

The Provision of Court Interpreter Services in Civil Cases in California: An Exploratory Study

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Introduction

In anticipation of an emerging consensus in state government on the need to provide court interpreter services in civil cases, the California Administrative Office of the Courts (AOC) sought to explore the current practices of superior courts in which some level of court interpreter service is provided in civil cases in order to learn how those courts organize and deploy their interpreter resources.

California, like most states, has accepted responsibility to provide qualified interpreters in criminal cases,¹ but has not as a matter of policy provided interpreters in civil matters. In 2006, however, Assembly Bill 2302 (AB 2302) attempted to amend Evidence Code §755 to require that courts provide and pay for court interpreters in any civil action, unless a party notifies the court that she or he made arrangements for a private interpreter. That bill was vetoed by the Governor due to its fiscal impact. The issue will almost certainly face the courts again: it is likely that a modified version of the previous bill will succeed in the near future. As it stands today, at least seven states recently reported to the National Center for State Courts (NCSC) that they provide interpreters in civil cases regardless of circumstances (Florida, Idaho, Maryland, Minnesota, New York, South Carolina, Wisconsin), while another six report providing interpreters in civil cases if the party is indigent (Colorado, Delaware, Iowa, Indiana, New Mexico, Washington).

The need for court interpreters in matters other than criminal cases is recognized by policymakers in California state government. Further legislative efforts to define, authorize, and fund the use of interpreters in civil matters appear likely. This study is part of a broader action plan by the AOC designed to position the judicial branch to respond to this need.

Objectives

The California AOC identified seven objectives for its action plan. The seven objectives are identified as follows:

1. To assess the current, statewide incidental use of court interpreters in civil proceedings;
2. To estimate the statewide demand for interpreter services in civil proceedings if mandated;
3. To estimate the gap in the current supply of certified and registered interpreters to meet the increase in demand for interpreters in civil cases;
4. To approximate the amount of existing interpreter downtime that could be dedicated to civil proceedings at no additional cost;
5. To estimate the additional number of certified and registered interpreters and the associated cost that would be required to meet the increased demand;
6. To identify the means through which some courts currently provide court interpreter services in civil cases; and
7. To develop recommendations and models for the statewide provision of interpreters in civil proceedings.

Of these seven, the NCSC was tasked with objectives number six and seven, and conducted site visits to document the extent to which and the ways in which a set of courts identified by the AOC currently provide court interpreter services in civil cases. On the basis of these findings, the NCSC was charged with making recommendations for consideration by the AOC and Judicial Council, and if possible, identifying models for statewide provision of interpreters in civil proceedings.

This report represents the findings from that study, along with promising practices and policies gathered from the experience of other state court systems.

¹ California Constitution, Article 1, §14.

Summary

The findings of this exploratory study are categorized into three domains:

- **Utilizing Interpreters Efficiently**
- **Enhancing the Supply of Interpreters**
- **Developing Comprehensive Interpreter Policy**

The broader context for these domains is summarized first, with a detailed discussion of the 18 specific findings and recommendations on the pages that follow.

Utilizing Interpreters Efficiently

(Recommendations 1-12)

A single, scalable model (or even a set of models) for the provision of interpreter services in civil cases does not exist among the courts visited for this report, nor are there any nationally recognized models for interpreter service delivery. This is because the service delivery modes for interpreter services are highly contingent on several factors that vary widely across the state. These factors include:

- The demographic profile of each county, and the resulting demand for interpreter services;
- The availability of qualified court interpreters;
- The information technology infrastructure of each court, defining how information on interpreter need and assignment is shared;
- The number of court locations and distance between them, shaping how interpreters can be assigned and shared;
- The nature of employment relations at each court, influencing how interpreter work is organized.

For this reason, this report approaches the development of interpreter services programs from the perspective of identifying effective practices and success factors, and recommends that the AOC systematically gather this information from all the trial courts and facilitate its shared use. A comprehensive statewide pooling of local knowledge would position the AOC and the California trial courts to determine how those practices could be meaningfully bundled into pilot or model programs.

The site visits also revealed very uneven knowledge among judicial officers and court staff regarding the

utilization of court interpreters, which contributes to inefficient utilization of those interpreters. Some judicial officers and court staff are well informed, while others work without proper knowledge regarding interpreter qualifications, how to access interpreter services in their court, and how to work most effectively and efficiently with interpreters in the courtroom.

Immediate gains can be made through more efficient management of interpreters. The study revealed a number of ways in which the trial courts can improve the utilization of court interpreters, which are documented on pages 3 through 6, below.

Enhancing the Supply of Interpreters

(Recommendations 13-15)

The shortage of qualified court interpreters throughout California, and indeed in the U.S. more generally, will make it difficult for the courts to extend interpreter services beyond the currently mandated case types under the parameters of the current system. Even under the reduced set of case types in which interpreters are utilized today, courts and litigants experience significant delays in obtaining interpreter services, often settling for the use of family members or unqualified telephone interpreters to fill the gap and keep cases moving. Vacancies for full-time interpreter positions remain open for years. Even if full funding for the extension of interpreter services to civil cases were available today, the courts would not be able to quickly find and hire qualified court interpreters to do the work.

On the basis of expert opinion gathered during site visits and the comparative experience of other states, strategies for enhancing the supply of court interpreters are outlined on pages 6 and 7, below.

Developing Comprehensive Interpreter Policy

(Recommendations 16-18)

The issues identified in the management of existing interpreters and the recruitment and development of additional interpreters must be guided by a consistent statewide policy. Among the key elements of such a policy are an explicit approach to the provision of services according to case type (e.g., small claims, unlawful detainer) and case characteristics (e.g., indigent or self-represented litigants), which are described and discussed on pages 7 and 8, below.

Findings and Recommendations

Utilizing Interpreters Efficiently

1. Batch the Cases Requiring Interpreters

Effective practices in program management will vary by court size. In the larger courts such as Fresno (see page 16), a decentralized, geographical or facility-based approach that places interpreter staff where they are needed is one way of maximizing flexible use of interpreters. In smaller courts, such as Ventura (see page 12), centralized allocation can allow the most effective assignment. The key to effective assignment in either approach is to organize court calendars to aggregate the cases requiring interpreter services in batches, allowing efficient use of interpreters and minimizing wait time for both parties and Interpreters. Reducing the time interpreters sit idle waiting for cases to be called is essential.

2. Improve Calendar Coordination

Within and across facilities, coordination of courtroom calendars is essential for the effective use of interpreter resources. In smaller court facilities, this can take the form of sequential ordering of calendars to provide interpreter assistance across case types. One example of this practice is found in Ventura and is described on page 13 below. If a misdemeanor calendar is followed by a small claims calendar which in turn is followed by a civil calendar, the same interpreter can work across all these case types.

In larger courts such as San Diego (pages 20-22) or within a single large court facility, the coordination of calendars across courtrooms is also essential and relies on cooperation among judicial officers, flow of timely information to the program manager, and cooperation of interpreters themselves. The current limitations on a court's ability to predict the need for interpreter services in advance contributes to ad hoc assignments, stressing the system and disrupting the timely provision of interpreter services.

3. Enable Earlier Identification of Cases Requiring Interpreter Services

Early identification of future need for interpreter services in an individual case allows for most efficient assignment, reduces the number of case events that fail for lack of an interpreter, and maximizes the possibility that litigants will understand what to do next in their case. Early identification also allows for greater success when sharing interpreters (via cross assignments) in languages other than Spanish, by giving the requesting court and requested court longer lead time to coordinate calendars and free up interpreter staff. The use of "I Speak" cards (like those used by the US Census) to identify language needs at points of entry into the court system is one simple and effective approach to early identification.²

4. Rotate Staff Interpreter Assignments

Rotation of interpreter assignments across calendars, facilities, and judicial officers serves to promote a service orientation and courtwide perspective on the part of staff interpreters. In courts where this perspective prevails (for example, in San Diego, page 22), interpreters play an active role in allocating their services through flexible self-management (identifying and responding to interpreter services needs on an ad hoc basis). Given the weak information technology infrastructure supporting interpreter assignments, this flexibility, initiative, and cooperation is essential.

5. Develop Interim Toolkit for Managing Interpreter Assignments

Currently, the need for interpreter services in an individual case is not handled through the case management systems in the site visit courts, nor is it generally managed that way across the state. The result is that each court has developed its own ad hoc system of Excel spreadsheets, databases, and Word templates to manage the assignment of interpreters, often no further in advance than the actual moment the case is called on the calendar. These local systems are based on notification of interpreter need that is supplied via phone calls, email, and faxes. While local court staff are to be applauded for their creativity in

² These cards identify 36 languages other than English, and were developed by the U.S. Department of Commerce, Bureau of the Census. (See Appendix F of this report for a sample.)

inventing something that works, it is clear that these systems are inefficient and do not allow the program managers to make maximum use of interpreter resources.

The new California statewide case management system currently under development (CCMS), is expected to provide the functionality to allow needed interpreter services to be documented within the record of each case. In the years prior to its statewide deployment, the AOC should consider developing a low-technology toolkit for courts to utilize to manage interpreter resources. This might include such tools as intake forms, the use of I Speak cards, and a standardized spreadsheet template for scheduling assignments. Involvement of the courts in the development of a toolkit would capture current best practices and avoid creating a redundant system for managing interpreter workload.

6. Utilize Bilingual Staff

Litigants require explanations of the legal process before, during, and after each event in the life of their case. While certified court interpreters provide the highest level of interpretation during proceedings in the courtroom, bilingual staff can provide effective assistance at the counters and in self-help centers both before and after courtroom events to assist litigants in understanding what is required to resolve their case. Fresno offers a good example of how a court can identify and deploy bilingual staff for this purpose (see page 18 below).

The Oregon Judicial Department provides another example of how this can be promoted statewide, through testing and pay differentials for bilingual staff.³ Where bilingual staff are in short supply or are not utilized effectively for this purpose, scarce court interpreters are sometimes called upon, taking them away from the more essential use of their services within the courtroom.

For this reason, recruiting and retaining bilingual staff in the most needed languages in each jurisdiction will assist litigants. Current levels and the utilization of bilingual staff across the superior courts should be

evaluated to identify courts that are successful and those good practices should be disseminated.

7. Design Self-Help Programs and Promote Access to Language Services

The AOC should consider a program through which it could systematically gather information on effective practices and disseminate it to provide a more consistent and comprehensive approach to language services, especially with regard to self-help centers. A statewide review of effective practices would explore how to move beyond mere translation of forms and instructions into the provision of assistance that guides litigants through the legal process and acknowledges their level of literacy in their native language as well as the limited experience in obtaining services from local government of any kind. While discussion of such programs in any detail is beyond the scope of the current project, nonetheless it is clear that the court's ability to address litigant needs *before* and *after* court events over the life of the case without the use of scarce court interpreters (i.e., by using bilingual staff) will facilitate the efficient and effective use of these interpreters (see Ventura site visit, pages 13-14 and Fresno site visit, page 18). It is also clear from this limited study that courts already have a wealth of materials to share with other courts; what is lacking is a means to facilitate awareness of and access to these resources.

