at the state's expense. The appellate court overturned the lower court decision, stating that Jara did have the right to an interpreter. However, the California Supreme Court reversed the Court of Appeals ruling and affirmed the decision of the lower court which had originally denied Jara a court-appointed interpreter at the county's expense. It is worthy of note that the California Supreme Court did not address the issues of due process and equal protection. In such a situation, the court's reasoning should parallel the reasoning of the criminal courts, which requires an interpreter. If the California Supreme Court had addressed these critical issues, it would have been obvious that Jara was entitled to an interpreter during his trial.

Even in light of the Jara decision, one senses a growing concern regarding the right to an interpreter in civil adjudications. In addition, the legal community is becoming more sensitized to the importance of interpreters in non-trial court proceedings such as competency hearings, and in pre-trial criminal proceedings

such as arraignments and bond hearings. Finally, the need for interpreters in administrative hearings (i.e., custody battles in Family Court and landlord/tenant disputes) is glaring.

In all of the above situations, an attorney is usually present. Interpreters would also be advisable in Small Claims Court where the parties are, for the most part, not represented by attorneys.

It is this author's firm belief that the trend in the above areas is moving strongly toward the assistance of compensated, academically trained interpreters. Moreover, slowly but surely, qualified court interpreters are being viewed as the competent professionals they are. This attitude is due, in large part, to the rigorous standards established by the AOUSC in its Spanish/English certification program. In the past three years as well, the opportunities for court interpretation training have grown from nothing whatsoever to several summer and academic year programs. As individual states enact legislation modeled on the Court Interpreters Act, the need for highly qualified interpreters will grow. As a result, specialized court interpretation training programs will be very much in demand. In light of these recent and expected developments, the future of professional court interpretation services looks brighter every day.

Table I

Spanish Interpreter Use

| | District Courts | Bankruptcy Courts |
|---|---|---|
| 1979 | 25,986 | 301 |
| 1980 | 23,394 | 313 |
| 1981 | 29,754 | 1,336 |
| 1982 | 30,372 | 34 |
| 1983 | 38,224 | 96 |

Sources: Annual Report of the Director of the Administrative Office of the United States Courts 1980, 1981, 1982, 1983, and 1984.

Table II

| State | Number of Fed. Cert. Interps. | Hispanic Pop. (in thousands) |
|---|---|---|
| Arizona | 8 | 441 |
| California | 68 | 4,544 |
| Florida | 31 | 858 |
| Illinois | 3 | 636 |
| New Jersey | 5 | 492 |
| New Mexico | 7 | 477 |
| New York | 23 | 1,659 |
| Texas | 28 | 2,986 |

Sources: Certified Spanish/English Interpreters: 1984
Statistical Abstract of the United States: 1985

Notes

[1]Before beginning my discussion, I wish to make it very clear that I am not an attorney. The survey of legislation and case law I present is by no means exhaustive and is not meant to be.

References

Almeida, Frank M. and Zahler, Sofia. 1977. Los Angeles Superior Court Interpreters Manual. Los Angeles: Los Angeles County Superior Court.

ALRB Interpreter Code of Ethics. 1983. Sacramento, CA: Agricultural Labor Relations Board.

Announcement: Court Interpreters Certification Written Examination, Spanish/English. 1983. Washington, D. C.: Administrative Office of the United States Courts.

Annual Report of the Director of the Administrative Office of the United States Courts. 1980. 1981. 1982. 1983. 1984. Washington, D. C.: Administrative Office of the United States Courts.

Arjona, Etilvia. 1983. Language Planning in the Judicial System: A Look at the Implementation of the U. S. Court Interpreters Act. Language Planning Newsletter 9 (1), 1-6.

Astiz, Carlos. 1980. Language Barriers in the Criminal Justice System: A Look at the Federal Judiciary. Paper read at the National Hispanic Conference on Law Enforcement and Criminal Justice, Washington, D. C., July 27-30, 1980

Bergenfield, Glenn. 1978. Trying Non-English Conversant Defendants: The Use of an Interpreter. Oregon Law Review 57 (4), 549-65.