The same is true for providing information on court Web sites, which vary widely in how clearly and easily information on interpreter services is provided. For example, a small number of courts have Web sites that provide bilingual content (www.saccourt.com), and at least one has the built-in functionality to allow the user to select Spanish as the language in which the Web site is displayed (www.fresnosuperiorcourt.org). On other court Web sites, the content related to interpreters is almost impossible to locate, even when it exists.

8. Enhance Working Knowledge of the Bench

Among the courts, it is clear that there are varying levels of clarity and confusion among judicial officers regarding the use of interpreters in the courtroom. Judicial officers are not always clear what the court is required to do with respect to the provision of interpreter services and how their court provides those services. This often results in attempts to

³ See: www.ojd.state.or.us/osca/cpsd/courtimprovement/access/document/progress/2001-progress.htm

procure interpreters in real time, attempts that are rarely successful and that stress all those involved, ultimately delaying proceedings.

Some judicial officers are also not clear about how to best work with interpreters, and are not aware that the AOC offers training for judges on this topic. Other judges have taken the AOC's CJER course, and among these some think it is required, some think it is part of orientation, etc. Judges who do not come from a criminal or family law practice are most at risk for not knowing how interpreter services work, as they are unlikely to have encountered this in their private civil practice. The AOC should consider how to improve awareness and knowledge among judicial officers regarding the appropriate use of interpreters and the provision of interpreter services.

The Wisconsin court system has developed an approach to this issue that is effective. Reference information on interpreters is collected in one place and provided online to judges. The resources on this Web page include a short document called *Practical Tips for Working with Interpreters*, a seven-minute Webcast to refresh judges on working with interpreters, references to statutes, rules, and case law, the interpreter oath, the statewide language assistance plan, and more.⁴

In addition, some judicial officers seem unclear on the appropriate role of the interpreter. Site visits revealed anecdotal evidence of judges asking interpreters to assist litigants to change pleas and otherwise explain legal proceedings in a manner that forces the interpreter into an inappropriate role of legal advisor to the litigant. This touches on a critical issue regarding the role of the interpreter. The interpreter's role and legal and ethical responsibility is to facilitate communication between the court and the parties. It is not and should not be the interpreter's role to explain the meaning of legal proceedings and how to proceed in the case to a litigant.⁵

An additional issue that surfaced in discussion was the question of whether and under what circumstances the court should or must provide more than one interpreter. While a review of California case law is beyond the scope of this report, in criminal cases California appears to have clearly established the right of a criminal defendant to an exclusive, individual interpreter. The distinction between criminal cases and all other cases in this respect appears not to be consistently understood.⁶ Consistent education of the bench is required to ensure a common and consistent understanding of the role of the interpreter as well as how to work effectively with an interpreter in the courtroom.

9. Enhance Working Knowledge of Court Staff

To maximize the use of interpreter services, it is critical that court staff understand and can help litigants access the full range of language services that the courts provide. The AOC should consider developing an educational program for court staff that informs them as to a) the legal obligations of the court to provide services; b) the rights of the public and of litigants to language services; c) the specific services provided by their court and by the AOC; and d) how to access bilingual staff, court programs, and self-help services that are provided in languages other than English. Court interpreter coordinators would obviously be key content providers for this effort.

10. Promote Knowledge Sharing Among Interpreter Coordinators

Court interpreter coordinators need ways to share effective practices and problem-solving techniques, and to provide feedback to the AOC and regional coordinators about desired improvements to existing administrative policies and procedures. The AOC could play a vital role in facilitating the exchange of this practical information, e.g., through regular meetings.

⁴ See <http://www.wicourts.gov/services/judge/interpret.htm>

⁵ For more detailed discussion of these issues see Hon. Lynn W. Davis and William E. Hewitt, "Lessons in Administering Justice-What Judges Need to Know About the Requirements Role and Professional Responsibilities of the Court Interpreter," 1 *Harvard Latino Law Review* 121, 1994. See also Chapter 6 in National Center for State Courts, 2002. *Court Interpretation: Model Guides for Policy and Practice in the State Courts*. Williamsburg, Va.: NCSC. Available at http://www.ncsconline.org/wc/publications/Res_CtInte_ModelGuidePub.pdf

⁶ California case law on this point includes: *People v. Aguilar*, 35 Cal. 3d 785 (1984); *People v. Resendes*, 164 Cal. App. 3d 812 (1985); *People v. Cervantes*, 184 Cal. App. 3d 1285 (1985); *People v. Baez*, 195 Cal. App. 3d 1431 (1987); *People v. Martinez*, 2007 Cal. App. Unpub. LEXIS 738 (2007).

11. Improve Regional Sharing of Court Interpreters

The AOC should undertake an evaluation of the current manner in which interpreters are shared among courts within and across regions. Anecdotal evidence from this study suggests that the system may not be working as intended, and that it may be exacerbating shortages of interpreters in courts where interpreters are assigned out to other courts (see Sacramento site visit, page 25). Business rules regarding defined parameters of requests do not appear to be enforced (i.e., a court may request an interpreter for two cases, but retain the interpreter to work on additional cases beyond the scope of the original agreement). Convening trial court representatives (program managers and interpreters) to explore the issues is recommended.

12. Evaluate Sharing Interpreters with Justice System Partners

Anecdotal evidence suggests that trial courts shoulder a disproportionate share of the burden of providing qualified interpreters at no cost to justice system partners, e.g., public defenders and district attorneys. Where this is true, it drains off scarce interpreter resources and reduces the court's ability to provide interpreters to those in need.

Judicial branch policy should make explicit whether services are provided to prosecution and defense by the court, and for what purposes. For example, in Colorado (see Appendix C), the court does not “arrange, provide or pay for language interpretation to facilitate communication with attorneys, prosecutors, or other parties related to a case involving individuals with limited English proficiency for the purpose of gathering background information, investigation, trial preparation, client representation at a future proceeding, or any other purpose that falls outside of the immediate court proceedings . . .”

The judicial branch should engage its justice system partners in dialogue about a collaborative approach to funding and use of interpreters, possibly in conjunction with the various levels or classifications mentioned below. This could take the form of pooling interpreter resources in a public sector

interpreter service bureau.⁷ Subsequent to such consultation, the limits to provision by the court of interpreter services to district attorneys, probation, public and private defense counsel, and other justice system partners should be explicitly defined by policy.

Enhancing the Supply of Interpreters

Recommendations numbered 1-12 above are aimed to increase the efficient utilization of current court interpreter resources through more effective management. The complement to that strategy is to increase the absolute number of interpreter resources available to the court, addressed in recommendations 13-15 below.

13. Create Tiered Interpreter Services

Currently the categories of court interpreters defined by the California Judicial Council are “Certified” and “Registered” and “Provisionally Qualified” interpreters. The aim of these categories is to define clear levels of proficiency. Given the scarcity of interpreters who meet those criteria, however, this approach leaves quite a large gap between the language needs of the litigants coming to court and the available interpreter resources.

One approach that addresses the paucity of programs that train professional interpreters and lowers the barrier to entry to the profession is the creation of a tiered approach to interpreter positions. The career ladder could begin at the level of fluent conversational proficiency (not unlike the current definition of bilingual staff), and incorporate a more formal apprenticeship program whereby those entering the field are mentored and trained by certified and registered interpreters. In this way, interpreters could move up the ladder of vocabulary knowledge, complexity, and language skills. This approach increases the number of interpreter resources in multiple languages, and positions those interpreters at different points in the legal process. The states of Colorado, Hawaii, and New Jersey already implement variations of this recommendation within their existing court interpreter programs. (See

⁷ Alaska recently developed a Language Interpreting Center, dedicated to providing a pool of qualified language interpreters to the court system, its partners, health care providers, and other organizations. See: <http://akijp.org/interpreter/html>

Appendix A for a table summarizing this information.)

As part of this effort, the judicial branch could initiate discussion to explore the use of administrative hearing and certified medical interpreters in court settings where appropriate. These interpreters have already demonstrated ability in consecutive and sight translation; proficiency in simultaneous interpretation would need to be developed. But these interpreters might be able to be appropriately utilized in some court settings while they develop the required level of simultaneous interpretation ability.

14. Partner with Local Language Programs

Developing partnerships with local public and private language instruction programs can provide a pool of bilingual interns or volunteers that courts could make use of in appropriate ways to supplement bilingual court staff and staff interpreters in assisting litigants requiring interpreter services and translation of documents.

15. Recognize Interpreter Certification Credentials from Other States

One factor inhibiting the supply of qualified interpreters in California is the fact that the state does not recognize the certification of court interpreters under the testing program developed by other individual states (e.g., New York) or the Consortium for State Court Interpreter Certification, of which California is a member. California only recognizes the Federal Court Interpreter Certification Examination (FCICE) as comparable to the California Court Interpreter Certification Test. This prevents court interpreters from other states from being able to move into the state to pursue their profession without undergoing the expense and delay of recertification. The AOC and Judicial Council should consider reevaluating this policy.

Developing Comprehensive Interpreter Policy

Meeting the demand for interpreter services in civil cases will require that the Judicial Council develop and adopt more detailed and explicit policies regarding the provision of interpreters. Currently, courts providing interpreter services beyond criminal cases do so on the basis of criteria that are locally determined. Trial courts need policy guidance to ensure that consistent access to justice is provided throughout the state. Key elements of such an expanded policy are described below. (See Appendix B for a summary of existing practices in other states.)

16. Develop Policy that Defines the Case Types for which Interpreter Services Should Be Provided

The Judicial Council should develop a policy that sets out an explicit definition of the case types for which interpreter services are required. The purpose of such a policy would not be to preclude a court from going beyond the mandated case types, when resources permit. However, the policy should provide clear guidance as to case types in which the use of an interpreter is mandated and provided by the judicial branch, and thus sets the standard and defines the basic level of service offered throughout all California courts.

The state of Colorado recently developed such a policy (included as Appendix C of this report), providing interpreters for the following case types: Felony, Misdemeanor, Traffic Misdemeanor, Juvenile Delinquency and Truancy, Protection Orders involving domestic abuse, Dependency and Neglect, Paternity and Support (Title IV-D only), Relinquishment, and Mental Health cases.

The state of Florida defines the major case types beyond Criminal to include Dependency, Civil Commitment, Termination of Parental Rights, Paternity issues, and Delinquency proceedings.⁸

The Judicial Council should examine and discuss case types and set policy regarding mandated use of interpreter services to ensure that local courts provide consistent and appropriate access to interpreters.

⁸ <http://www.law.fsu.edu/library/flsupct/sc06-1083/op-sc06-1083.pdf>

17. Develop Policy that Defines the Case Characteristics that Compel the Use of Interpreter Services

The two most salient characteristics cited by judges and staff regarding the need for interpreter services are whether the litigants are self represented and the consequences of the case. The latter should not be confused with case complexity in a legal sense; for example, an eviction of a family from their home or loss of custody of a child are of major consequence to the parties, even when the legal issues themselves might be straightforward.

Some judges believe that interpreter services are vital when litigants are self represented, since they cannot rely on counsel to explain proceedings to them before, during, or after the fact. While the interpreter cannot properly assume this duty either, at least the judge would feel confident that the litigant understood the court's reasoning, decision, and orders.

Whether and how the fact that a litigant is self-represented should be taken into account in the allocation of interpreters is worthy of policy consideration. Clear understanding of the court's orders is both an issue of access and fairness of the proceedings as well as a key element in future compliance with the court's decisions and orders.

18. Conduct an Interpreter Workload Assessment

Expanding court interpreter services to civil cases will require significant preparatory efforts and resources at a statewide level. Conducting a statewide workload study concerning the current and potential demand for interpreter services in civil and family law cases could produce vital information to help prepare for the potential mandate to provide court interpreters in these cases. Like most states, California has tracked interpreter use through the proxy of tracking the cost of interpreters. This proxy is crude at best, since historically, payment has been made in increments of half-day or full-day service, without regard for how much actual work was performed during those hours. The advent of staff interpreter employment status combined with the use of contract interpreters now makes this proxy even less useful. Colorado recently concluded an interpreter workload study that may provide a model for other states to consider. (See Appendix D for the report on that study.)

Implementation Strategy

There is no single best method for proceeding on the issues outlined above, as they involve a multitude of actors inside and outside of the judicial branch.

However, the following chronological roadmap—a sketch of a possible logical sequencing of the issues—is offered for the purpose of stimulating discussion.

Sequencing of Implementation Strategy

	Year 1	Year 2	Year 3
Utilizing Interpreters Efficiently	Convene first annual statewide meeting or regional meetings of interpreter coordinators, interpreter program managers and interpreters with AOC to identify more efficient program management for calendaring, utilization of bilingual staff, working with bench and court staff.	Convene second annual statewide or regional meeting(s) to share results of evaluation of pilot programs, and assess overall progress in program management efficiency.	Convene third annual statewide or regional meeting(s) to share results of evaluation of pilot programs on management and tiered services, and assess overall progress in program management efficiency.
	Define pilot programs to test effective practices and/or a model courts approach to effective program management and initiate implementation.	Initiate discussion of tiered interpreter services, define pilot program and/or model courts approach and implement.	
	Coordinate with AOC Education division to promote broader judicial education on working with interpreters.		
Enhancing the Supply of Interpreters	Evaluate current system of sharing of interpreters among courts.	Secure commitments from local partners for interpreter positions defined in tiered services approach, including utilization of administrative hearing and/or certified medical interpreters.	Implement recognition of credentials as defined by policy.
	Initiate discussions with local public and private language instruction programs re enhancing pool of potential court interpreters.	Initiate policy discussion of recognition of interpreter certification credentials from other states.	Define and institutionalize credentialing path for administrative hearing and certified medical interpreters to become certified court interpreters.
Developing Comprehensive Interpreter Policy	Initiate policy discussion at AOC and Judicial Council re case types and case characteristics for which interpreter services should be provided.	Draft comprehensive interpreter services policy for judicial branch and promote active participation of courts and interpreters in its development.	Finalize comprehensive interpreter services policy for judicial branch.
	Gather data re extent to which courts share interpreters with justice system partners.		

Site Visits Overview

For this study, the AOC identified three courts in which interpreter services are, at least to some extent, provided in civil cases. These superior courts are located in Fresno, San Diego, and Ventura counties. In addition, the AOC identified the superior court in Sacramento County as a court that does not provide interpreter services in civil cases as a point of comparison.

Court Profiles

	<u>Population</u>	<u>Judicial Positions</u>	<u>Court Staff</u>	<u>Court Locations</u>
Fresno	891,756	45	500	13
Sacramento	1,374,724	68	808	5
San Diego	2,941,454	154	1,663	10
Ventura	799,720	32	377	3

The table above summarizes the size of the courts. San Diego and Sacramento are large courts centered in large cities, while Ventura and Fresno represent mid-sized courts serving smaller cities and towns. Ventura is the most centralized court, while Fresno is spread across many locations. The staff-to-judicial position ratio for each court is approximately the same (11 staff per authorized judicial position).

The table below shows case filing data, both statewide and for these counties. The caseload data for several civil case types place the sizes of these courts in perspective. Overall the county filings are consistent and predictable given population figures. The

Caseload Filings per 100,000 Population

<u>Case Type</u>	<u>Fresno</u>	<u>Sacramento</u>	<u>San Diego</u>	<u>Ventura</u>	<u>Statewide</u>
Unlimited civil	327	530	434	361	477
Limited civil	1,476	4,283	1,129	970	1,380
Small claims	461	647	714	584	649
Family law	1,643	1,908	1,185	1,039	1,247
Probate	124	144	141	125	137
Felony	1,420	860	638	517	793
Non-traffic Misd.	1,400	2,224	1,210	1,156	1,714
Traffic Misd.	3,163	3,160	1,109	1,231	2,132

exception on the civil side is Sacramento which has a substantially higher ratio of limited civil filings. This is because as the state capitol, a disproportionate number of certain limited civil cases in which the state is a party are filed in Sacramento. The exception on the criminal side is Fresno, which has a disproportionate number of cases charged and filed as felonies, due to local charging practices.

To get a sense of the effect of adding interpreters to civil cases, consider that the total of all civil cases statewide is about 1.4 million, compared to the total of 1.6 million felony and misdemeanor cases statewide. Although the precise ratio of criminal cases requiring interpretation to civil cases requiring interpretation is not known, it is safe to say that the inclusion of civil matters in the interpreting workload will have a major impact on the need for interpreter services. If proportion of civil cases requiring interpretation is approximately the same as the proportion of criminal cases requiring interpretation, and if the time spent by interpreters per case is comparable, the interpreter workload would effectively double. (Excluding unlimited civil cases from this consideration has very little impact on the workload, since they represent only 12 percent of all civil cases.)

The NCSC conducted site visits at each of these courts to explore the following issues (see Appendix E for the focus group protocol for site visits) as defined by the AOC. For the three courts that do provide these services, the NCSC sought to identify, describe, and analyze:

- the means through which these courts currently provide court interpreter services in civil cases;
- the method by which these courts prioritize the assignment of interpreters across case types;
- the ways that these courts achieve efficiencies (if any) in the use of available interpreters;
- the models used by each of the three courts to provide interpreter services;
- the key elements of current practices that might be generalized across courts; and
- policy implications for the AOC of these findings.

For comparison, the site visit to Sacramento was designed to determine the barriers to the use of interpreters in civil cases and explore whether any of the promising practices could be adapted to Sacramento.

In all courts, interpreters are provided to litigants in matters where the litigation is initiated by the state and there is a presumed right to understand and participate in the proceedings, e.g., child support enforcement and for the persons named in the petitions in juvenile delinquency and dependency cases. The focus of this study is on cases routinely referred to in court management literature as “general civil” (torts, contracts, real property) and on civil matters

historically heard in courts of limited jurisdiction and referred to as “limited civil” (low dollar amounts in controversy), small claims and “landlord tenant” or “unlawful detainer.”

Furthermore, through a grant provided by the Judicial Council, Administrative Office of the Courts, all four sites are currently providing interpreters for indigent litigants in family law cases where a Domestic Violence restraining order is sought or issued. While the distinction between civil and family law matters outlined above was understood by both the AOC and the NCSC, in practice the courts tended to group all non-criminal case types into the universe of cases for which they aspire to provide interpreter services, and for this reason information regarding issues related to family law cases as well as civil cases is included in this report.

As will be seen from the individual site visit reports that follow, the courts vary widely in their approach to providing interpreter services. This variation is due to differences in the composition of the population served by the court and resultant workload in each language, the availability of qualified interpreters in each language, and the employment preferences (full-time staff, part-time staff, independent contractor) of the individual interpreters.

The table below illustrates the differences in employment of full-time interpreter staff among these four courts and the languages interpreted by full-time staff.

Number of Full-time Staff Interpreters by Court

	<u>Fresno</u>	<u>Sacramento</u>	<u>San Diego</u>	<u>Ventura</u>
Spanish	18 (3 vacant)	7 (4 vacant)	36 (1 vacant)	5
Hmong	2	2		
Laotian	1			
Mien		1		
Vietnamese		(1 vacant)	(1 vacant)	
Punjabi/Hindi/Urdu		2		
Romanian		1		
Russian		3		
American Sign Language		1		
Total	21	17	36	5

For three out of the four, full-time employment is the solution for handling Spanish language needs, and the court contracts with individual interpreters on an as-needed basis for other languages. The population served by Sacramento is seemingly diverse enough and large enough to provide full-time employment for a number of interpreters in languages other than Spanish.

These full-time staff are supplemented by the use of part-time staff and independent contractors as needed. For some courts, this represents a major component of their labor force, and both part-time and contract interpreters are employed on a regular and steady basis. Three of the courts report problems with filling vacant staff interpreter positions, which may remain open for as long as two years.

For the wide variety of additional languages that are needed more occasionally, these courts contract with individual interpreters for their services when needed.

Superior Court of California, County of Ventura

Demographics, Geography, and Caseload

The Superior Court in Ventura County serves a population of 799,720, 35.5 percent of whom speak a language other than English at home and 22.2 percent of whom are foreign born. The county is a relatively compact geographical area stretched along the lower central coast above Los Angeles. The court facilities are highly centralized, with the majority of court business handled at the Hall of Justice in Ventura, supplemented by the smaller East County Courthouse in Simi Valley and a Juvenile Courthouse at the southern end of the county in Oxnard. The caseload of the court is summarized in the table below.

Ventura Caseload by Case Type and Filings per 100,000 Population

<u>Case Type</u>	<u>Site and 2006 Population</u>		<u>Statewide</u>	
	<u>Filings</u>	<u>Per 100K Population</u>	<u>Filings</u>	<u>Per 100K Population</u>
	<u>799,720</u>		<u>36,467,549</u>	
Unlimited civil	2,889	361	174,099	477
Limited civil	7,755	970	503,111	1,380
Small claims	4,673	584	236,511	649
Family law	8,311	1,039	454,880	1,247
<u>Probate</u>	<u>999</u>	<u>125</u>	<u>49,889</u>	<u>137</u>
All civil	24,627	3,079	1,418,490	3,890
Felony	4,132	517	289,206	793
Non-traffic Misd.	9,245	1,156	625,233	1,714
<u>Traffic Misd.</u>	<u>9,847</u>	<u>1,231</u>	<u>777,351</u>	<u>2,132</u>
All criminal	23,224	2,904	1,691,790	4,639

Court Services

Organization of Services

As noted above, the court handles most of its cases in a central courthouse, supplemented by an East County Courthouse in Simi Valley, where three judges hear civil matters and family law, and a court commissioner hears arraignments, traffic trials, small claims, unlawful detainer, and limited civil defaults. In

addition, three judges adjudicate dependency, delinquency, unified family, adoption, and guardianship cases at the Juvenile Courthouse in Oxnard.