Berreby, David. December 20, 1982. Interpreters on Call for More Cases. The National Law Journal. 5 (15), 1.

Blair, Marianne Brower. 1979. The Right of an Indigent Defendant to an Interpreter in a Civil Trial: Jara v. Municipal Court. Ohio State Law Journal 40; 663-98.

Brashich, Deyan Ranko and Hashmall, Jay B. September 23, 1983. High Standards Urged for Court Interpreters. New York Law Journal, 2.

Cardoso, Gerald. December 30, 1981. Letter to the Editor. The Christian Science Monitor.

Carrizosa, Philip. April 6, 1984. High Court Defines Defendants' Right to Own Translator. The Los Angeles Daily Journal 97 (71), 1, 15.

Carter, David L. 1983. Hispanic Interaction with the Criminal Justice System in Texas: Experiences, Attitudes, and Perceptions. Journal of Criminal Justice 11; 213-27.

Certified Spanish/English Interpreters. 1984. Washington, D. C.: Administrative Office of the United States Courts.

Chang, Williamson, B. C. and Araujo, Manuel U. 1975. Interpreters for the Defense: Due Process for the Non-English-Speaking Defendant. California Law Review 63 (3), 801-23.

Code of Ethics. n.d. California Court Interpreters Association.

Coronado, Ramon. December 10, 1982. Court Interpreting: Following the Letter and Word of the Law. The San Bernadino Sun 1, 14.

Cothran, Bettina. In press. Foreign Language Use in International Trade and Commerce: Trends in the Southeastern United States, Part II: The Universities' Response. Languages in the International Perspective. (ed.) by Nancy Schweda-Nicholson. Norwood, New Jersey: Ablex Publishing Corporation.

Court Interpreters Manual. n.d. Philadelphia: Court of Common Pleas and Municipal Court.

Court Interpreting: From Nice Little Ladies to Navahos. June 12, 1984. The Capital Translator V (6), 1-2.

Cronheim, Alan J. and Schwartz, Andrew H. 1976. Non-English-Speaking Persons in the Criminal Justice System: Current State of the Law. Cornell Law Review 61; 289-311.

Delisle, Jean (ed.). 1981. L'enseignement de l'interprétation et de la traduction. Ottawa, Canada: University of Ottawa Press.

del Valle, Manuel. July 30, 1981. Hispanics' Language Rights and Due Process. New York Law Journal 185; 1.

Doidge, Pauline. April 12 and 13, 1983. Transcript of Interview on Court Interpreters. Boston, MA: WBUR Radio.

Editorial. May 10, 1983. The Washington Post, A18.

Feldman, Paul. May 5, 1985. L. A. Courtrooms: Judge, Jury--and Interpreter. Los Angeles Times, A1.

Flaherty. Francis J. March 14, 1983. The Struggle Continues. The National Law Journal 5; 1, 20, 21.

Frankenthaler, Marilyn and Zahler, Sofia. 1984. Las Características del Lenguaje Jurídico en el Ambito Legal. Revista de Llengua i Dret 2 (3), 77-88.

Frankenthaler, Marilyn. 1982. Working with an Interpreter: A Guide for Professionals. Upper Montclair, New Jersey: Montclair State College.

Garland, Susan. December 7, 1981. Hispanic Court Cases: The Verdict is All in the Translation. The Christian Science Monitor 74 (8), 1.

_____. December 9, 1981. Easing the Plight of Non-English-Speaking Defendants. The Christian Science Monitor, 18.

Gerver, David and Sinaiko, H. Wallace (eds.). 1978. Language Interpretation and Communication. New York: Plenum Press.

Glossary of Terms Used in the Federal Courts. 1980. Washington, D. C.: Administrative Office of the United States Courts.

Groisser, Debra S. 1981. A Right to Translation Assistance in Administrative Proceedings. Columbia Journal of Law and Social Problems 16 (4), 469-520.

Harland, Anne E. In press. Foreign Language Use in International Trade and Commerce: Trends in the Southeastern United States, Part I: International Business in the Southeastern United States and Its Foreign Language Needs. Languages in the International Perspective. (ed.) by Nancy Schweda-Nicholson. Norwood, New Jersey: Ablex Publishing Corporation.