Interpreter Services

Court interpreter services are provided in the Spanish language by five full-time staff interpreters, not including the program manager, who is also a certified interpreter. The full-time staff are supplemented by five contract interpreters, who are pre-booked to work full time every day, and five contract interpreters who are booked on an as-needed basis. Thus, on an average day, Spanish language interpreter services are provided by a total of 15 interpreters. Additional Spanish language and

languages Other Than Spanish (OTS) interpreters are hired as independent contractors and are paid according to the MOU governing such employment, which states that the interpreter will be hired on a half-day or full-day basis. Some of the contract interpreters hired on an as-needed basis are assigned to work at the East County Courthouse (1.5 interpreters on any given day) and the Juvenile Courthouse (2.5 interpreters on any given day).

Management of the interpreter program is highly professional and effective. It includes regular daily assignment of staff interpreters and independent contractor interpreters to specific calendars on a rotating basis, supplemented by ad hoc coverage of requests by judges

for help with civil cases. Ad hoc requests from judges in civil matters are always for matters of short duration, and judges accommodate the needs of the criminal calendar when requesting services for civil matters. Procedures for the provision of interpreting services are documented for reference by all court personnel, and complemented by job descriptions and written professional standards for the interpreters.

Provision of Interpreter Services in Civil and Family Law Cases

As noted above, interpreters are provided in civil cases on a scheduled and an ad hoc basis, through calendar coordination (see *Calendar Coordination* below). In the case of ad hoc requests, the coordinator seeks to adjust the assignments of interpreters in order to provide coverage. In these instances, judges coordinate and group cases requiring interpreters to make effective use of the interpreter while s/he is present in the courtroom.

With an important exception of self-represented litigants noted below, when it is known in advance that a litigant in Family Law (Child and Spousal Support, Guardianship, Child Custody and Visitation, and Conservatorship) or a self-represented litigant in small claims requires an interpreter, the litigant is given a list of certified and registered interpreters who are available to work as independent contractors and instructed to arrange to bring their own interpreter with them to court. In reality, such litigants usually rely on family members or friends to interpret for them; a practice that many court administrators and judges note is a source of miscommunication and misunderstanding.

Effective Practices and Success Factors

Program Management

The use of a well-chosen, professional interpreter to manage the court interpreter program places an emphasis on quality of interpreting service and fulfills the managerial function of allocating interpreter staff to provide coverage. It is useful to have a certified interpreter as the manager when there are complaints about interpreter performance or quality of the interpretation, since the manager can also function as a quality assurance evaluator and observe the interpreters in court. This allows the program to take immediate action to rectify any errors. In addition to the quality focus, the fact that an interpreter is managing interpreter services promotes cooperation from staff interpreters, enhancing their perception that their work is understood and valued by the court. This no doubt contributes to a positive organizational culture in which staff interpreters respond cooperatively to unscheduled ad hoc assignments,

motivated by the goal of providing maximum service to those in court.

The daily rotating assignment system promotes teamwork rather than territoriality about assignments. The organization of interpreter services promotes a courtwide perspective on the part of the staff interpreters, and allows for maximum utilization of the interpreters wherever parties need their services. This assignment system also contributes to a culture in which the loyalty and commitment of the interpreter staff are to the court, rather than to a particular judicial officer, a particular case type, or a particular type of interpreter service.

Calendar Coordination

The interpreter program manager seeks to maximize the utilization of interpreters through close coordination of calendars. For example, this manager assigns interpreters used for a 10:00 a.m. criminal drug court calendar to staff the small claims calendar that takes place at the same location prior to the commencement of drug court. Similarly, if requested in advance, unlawful detainer cases that are heard every Thursday are covered by an interpreter in that time slot.

In family law matters where parties are self-represented, the manager prioritizes the cases for ad hoc coverage. This is done both when requested by a judge or the court clerk in advance, and also when an immediate need for an interpreter is discovered at the time the matter is being heard. When there is an immediate need for an interpreter and one is available on site, the manager sends that interpreter over to the requesting courtroom after receiving the request from the court clerk.

Utilization of Bilingual Court Staff

The presence of bilingual staff can contribute greatly to the enhancement of interpreter services. Bilingual staff can assist litigants, especially self-represented litigants, both before and after their day in court, acquainting these litigants with information they need to know and helping them understand the legal process as it pertains to their case. In Ventura, for example, 90 percent of the staff of the Family Law Self-Help Center speak Spanish. The Family Law Self-Help Center has offices at all the court facilities. In addition, the court offers Self-Help Legal Access

Center services in Ventura, Oxnard, and Simi Valley to support litigants using those courthouses. Outlying areas and populations less inclined to come to the courthouse are served by a Mobile Self-Help Legal Access Center, which travels throughout the county. The Family Law Self-Help Center regularly produces Spanish-language public service announcements for radio broadcast containing basic information about the court and specific information on how to conduct typical kinds of court business (e.g., how to file a petition to correct a birth certificate).

Policy Issues

Self-Represented Litigants

In the informal focus group discussion, judges emphasized the importance of having qualified interpreters in family matters, especially when litigants have at least one side representing themselves. The practice, born of necessity, of family members or friends interpreting in family law cases is bound to lack completeness and accuracy in interpreting and neutrality of orientation. In unlawful detainer cases, which often end in an eviction, tenants are usually self represented. Judges noted that these litigants are often visibly uncomfortable and confused by the proceedings, and that the language barrier is an extreme disadvantage. While the legal issues in these cases are not complex, the consequences to the parties are serious; hence the provision of interpreter services in these cases is seen to be very important. While the overall sentiment of those participating in the discussion is that interpreters should be used in any contested legal matter involving litigants with limited English proficiency, it is especially important when litigants represent themselves.

Ventura Site Visit Contributors

David Long, Chief Civil Judge
Judge Vincent O'Neil
Judge Manuel Covarrubias
Mark Borrell, Court Commissioner
Carmen Ramirez, Esq., Oxnard Self-Help Center
Cecilia Isaac, Court Program Manager, Interpreter Services
Julie Camacho, Court Program Manager, Civil Department
Michael Planet, Court Executive Officer
Tonna Brodie, Deputy Executive Officer

Superior Court of California, County of Fresno

Demographics, Geography and Caseload

The Superior Court in Fresno County serves a population of 891,756, 40.8 percent of whom speak a language other than English at home and 21.1 percent of whom are foreign born. Almost half of the foreign-born residents (46.9 percent) are of Latino/Hispanic origin. In addition to this longstanding Latino community based in agriculture, Fresno County is home to the second largest Hmong community in the US. Geographically, Fresno is a large county located in the central valley; at 5,963 square miles, it is just over three times the size of the average county in the US. The court facilities are distributed throughout the county, with the majority of court business conducted in and around the city of Fresno at several courthouses and facilities, supplemented by outlying courthouses in Sanger (east), Reedley (southeast), Selma (south), Kingsburg (south), Coalinga (southwest), Firebaugh (northwest), and Clovis (north). The caseload of the court is summarized in the table below.

Fresno Caseload by Case Type and Filings per 100,000 Population

<u>Case Type</u>	<u>Site and 2006 Population</u>		<u>Statewide</u>	
	<u>Filings</u>	<u>Per 100K Population</u>	<u>Filings</u>	<u>Per 100K Population</u>
Unlimited civil	2,919	327	174,099	477
Limited civil	13,159	1,476	503,111	1,380
Small claims	4,107	461	236,511	649
Family law	14,650	1,643	454,880	1,247
<u>Probate</u>	<u>1,104</u>	<u>124</u>	<u>49,889</u>	<u>137</u>
All civil	35,939	4,030	1,418,490	3,890
Felony	12,661	1,420	289,206	793
Non-traffic Misd.	12,485	1,400	625,233	1,714
<u>Traffic Misd.</u>	<u>28,203</u>	<u>3,163</u>	<u>777,351</u>	<u>2,132</u>
All criminal	53,349	5,982	1,691,790	4,639

Court Services

Organization of services

Court services in Fresno are divided between the downtown Fresno court facilities and the outlying court facilities dispersed throughout the county. In the branch court locations outside of the city, the facilities are open five days a week, but the court is only in session on one or more (typically two) of those days, during which mornings might be devoted to criminal and traffic and afternoons dedicated to civil and small claims cases. The types of cases and matters typically heard by the single judge in these locations include misdemeanors, felony arraignments, limited civil, small claims, unlawful detainer, and traffic cases.

The Downtown Courthouse hears all case types except juvenile matters, which are heard at Juvenile Delinquency (742 South Tenth St) and Juvenile Dependency (1255 Fulton Mall) in Fresno. This location also includes the ACTION Center, the network of services for one-stop service for litigants after conviction in a criminal or traffic matter.

Additional downtown locations include: 1) Family Court Services (2220 Tulare, Suite 1111), where all supplemental services are offered (orientation, mediation, assessments, counseling, step-parent adoption); 2) Family Support (2220 Tulare, Suite 010), which handles custody and visitation matters as well as support; and 3) Facilitator's Office, dealing with child and spousal support, domestic violence restraining orders, paternity, and other Family Law issues.

In addition, in the city of Fresno the court operates the Centro de Recursos Legales, a self-help center (255 North Fulton) for pro se support in matters such as domestic violence restraining orders, child and spousal support issues, civil harassment, guardianship, general family law, and unlawful detainer. The center provides information and offers

comprehensive workshops for taking a case from filing to disposition, one step at a time. Originally, this center offered support in English and Spanish, but now it includes assistance in the Hmong and Laotian languages, a reflection of the county's changing immigrant population. The center's work is conducted by bilingual staff. Bilingual volunteers have also been used as interpreters to assist clients.

The Office of the Family Law Facilitator provides assistance to self-represented litigants (parties to a lawsuit who do not have an attorney) in handling their child and spousal support cases. The Office of the Family Law Facilitator provides information and explains options without giving legal advice. When assisted by the Facilitator, one is still in control, making the decision as to what action to pursue in relation to one's case.

Interpreter Services

Interpreter services are centralized and administered from the Downtown Courthouse. Here, the interpreter program manager manages the allocation of work to the 21 full-time staff interpreters used throughout the county by the court. Of these 21 staff interpreters, 18 work in Spanish, two work in Hmong, and one works in Laotian. All other interpreters are hired as needed as independent contractors. The court also employs certified and registered interpreters who work as "Permanent Part Time (75%) As-Needed Interpreter Pro Tempore" and "Permanent Part Time" with benefits. The work period for these positions consists of 60 hours biweekly between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, with an unpaid lunch period of not more than one hour for any full day worked. The court currently pays one-half of the health insurance benefit contribution for permanent part time employees with 50 percent status or more.

The court has a preferential arrangement with two of the contracted interpreters (one in Punjabi, one in Cambodian) whereby these individuals will give first preference to Fresno over requests from other courts for work at the same time. (These two individuals were offered employment by the court, but declined, preferring to remain independent contractors.) On a weekly basis, three to four non-certified Spanish-language interpreters are hired to meet the need over and above what the Spanish-language staff interpreters provide. Armenian, Russian, Arabic, and

ASL interpreters are needed by the court on a weekly basis, and this need is met by contracted interpreters.

The coordinator establishes the schedules and daily assignments for the courts where criminal, traffic, and juvenile matters are heard, and for the jail. In addition to these regular assignments, interpreters are assigned on an ad hoc basis to civil and family matters when specifically requested by a judge and when an interpreter can be made available. On a daily basis, requests come in from courtroom staff (e.g., the bailiff or clerk who reviews the calendars) via fax, phone, and email. The interpreter coordinator aggregates this information in Excel worksheets that serve to document the work, and re-enters much of it in Outlook, which serves as a scheduling tool. In this way, the coordinator allocates interpreters across the court.

Typically, Spanish-language interpreters in the Downtown Courthouse are assigned to a specific courtroom for an entire day, and work there until the work is completed. At that time, the interpreter checks in with the bailiff, clerk, or judge, and if released, reports back to the interpreter coordinator. If there are no other matters requiring an interpreter at that time, the interpreter is permitted to leave the courthouse and is on-call via cell phone for the rest of the work day. Interpreters are expected to be able to return to the courthouse within fifteen minutes of being called by the interpreter coordinator. The interpreter coordinator always retains three staff interpreters to provide for any afternoon ad hoc coverage needs; interpreters rotate through assignment to this "late duty" schedule.

Interpreters in languages other than Spanish are assigned on an ad hoc basis as required throughout the court. This applies to both staff interpreters and contract interpreters in languages other than Spanish.

In addition, the court makes regular use of the Provisional Qualification criteria to add to their pool of interpreters in the Spanish language. These are interpreters who have passed the written test, but who have not yet passed the oral test to become a certified interpreter. Typically, the court sends out the provisionally qualified interpreter for two days with a certified interpreter, and only on the second day will the provisionally qualified person actually do interpretation. The court also ensures that ethics

training for these provisionally qualified interpreters has been completed.

In the branch locations, to which interpreters are assigned on a rotating basis, a Spanish-language interpreter will work the entire day the court is in session, covering all matters in which Spanish-language interpreter services are needed. At these locations, calendars are sequentially organized so that the single judge at the courthouse can make use of the interpreter throughout the day in all case types.

In general, the court is committed to fulfilling requests for a certified interpreter in family law, to the maximum extent possible. Thus, interpreters are provided for juvenile dependency cases and, as needed and available, in the Family Court Services Office and for family law matters. The court anticipates that the upcoming move of some civil departments to the former federal courthouse will complicate the allocation of interpreters, since interpreter staff will be divided across yet another facility in downtown Fresno.

At the local level, those providing interpreter services suggest that some judges do not understand how interpreter services are organized and provided, and thus attempt to order interpreter services on demand at the moment an interpreter is needed. Services can rarely be accommodated on such short notice, leading to frustration on all sides. Interpreters report that it is not uncommon to be redeployed for an ad hoc criminal matter, only to wait 1-2 hours in a courtroom to do a short interpretation. In civil and family matters they report that judges are disciplined about batching the matters requiring interpretation, and making best use of their time. Sometimes, the message from the courtroom is that service is needed for a single case, but upon arrival the interpreter learns that seven or eight more matters have been added to the calendar. This places them in a difficult position: either say “no” to a civil or family judge, or be perceived as late or unavailable by a criminal judge. At the same time, judicial officers note that they make requests at the beginning of the day for an interpreter, only to find that an interpreter does not arrive until 11:30 a.m., at which point it is unlikely that the matter can be completed before lunch, meaning that the litigants will have to return at 1:30 p.m.

The management of scarce interpreter resources requires close coordination and the timely flow of

information among many different people in the court. The interpreter coordinator meets monthly with interpreters to discuss these issues; during the site visit, court staff were the first to point out the need for additional coordination and communication with judges and courtroom staff.

Effective practices and success factors

Program Management

Fresno has a highly committed coordinator who has managed to streamline requests and assignments to maximize the use of interpreters. This approach combines a highly centralized system in the city of Fresno with decentralized assignments to branch court locations.

Within the centralized assignment system in the downtown courthouse, an interpreter may cover more than one courtroom during the work day, floating back and forth to accommodate the need as it arises. When a need arises in a criminal case, the bailiff or courtroom clerk calls the interpreter coordinator, who dispatches an interpreter from the interpreter office or via cell phone for that proceeding. While this system helps make maximum use of available interpreters, it is not without some problems. What management may perceive as effective assignments on the fly, interpreters may perceive as being yanked back and forth.

Calendar Coordination

As noted above, the organization of court sessions in the branch locations means that the calendars are sequential, and thus the Spanish-language interpreter on site is available to assist litigants in all case types. The regular assignment of a full-time Spanish language interpreter provides certainty to judges and litigants that this service will be available. (Interpreters in languages other than Spanish must be scheduled in advance.)

Within the downtown facilities, the highly centralized allocation of interpreters across courtrooms is an effective practice to promote maximum use of available interpreter resources, although it places high demand on the interpreter coordinator to constantly process the information and adjust resources throughout each day.

Utilization of Bilingual Staff

The court is staffed by a large number of bilingual (Spanish-English) staff, which makes the work before and after a court appearance easier for Spanish-speaking litigants, and eases the workload of interpreters. Bilingual staff are designated on the courtwide phone list, and this information allows any staff person to find a bilingual staff person when needed to assist. Approximately 200 of the 500 staff are bilingual, that is, they have been tested for conversational ability and passed and are receiving bonus pay for their skill.

Self-help Center

The existence of a comprehensive self-help center at which 90-130 litigants per day receive assistance in Spanish, Hmong, Lao, and Arabic from bilingual staff, provides effective support to litigants, especially self-represented litigants, is an enormous asset to the community and relieves workload on court interpreters.

Web Site

Alone among the courts visited for this study, Fresno makes information about interpreter services easily available from the General Information section of its Web site. The information is provided in both Spanish and English at:

www.fresnosuperiorcourt.org/general_info/interpreter_information.php. Here, a litigant can readily see in what cases and at what locations interpreters are provided. The Web site also makes clear the litigant's responsibility to notify the court of the need for an interpreter. The court has produced public service announcements in both English and Spanish languages regarding Family Court Services, which are not only aired on local television but are available for viewing on the Web site. Finally, the entire Web site page can be viewed in Spanish with just one click!

Policy Issues

Information Systems and Information Flow

Like all the other courts visited, the court in Fresno is challenged by the lack of an integrated information system to help manage interpreter services. The coordinator in Fresno has developed a very effective Excel- and Outlook-based solution, but this requires

extensive data entry of information communicated primarily via telephone, and redundant, often after-hours data entry of information, in slightly different form, for the contract interpreters in the AOC's CIDCS tracking system. While it was noted that the future California Case Management System will integrate the need for interpreters, courts need an interim tool to ease the labor-intensive work currently required to allocate scarce interpreter resources.

Judicial Officers and Interpreters

There appears to be uneven or inconsistent understanding among judicial officers about working with interpreters. Some judicial officers do not believe they get much, if any, training about how to work effectively with interpreters, while others are aware that a course in this topic is offered (and, some think, required) by the AOC. Judges noted that if you came from a district attorney or public defender practice prior to becoming a judge, you probably got some experience, but otherwise not. A consistent, statewide approach to this issue is appropriate to ensure judicial officers consistently understand how best to work with interpreters.

Supply-side Constraints

Fresno experiences the same general shortage of certified and registered interpreters as other courts in California. Staff interpreter vacancies remain open for months and months; there are currently 3.0 FTE Spanish language interpreter vacancies. The lack of recognition of interpreter certification credentials from other states has made it difficult to attract interpreters from out of state (despite inquiries from candidates in Washington, Colorado, and other states).

Creating Tiered Skill Levels of Interpreters

Fresno has in the past made use of volunteer interpreters at the self-help center. Originally, this approach involved the use of certified interpreters as mentors to the volunteers. In this way, the ability of the court to provide interpreter services was expanded, and the possibility of recruiting future certified interpreters out of this volunteer pool was created. This program coincided with the existence in Fresno of a campus of the Southern School of Interpreting. This program is not as active as it was originally; some attribute this to the current contract

environment in which this mentoring is seen as “unpaid” and “out of class” work. Currently, the self-help center intermittently gets some volunteers from a small general interpreter program in language arts at Fresno State University, but they are few in number and only volunteer for a short time.

This approach, however, is consistent with another issue that should be the subject of statewide discussion, namely the idea that to increase the supply of certified and registered court interpreters a more graduated skill level approach should be created. The current approach is an all-or-nothing approach in which it is difficult to see any career path from novice to expert, based on expertise and experience.

In discussing this issue with judicial officers in Fresno, concern was raised that care would need to be taken in any such approach. While it might be easy to agree that non-criminal traffic cases are, generally speaking, low in complexity and not severe in consequences, it becomes more difficult to assess this in other case types, for example unlawful detainer (UD). While the legal issues in UD might not be considered complex, given the consequences of eviction it is essential that pro se litigants understand what is happening and why. Thus, any interpretation must be complete and accurate. In addition to the issues of complexity and consequence, the presence or absence of legal representation must be added.

Cross Assignment among Courts

The current system of cross assignment of interpreters among courts is problematic. The Fresno court has experienced on a repeated basis the problem of the requesting court underestimating the need for an additional interpreter (or revising the original request after the cross-assigned interpreter is on site without official notice to the home court) and the workload of the interpreter. The interpreter is again faced with a situation in which they must disappoint either their home court or the court they are visiting. The fact that the interpreter has individually negotiated the compensation and terms with the court they are visiting only contributes to the conflict. Although it has sent interpreters to other courts, the Fresno court has never succeeded in obtaining interpreters through cross assignment; the court attributes this in part to being perceived as not a scenic or attractive venue for interpreters; given the needs of litigants, it is unfortunate to think that such

subjective criteria would determine whether an interpreter is willing to work in Fresno.

Technology Solutions

Judicial officers noted that telephone interpretation is not a good service for anything other than administrative rescheduling and the like, due both to the lack of nonverbal cues for the interpreter to process and the poor quality of audio. Video adds the visual component, but again, the quality is deficient. Judges like to be able to observe the interaction between interpreter and party, and rely on visual clues to evaluate whether the litigant understands. In both cases, (telephonic and video) interpretation is not in the simultaneous mode, but in the consecutive mode, leading to additional time delays.

Fresno has participated in a pilot program initiated by the AOC through which the Superior Court in Fresno provided remote interpreter service via videoconferencing. The court reports that the courts that received this service found it beneficial. Court staff in Fresno note that this requires additional technology in the courtroom, which may limit its generalizability. Staff also suggest that an additional and possibly better use of videoconferencing might be as a training tool for those seeking to become interpreters. Aspiring interpreters could observe via video link how a professional interpreter performs their job in the courtroom.