Herbert, Jean. 1952. Manuel de l'interprète. Geneva: Georg.

Hilford, Lucy et al. 1984. Grant Proposal for Haitian Creole. Translation & Interpretation Programs Scoops. I (2), 1. Miami, Florida: Department of Modern Languages of Florida International University.

Hippchen, Leonard J. 1977. Development of a Plan for Bilingual Interpreters in the Criminal Courts of New Jersey. The Justice Syste Journal 2; 258-69.

Ingram, Robert M. In press. Sign Language Interpretation and Public Policy in the United States. Languages in the International Perspective. (ed.) by Nancy Schweda-Nicholson. Norwood, New Jersey: Ablex Publishing Corporation.

Langer, Paul. June 13, 1982. Court Interpreting: A Tough Job Going Unrecognized. Boston Sunday Globe.

Latimer, Leah Y. July 5, 1983. Translators Play Growing Role in Area Police Departments. The Washington Post, B-1.

Lee, Robert J. 1983. Equal Access to Justice for Linguistic Minorities: A Model for Policy Development--The New Jersey Approach. Speech read at the Court Interpreters and Translators, Inc. Annual Meeting, November 20, 1983.

Marrone, Claire. 1982. The Use of Interpreters in Municipal, State, and Federal Courts: Wilmington, Delaware and Philadelphia, Pennsylvania. Unpublished manuscript.

Miller, Robert L. February 11, 1983. The Story of a King Who Relied on His Interpreter Too Often. Los Angeles Daily Journal 96; 4.

Negri, Sam. May 20, 1981. Multiple Meanings: Idioms, Slang Keep Interpreter on Toes; Arizona High Court Jurist Helped Bring Translators into Court. The Arizona Republic, D-6,7.

News Release. May 19, 1982. Trenton, New Jersey: Administrative Office of the Courts, State of New Jersey.

Pellegrene, Jr. Tom. May 11, 1980. Interpreters Solve Family Court Tangles with Language Barrier. Sunday News Journal (Wilmington, Delaware), B-6.

Project Outline of the New Jersey Supreme Court Task Force on Interpreter and Translation Services. 1982. Trenton, New Jersey: Administrative Office of the Courts, State of New Jersey.

Roberts, Roda. 1981. L'interprétation auprès des tribunaux. Ottawa, Canada: University of Ottawa Press.

Salford, Joan Bainbridge. 1977. No Comprendo: The Non-English--Speaking Defendant and the Criminal Process. Journal of Criminal Law and Criminology 68; 15-30.

Schweda-Nicholson, Nancy. In press. Languages in the International Perspective. Norwood, New Jersey: Ablex Publishing Corporation.

_____. 1985. Consecutive Interpretation Training: Videotapes in the Classroom. Meta 30 (2).

_____. 1984. Conference Interpretation: A Viable Career Opportunity for the Humanities Graduate. Paper read at the South Atlantic Modern Language Association Annual Meeting, Atlanta, Georgia, November 8-10, 1984.

_____ and Johanna den Tuinder. 1984. Semantics and Context in Simultaneous Interpretation. Silver Tongues: Proceedings of the 25th Annual Conference of the American Translators Association. (ed.) by Patricia E. Newman. 383-89. Medford, New Jersey: Learned Information, Inc.

Seleskovitch, Danica. 1978. Interpreting for International Conferences. Washington, D. C.: Pen and Booth.

_____. 1975. Langage, langues et mémoire. Paris: Minard.

Sollmann, Mariana. 1984. Court Interpretation in the Courts of Wilmington. Unpublished manuscript.

Statistical Abstract of the United States. 1985. 1980 Census

of the Population. I (B). Washington, D. C.: United States Department of Commerce, Bureau of the Census.

Valente, Judith. May 5, 1983. Hispanics Lack Parity in Court System. Washington Post; A1, A12.

Zatz, Marjorie. 1984. Race, Ethnicity, and Determinate Sentencing. Criminology 22; 147-71.