Fresno Site Visit Contributors

Judge Hilary A Chittick - Presiding Judge
Judge Kimberly Nystrom-Geist - Family Law
Judge David Kalemkarian - Family Law
Judge Mark Snauffer - Civil
Judge Penner - Civil Law & Motion
Judge Adolfo Corona - Civil
Commission Glenda Allen Hill - Family Law
Executive Officer - Tamara Beard
Associate Executive Officer - Sandra Silva
Civil Court Manager - Mary Calderon
Master Calendar Court Manager - Linda Reed
Family Law Court Manager - Fran Collins
Court Manager-Interpreter Coordinator - Sylvia Sorondo

Superior Court of California, County of San Diego

Demographics, Geography and Caseload

The Superior Court of California in San Diego County serves a large urban, suburban, and desert population of 2.9 million residents, making it the second largest court in California. Within that population, 36 percent of the residents speak a language other than English at home and 23 percent are foreign born. While it is well known that the county is home to a large and longstanding Latino community of mostly Mexican origin (comprising just over half of the county's foreign born residents) the second largest group among the foreign born are more recent Asian immigrants (comprising 33 percent of the foreign born).⁹ San Diego County stretches from the Pacific Ocean east to Imperial County, and is about two-and-a-half times the size of an average US county. The court serves residents at ten court facilities dispersed throughout the county; most of the court's business is conducted in six facilities in and around the city of San Diego, with four other facilities located at the north, east, and southern edges of the county. These ten facilities are organized into four divisions: Central, North, East, and South. The caseload of the court is summarized to the right, and for most case types is very close to the statewide filing rates.

Court Services

Organization of services

Given the size and diversity of court facilities in San Diego, it is useful to have a matrix to visualize the specific case types that are heard in each court facility. Combined with the knowledge of the types of cases in which interpreters are currently assigned, this provides an overview of where and how interpreters are currently utilized. Whether or not case types are

centralized in one location or decentralized across many affects how interpreter services in those cases are or might be provided.

The distribution of work by case type is summarized in the table on the following page. Rows are shaded to indicate the locations within each division. This information can be briefly summarized as follows: General civil matters are heard in five of the ten locations; family matters are heard in five locations, but two of these are different from the general civil locations. Small claims cases are heard in five facilities; juvenile delinquency cases are heard in a single location, one that differs from all the others. At least one civil case type is heard in all ten of the court locations.

San Diego Caseload by Case Type and Filings per 100,000 Population

<u>Case Type</u>	<u>San Diego</u>		<u>Statewide</u>	
	<u>Filings</u>	<u>Per 100K Population</u>	<u>Filings</u>	<u>Per 100K Population</u>
Unlimited civil	12,768	434	174,099	477
Limited civil	33,201	1,129	503,111	1,380
Small claims	20,989	714	236,511	649
Family law	34,846	1,185	454,880	1,247
<u>Probate</u>	<u>4,151</u>	<u>141</u>	<u>49,889</u>	<u>137</u>
All civil	105,955	3,602	1,418,490	3,890
Felony	18,774	638	289,206	793
Non-traffic Misd.	35,578	1,210	625,233	1,714
<u>Traffic Misd.</u>	<u>32,617</u>	<u>1,109</u>	<u>777,351</u>	<u>2,132</u>
All criminal	86,969	2,957	1,691,790	4,639

⁹ Foreign-born population data from US Census Bureau, *American Community Survey 2006*, accessed at factfinder.census.gov.

Case Types by Location, Superior Court of California, County of San Diego

<u>Location</u>	<u>Traffic</u>	<u>Small Claims</u>	<u>Family</u>	<u>General Civil</u>	<u>Criminal</u>	<u>Probate/ Domestic Violence</u>	<u>Juvenile</u>	
							<u>Delinquency</u>	<u>Dependency</u>
Central			X		X			
Hall of Justice				X				
Family Court			X					
Madge Bradley						X		
Kearny Mesa	X	X						
Juvenile Court							X	X
East County	X	X	X	X	X			X
Ramona	X	X		X	X			
North County	X	X	X	X	X	X		X
South County	X	X	X	X	X			X

Interpreter Services

The management of interpreter services in the court is decentralized and organized by court division. The Central Division assigns interpreters to Family Court (for family law cases), Madge Bradley (for domestic violence cases), Kearny Mesa (for traffic cases), and in rare instances, to the Hall of Justice (for general civil cases). The East County Division (including the Ramona facility), the North County Division and South County Division manage their own interpreter services.

In the Central, South and East divisions, the interpreter services are administered by a court operations supervisor who is responsible for policy matters and a coordinator who handles scheduling and coverage within the division. The North Division is managed by the business manager who is responsible for policy and personnel matters and a coordinator who handles scheduling and coverage. Interpreters are not involved in unit management in any of the four divisions; this is a conscious decision by court managers, who stated that certified interpreters are so scarce that there is no justification for assigning administrative duties to an interpreter who is needed for court proceedings.

Coordinators establish schedules and daily assignments for the courts where criminal, traffic, and juvenile matters are heard. Due to the high level of

demand for interpreters in mandated case types (e.g., criminal), for the most part interpreters are *not* provided in the types of civil and family matters central to this study except occasionally, when specifically requested by a judge and when an interpreter can be made available. The one exception to this is family law cases where a domestic violence restraining order is sought or issued. For these cases, interpreters are provided through a grant provided the Administrative Office of the Courts for indigent litigants.

Currently there are 54 FTE staff interpreters employed by the court in its four divisions. For Vietnamese language requests, there is one staff Vietnamese interpreter employed by San Diego County who remains in the Central Division location. Spanish speaking staff interpreters are augmented as needed by independent contract interpreters arranged by the division coordinator. When there is a need for an interpreter in a language other than Spanish at any court location, the requests are handled centrally by the Central Division interpreter coordinator for languages Other than Spanish (OTS). Due to the distances between the facilities of the various court divisions, the court has found that the most efficient approach is to secure those interpreters from courts in other nearby counties, rather than dispatch an interpreter from the Central Division location.

Central Division

In the Central Division, interpreters are occasionally assigned to a civil matter on specific order of a judge; even on an ad hoc basis, interpreters are not generally provided for small claims and unlawful detainer matters. Interpreters assigned to traffic court, if available, may also do small claims matters when availability and scheduling permit. All requests for assistance in the Spanish language for the other divisions of the court are initially handled through the Central Division. Coverage is provided by the “all-court floaters” (interpreters available within the division to cover proceedings unable to be serviced by the assigned interpreter), if available. The Spanish staff interpreters are hired to a specific work location and are not assigned to work at the other court divisions. In addition, ad hoc recruitment of interpreters in languages other than Spanish is handled through the Central Division. All requests for cross assignment of an interpreter from one division to another within the court are handled through the Central Division. Divisional cross assignment of Spanish interpreters typically meets with little success, due to constant demand within divisions, but there is some success with divisional cross assignment for interpreters in languages other than Spanish. Success in securing interpreters from neighboring jurisdictions is minimal. Telephone interpreting is not used at all due to objections from the union representing interpreters.

North County

In North County, with thirteen full-time and part-time Spanish language staff interpreters, estimation of need and scheduling is described as a “complex, intuitive system” based largely on prior court experience. Interpreters are assigned to criminal and other mandated calendars on a weekly basis. The North County Division also provides interpreters in family matters under the domestic violence grant program described above.

South County

South County, with eight full-time and part-time Spanish-language staff interpreters, resembles North County in that interpreters are assigned to the criminal and other mandated calendars on a weekly basis. Administrative staff handles the requests for interpreters in languages other than Spanish for the

criminal calendar as needed. For family matters, interpreting is ad hoc, based on requests from judges, typically for litigants who are self represented. Other than those cases, the criminal court judges are not often subjected to ad hoc requests to reassign interpreters from criminal to non-criminal cases.

East County

In East County there are four full-time and part-time Spanish-language staff interpreters. The division’s interpreter coordinator uses a schedule that directs the interpreters to the daily assignments. These assignments are rotated among the interpreters. Within this rotation, the prescheduled requests for Spanish interpreters are made through the interpreter coordinator. Non-calendared requests for interpreters, for example, for assistance at the counter or by phone, are covered through teamwork and shared responsibility among the interpreters themselves.

As in other divisions, in addition to handling Spanish-language interpreter needs, a court operations supervisor and an interpreter coordinator handle the requests and assignments for interpreters in languages other than Spanish.

Effective practices and success factors

Program Management

Given the realities of its geography and the number of its facilities, the court’s choice of decentralized management for routine coverage may be a useful approach. Concentrating responsibility in one official for unusual recruitment needs also makes sense, although limited success is reported due to the overall shortage of certified interpreters throughout the state.

As in Ventura County, the daily rotating assignment system in the East County Division promotes teamwork. This culture of cooperation also ensures that ad hoc requests for service, which cannot be effectively managed in a centralized manner, are handled on the spot by the interpreters themselves, who use their own good judgment to make maximum use of their time to provide maximum service to those using the court that day. The result is that interpreter staff are focused on service to the litigants and the public, rather than to a particular judicial

officer, a particular case type, or a particular type of interpreter service.

“All-court floaters” are an excellent solution to accommodate additional workload above and beyond what the assigned staff interpreters can handle at the division level. While there are not currently an optimal number of such floaters, nonetheless the court has taken an effective approach by pooling these valuable staff resources and utilizing them to accommodate the fluctuation of workload.

Policy Issues

Information Systems

Judges mentioned the need to identify in advance those cases in which interpreters are needed and arrange for interpreters early in the process. Here, as elsewhere, the lack of integration of interpreter needs information with the case management system forces the court to create ad hoc solutions to this problem, using workarounds that duplicate information and are necessarily inefficient at handling changes.

Supply-side Constraints

The participants in the focus group discussion also noted with concern the routine practice of using of non-professional interpreters (family or friends) in domestic cases. As in other courts, this leads to confusion, imperfect understanding of court proceedings, and jeopardizes an understanding by the parties of the reasons for and terms of judicial decisions.

The chief concern of court management in San Diego is the current shortage of qualified court interpreters. The extension of a mandate to provide interpreters in civil matters in San Diego is seen as somewhat “unrealistic” since there are not enough qualified interpreters to meet the current need in mandated non-civil matters.

Judges and court managers also note that the conversion of interpreters from independent contractors to staff brought about a decrease in the number of available interpreters on any given day (perceived to be the effect of vacation, sick leave allowances, etc.).

San Diego Site Visit Contributors:

North Division

David Yamasaki, Assistant Court Executive Officer
Judge Joel Pressman, Assistant Supervising Judge
Susan Banner, Business Manager
Cristina Torres, Administrative Services Coordinator

Central Division

Hon. Janis Sammartino, Presiding Judge
Hon. Judge Kenneth So, Assistant Presiding Judge
Steve Cascioppo, Assistant Court Executive Officer
Kristeen McKenzie, Court Operations Manager
Silvia Casillas-Houseman, Court Operations Supervisor
Ramon Filomeno, Court Administrative Clerk II
Diana Lara, Court Administrative Clerk II

South Division

Harold M. Kosakoff, Assistant Executive Officer
Hon. William S. Cannon, Civil Judge

East County Division

Robert a. Durant, Assistant Executive Officer
Therese Porter, Court Administrative Clerk
Gwen Jones Bethel, Court Operations Supervisor
J. Esther Blanco, Spanish Language Interpreter

Superior Court of California, County of Sacramento

Demographics, Geography and Caseload

The Superior Court serves Sacramento County, with a population of just over 1.3 million, 24.4 percent of whom speak a language other than English at home, 16.1 percent of whom are foreign born (18.7 percent Latino and 13.2 percent Asian). Of the four counties visited for this study, Sacramento is the smallest and the most densely populated. The caseload by major case type is shown in the table below. Of note in terms of interpreter use is that Sacramento has a high filing rate relative to the rest of the state in criminal case types, as well as limited civil and family law.

Sacramento Caseload by Case Type and Filings per 100,000 Population

<u>Case Type</u>	<u>Sacramento</u>		<u>Statewide</u>	
	<u>Filings</u>	<u>Per 100K Population</u>	<u>Filings</u>	<u>Per 100K Population</u>
Unlimited civil	7,287	530	174,099	477
Limited civil	58,880	4,283	503,111	1,380
Small claims	8,898	647	236,511	649
Family law	26,228	1,908	454,880	1,247
<u>Probate</u>	<u>1,980</u>	<u>144</u>	<u>49,889</u>	<u>137</u>
All civil	103,273	7,512	1,418,490	3,890
Felony	11,826	860	289,206	793
Non-traffic Misd.	30,578	2,224	625,233	1,714
<u>Traffic Misd.</u>	<u>43,441</u>	<u>3,160</u>	<u>777,351</u>	<u>2,132</u>
All criminal	85,845	6,245	1,691,790	4,639

Court Services

Organization of services

The Gordon D. Schaber Downtown Courthouse facility houses the main administrative offices of the court, the office of the presiding judge, civil and criminal courtrooms, and the general civil and criminal case processing support units. Three

buildings in the immediate vicinity of the Downtown Courthouse serve as satellites of that courthouse. Located at 800 9th Street are Departments 53 and 54, hearing general civil law and motion matters, and Department 59, where general civil settlement conferences are heard. The Erickson Building is located at 520 9th Street where civil matters are heard in Departments 57 and 58.

The William R. Ridgeway Family Relations Courthouse to the east is where family, juvenile dependency, and probate cases are adjudicated. The Carol Miller Justice Center is the location to the east of downtown near the Family Relations Courthouse, handling small claims, unlawful detainer, and traffic cases. Juvenile Delinquency cases are handled in the Juvenile Courthouse. Finally, pre-trial criminal matters, as well as the domestic violence court and the drug court, are heard at the Lorenzo Patino Hall of Justice, a facility that houses the main county jail.

Interpreter Services

Interpreter services are managed by an operations manager (hereafter, interpreter coordinator) who also manages court reporters and electronic recording for the court. Currently there are seventeen full-time-equivalent staff interpreters. Of these, three are Russian interpreters, two Hmong, one Mien, two Punjabi/Hindi/Urdu, one Romanian, seven Spanish, and one American Sign Language.

In addition, the court employs six part-time staff interpreters, of which five interpret Spanish and one Russian. In addition, the court makes use of two pro tempore interpreters, one for Cantonese and Mandarin and one for Khmer. The court's need for Vietnamese, Laotian, Armenian and additional Spanish interpreters is handled by contract interpreters. There is currently one vacancy for a full-time Vietnamese interpreter position and four full-time Spanish interpreter positions.

An example of a typical daily interpreter scheduling would look like this for Spanish-language interpreters: two interpreters assigned to the jail, one or two interpreters assigned to the Juvenile Courthouse, five or six interpreters remain on site at the Downtown Courthouse, and two more are assigned to the Carol Miller Justice Center. The remaining interpreters are either on cross assignment to other courts or are on call depending on workload. In Sacramento, interpreters also try to help out with the District Attorney's office and the Public Defender's office, time permitting, and usually over the telephone.

The need for interpreters is communicated to the interpreter coordinator via fax, email, and phone. These requests are organized into an Excel spreadsheet, where specific assignments are documented, as is the need to hire contract interpreters for specific assignments. The coordinator estimates that 40 to 50 independent contractor assignments are contracted each month. The provision of services is prioritized for the currently mandated case types first, primarily criminal, and the court estimates it is providing interpreters in 99.9 percent of those cases when needed. The coordinator assigns interpreters to specific calendars daily on a rotating basis for the Spanish language interpreters. Requests for interpreters in languages other than Spanish are handled based on information provided in advance, and upon ad hoc requests as the need is identified.

The coordinator also manages "floaters" in languages such as Russian, Punjabi, Armenian, and Hmong; these interpreters are mostly contractors and do not necessarily seek to become full-time or part-time regular employees.

Presently, the court is able, to a limited degree, to provide interpreters for civil and family matters beyond domestic violence cases. Requests are communicated in advance if known, but information systems do not support easy identification of the need, and frequently the need is not identified until the party is in the courtroom. At that time, the judge will make a request through courtroom staff for an interpreter. If an interpreter is available, the calendar will be adjusted to obtain one and keep the matter on track. If an interpreter is not available, and a party cannot understand the proceedings, then the judge will either opt to use telephonic interpretation services or continue the case.

Calendar coordination is difficult to achieve in this large court; criminal calendars take place continuously, and criminal and civil and family matters cannot be made sequential to a significant degree. There appears to be a higher level of coordination and cooperation in the family and juvenile matters in this regard. When calendars cannot be coordinated or when an interpreter is simply not available, the result is delay, or the use of family members to interpret, or requiring litigants (for example, in mandatory investigations in probate cases) to come to the courthouse to get access to an interpreter.

Effective practices and success factors

Utilization of Bilingual Staff

The shortage of interpreters and/or bilingual staff in many languages means that often the interpreter accompanies the litigant through post-courtroom steps in the legal process. The court tries to make maximum use of bilingual staff and especially bilingual self help center staff to avoid this situation, as well as providing the publications referred to below.

Web Site

The court provides several innovative resources for those whose native language is not English. For example, there are a number of how-to publications available in a multitude of languages at <http://www.saccourt.com/geninfo/publications/publications.asp>. The court also makes available PDF files of legal glossaries in eleven languages at http://www.saccourt.com/geninfo/legal_glossaries/legal_glossaries.asp.

Policy Issues

Self-Represented Litigants

As in other site visits, judges emphasized the importance of having qualified interpreters in family matters, especially when litigants on at least one side are unrepresented; all agree that a trained professional interpreter is the best choice. Generally, there was consensus among the judicial officers that litigants who are self-represented need interpreters to ensure that they understand the proceedings, since they have no attorney to advise them.

Judicial Officers and Interpreters

Interpreters noted that some judges need training about working effectively with interpreters. When interpreters request a break during a long-cause matter and especially a trial, some judges do not appreciate the fatigue factor that simultaneous interpretation produces, creating tension between judge and interpreter.

In addition, there seems to be some confusion regarding the ethics of interpreters in family law cases. Some judges seem to believe that the interpreter cannot responsibly and neutrally interpret for both sides, when by definition the interpreter works for the court, not the litigant. This reflects a possible misunderstanding of the role of the interpreter as a neutral, working for neither party. Case law and model policy and practice guidelines both emphasize that the interpreter has no inherent conflict of interest when interpreting for both sides, at least in non-criminal cases.¹⁰ Efficiency may dictate the use of an interpreter for both sides to speed the proceedings alone, but that is a management criterion, not a legal criterion.

Information Systems and Information Flow

The court would like to see a technology solution to the information flow problems. Currently the court uses a spreadsheet, phone, and fax. One judge stated that making requests in advance via e-mail just contributed to e-mail overload, and was not effective. The case management system does not allow a clerk to enter the need for an interpreter in a designated field. That information is now buried in the text field of a minute order and cannot be extracted and reported out. Such a solution could also populate the fields of a schedule, eliminating the need for redundant data entry.

Supply-side Constraints

The presiding judge noted that the legislature must create appropriate standards that recognize the constraint on interpreter resources. Revision to the policy must specify clear goals that the justice system is trying to meet, and must take into account not only the constraints, but the impact of interpreted

proceedings on the workload of the court, in light of the fact that interpreted proceedings can take longer.

Creating Tiered Skill Levels of Interpreters

The focus group participants noted that the state should reexamine what interpreter certification is supposed to accomplish, and figure out a way to increase the number of certified interpreters. Registered interpreters are seen as effective, and the court believes some kind of apprenticeship program could work as well, with interpreters moving up the ladder of legal knowledge, complexity, and language skills.

In addition, the state must differentiate clearly between the related, but separate issues of providing self help services in languages other than English, in training court staff and judicial officers in cultural competency (and having the court assume the burden of explaining to the litigant how the court system works, rather than delegate the duty to the interpreter), the use of bilingual staff, and the utilization of highly skilled interpreters in legal proceedings.

Managing Interpreters

The court noted that at present there are no visible resources for someone trying to manage court interpreters, and that all coordinators seem to develop their own home grown set of practices and spreadsheets and other workarounds to manage. The AOC should consider developing more support and information sharing for interpreter coordinators.

Sacramento Site Visit Contributors

Judge Roland Candee – Presiding Judge
Judge Jerilyn L. Borack - Supervising Family Law Judge
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Julie Setzer, Director of Operations, Family Law and Probate Division
Ginger Durham – Court Interpreter Coordinator and Court Operations Manager

¹⁰ See *Court Interpretation: Model Guides for Policy and Practice in the State Courts* (NCSC: Williamsburg, VA) 2002, available online at http://www.ncsconline.org/wc/publications/Res_CtInte_ModelGuidePub.pdf

Appendices

Appendix A: Differences Among Select States in the Levels of Interpreter Qualification

Appendix A: Differences Among Select States in the Levels of Interpreter Qualification

Each state has different criteria for defining levels of interpreter professional qualification. These levels are based primarily on the examination taken and the

score obtained on an oral examination. The table below summarizes these differences for California, Colorado, Hawaii and New Jersey.

California	Colorado	Hawaii	New Jersey
<p>CA Certified Court Interpreter - Only interpreters who pass the Court Interpreter Certification Examination and fulfill the corresponding Judicial Council requirements are referred to as certified interpreters. As approved by the Judicial Council on July 7, 1994, court interpreters must meet the following requirements for certification:</p> <ul style="list-style-type: none"> ● Pass the Court Interpreter Certification Examination, offered by an approved testing entity; ● File for certification with the Judicial Council; ● Pay the annual \$85 fee; ● Attend a Judicial Council Code of Ethics Workshop; and ● Submit proof of 30 hours of continuing education and 40 assignments of recent professional interpreting experience every two years. <p>Currently, there are Court Interpreter Certification Examinations for 12 designated languages: Arabic, Eastern Armenian, Western Armenian, Cantonese, Japanese, Korean, Mandarin, Portuguese, Russian, Spanish, Tagalog, and Vietnamese.</p> <p>CA Registered Court Interpreter - Interpreters of spoken languages for which there is no state certifying examination are required to pass the English Fluency Examination and fulfill the corresponding Judicial Council requirements in order to become registered interpreters of a non-designated language. Registered interpreters of non-designated languages must satisfy the following requirements:</p> <ul style="list-style-type: none"> ● Pass an English Fluency Examination, offered by an approved testing entity; ● File for registration with the Judicial Council; ● Pay an annual fee of \$50; ● Attend a Judicial Council Code of Ethics Workshop; ● Attend a Judicial Council Orientation Workshop; and <p>Meet the requirements developed for court interpreters regarding continuing education and professional experience.</p>	<p>Professionally Certified Interpreter - A language interpreter who meets minimum professional competency standards, has achieved a passing score on an oral certification exam for interpreters recognized by the Colorado Judicial Department, and is listed on the active professionally certified interpreter roster maintained by the Court Interpreter Program Administrator (hereinafter CIPA) and posted on the Colorado Judicial website.</p> <p>Professionally Qualified Interpreter - A language interpreter who has not achieved certification but has met training and minimum oral certification exam score requirements to be considered for court interpreting assignments when a professionally certified interpreter is not available. Professionally qualified interpreters are listed on the active professionally qualified interpreter roster maintained by the CIPA and posted on the Colorado Judicial website.</p> <p>Conditionally Approved Interpreter - A language interpreter who works in a language other than Spanish and has not achieved certification or professionally qualified status but has met minimum requirements to be considered for court interpreting assignments when a professionally certified or professionally qualified interpreter is not available. Conditionally approved interpreters are listed on the roster of interpreters working in languages other than Spanish maintained by the CIPA and posted on the Colorado Judicial website.</p>	<p>Certified Master Level Interpreter - Full Consortium Oral Exam: 80% for Simultaneous; 80% for Consecutive; 80% overall for Sight Translation, with at least 75% for each subpart; or Federal Court Interpreter Certification Exam (FCICE)</p> <p>Certified Advanced Level Interpreter - Full Consortium Oral Exam: 70% for Simultaneous; 70% for Consecutive; 70% overall for Sight Translation, with at least 65% for each subpart requirements and fulfillment of "Certified Advanced" requirements (currently being determined)</p> <p>Certified Level Interpreter - Full Consortium Oral Exam: 70% for Simultaneous; 70% for Consecutive; 70% overall for Sight Translation, with at least 65% for each subpart</p> <p>Approved Level Interpreter - Full Consortium Oral Exam: 60% for Simultaneous; 60% for Consecutive; 60% overall for Sight Translation, with at least 55% for each subpart; or Abbreviated Consortium Oral Exam: 70% for Simultaneous; 70% for Oral English Proficiency component</p> <p>Alternative Credential Recognition for passage of an exam approved by the Judiciary in language for which the Consortium oral exam does not exist; or US State Department Oral Exam "Conference Interpreter" designation</p> <p>Conditionally Approved Level Interpreter - Abbreviated Consortium Oral Exam: 60% for Simultaneous; 60% for Oral English Proficiency component; or Alternative Credential Recognition for passage of an exam approved by the Judiciary in language for which the Consortium oral exam does not exist; or US State Department Oral Exam "Seminar Interpreter" designation</p> <p>Registered Level Interpreter - 2-Day Basic Orientation Workshop: 80% for Consortium Written Exam; 80% for Hawaii Basic Ethics Test; and Passage of Criminal Background Check</p>	<p>Master Court Interpreter - Written Test - 85% or higher Simultaneous Performance Part - 80% or higher Consecutive Performance Part – 80% or higher Sight Performance Part – 80% or higher average and no lower than 75% in each subpart Total average score on all performance parts - Not applicable</p> <p>Journeyman Court Interpreter – Written Test - 80% or higher Simultaneous Performance Part - 70% or higher Consecutive Performance Part – 70% or higher Sight Performance Part – 70% or higher average and no lower than 65% in each subpart Total average score on all performance parts - Not applicable</p> <p>Conditionally Approved/Trainee Court Interpreter – Written Test - 70% or higher Simultaneous Performance Part - 50% or higher Consecutive Performance Part – 50% or higher Sight Performance Part – 50% or higher average each subpart Total average score on all performance parts – 55%</p>

Appendix B: The Provision of Court Interpreter Services in State Courts

Appendix B: The Provision of Court Interpreter Services in State Courts

In 2006, a survey of Consortium for State Court Interpreter Certification member states included the question: *For which cases are interpreters provided at public expense?* The survey listed the following case types:

- Juvenile Delinquency
- Child Protection Cases
- Domestic Violence Cases
- Mental Commitment Hearings
- Civil Cases
- Administrative Hearings
- As ordered by the judge

Respondents were instructed to indicate whether, for each of these case types, interpreters would be provided only for parties found to be indigent, or for any party requiring the services of an interpreter regardless of financial status. Of the 35 states, four

did not respond to the question at all and ten did not differentiate between indigent and non-indigent parties (presumably, those states did not understand the coding instructions).

Twenty-one states responded correctly and those responses are summarized in the tables below. As can be seen, some states failed to provide data for all the case categories. For example, five of the 21 states provide interpreters in civil cases for indigent parties only. Eight report that they provide interpreters regardless of financial status (and one of those with a caveat), but the remaining eight did not respond at all for the “civil” category. It is likely that in those states there is no consistent or mandated approach, but that individual courts make decisions on a case-by-case basis.

For what case types is an interpreter provided regardless of financial status of litigant?

State	Juvenile Del.	Child Protection	Domestic Violence	Mental	Civil	Admin Hearings	As ordered
AR	X	X	X	X			X
CO	X	X	X	X		X	X
DE	X	X	X	X			X
FL	X	X		X	X*		X
GA	X		X				X
HI	X	X	X	X		X	X
IL**	X	X	X				
IN	X		X				X
ID	X	X	X	X	X		
MD	X	X	X	X	X	X	X
NJ	X	X	X	X	X***		
MN		X	X	X	X	X	X
MO	X						
NY	X	X	X	X	X	X	X
OR	X	X	X	X	X		X
PA	X	X	X				X
SC	X	X	X	X	X	X	X
UT	X	X	X	X			X
WA	X						X
WI	X	X		X			X

* Provided it is "necessary for the convenience of the court," or that "significant rights or issues are at stake"

** Cook County (Chicago) only

*** Superior Court

For what case types is an interpreter only provided for indigent litigants?

State	Juvenile Del.	Child Protection	Domestic Violence	Mental	Civil	Admin Hearings	As ordered
CO					X	X	X
DE					X		
FL*			X				
IA	X	X	X	X	X		
IN		X		X	X	X	
NM			X				
PA					X	X	
WA		X	X	X			X

Some additional questions were posed to states that reported they provide court interpreters in civil cases, inquiring about the associated expenses or additional data they might provide. Only two states provided additional information.

Colorado reports that, in accordance with a Chief Justice Directive, interpreters are provided at state expense in the following types of cases:

- Felony, Misdemeanor, and Misdemeanor Traffic
- Juvenile Delinquency and Truancy
- Protection Orders involving domestic abuse
- Dependency and Neglect
- Paternity and Support when covered under Title IV-D of the Social Security Act
- Relinquishment
- Mental Health.

In addition, when a party is found to be indigent, a court interpreter is provided for any case type and there is no documented priority process. These cases were provided with the services of an interpreter during fiscal year 2006 and cost the state \$2,705,561.

Florida doesn't typically provide court interpreters in civil cases unless the judge determines that an interpreter is required under the following general circumstances:

- When necessary to effectuate a constitutional right or protection
- When required, either expressly or by implication, in statute or court rule
- When deemed necessary by the court in the exercise of its inherent authority or jurisdiction
- When necessary to determine *significant rights or issues* in a case involving a party who is indigent.

The Report and Recommendations of Florida's Court Interpreting Subcommittee states that "While the following is not an exhaustive list, the requirement for state funded court interpreters generally apply to the following case types:

- Criminal, including criminal contempt
- Dependency and CINS/FINS
- Delinquency
- Baker/Marchman Acts [mental health proceedings] and guardianship
- Civil proceedings where the fundamental rights of an indigent party will be adjudicated, such as may be the case in domestic violence, child custody, paternity, and child support enforcement cases."

Florida adopted Rule of Judicial Administration 2.073 in late June 2006. The Rule makes reference to the subcommittee's recommended case types, but in different order:

- Criminal
- Juvenile Delinquency
- Civil Commitment (mental health)
- Termination of Parental Rights
- Paternity issues
- Dependency proceedings

Appendix C: Colorado Interpreter Policy

SUPREME COURT OF COLORADO
OFFICE OF THE CHIEF JUSTICE
COLORADO JUDICIAL DEPARTMENT
Directive Concerning Language Interpreters and Access to the Courts by
Persons with Limited English Proficiency

This directive is created to establish policies regarding the proper utilization and payment of foreign language interpreters provided and arranged for by the courts and to offer guidelines for access to the courts by persons with limited English proficiency.

I. DEFINITIONS

- I. A. Classified Staff Language Interpreter** - An employee whose employment is governed by the Colorado Judicial System Personnel Rules and whose job classification falls within the classification and compensation plan.
- I. B. Independent Contract Language Interpreter** - A language interpreter who is an independent contractor pursuant to contract or who is an independent contractor as defined by IRS Revenue ruling 87-41.
- I. C. Temporary or Periodic Contract Employee Language Interpreter** – A language interpreter who is under temporary or periodic contract. Temporary contracts are used for those assignments where an interpreter is required for a special short-term project of limited duration (six months or less). Periodic contracts are used for those assignments where an interpreter is required for an unlimited duration but where employment is sporadic and occurs on an as-needed basis.
- I. D. Professionally Certified Interpreter** - A language interpreter who meets minimum professional competency standards, has achieved a passing score on an oral certification exam for interpreters recognized by the Colorado Judicial Department, and is listed on the active professionally certified interpreter roster maintained by the Court Interpreter Program Administrator (hereinafter CIPA) and posted on the Colorado Judicial website.
- I. E. Professionally Qualified Interpreter** - A language interpreter who has not achieved certification but has met training and minimum oral certification exam score requirements to be considered for court interpreting assignments when a professionally certified interpreter is not available. Professionally qualified interpreters are listed on the active professionally qualified interpreter roster maintained by the CIPA and posted on the Colorado Judicial website.
- I. F. Conditionally Approved Interpreter** - A language interpreter who works in a language other than Spanish and has not achieved certification or professionally qualified status but has met minimum requirements to be considered for court interpreting assignments when a professionally certified or professionally qualified interpreter is not available. Conditionally approved interpreters are listed on the roster of interpreters working in languages other than Spanish maintained by the CIPA and posted on the Colorado Judicial website.

II. APPOINTMENT OF LANGUAGE INTERPRETERS

- II. A.** The court shall provide and pay for interpretation in court proceedings relating to the following case types:
1. Felony, Misdemeanor, and Misdemeanor Traffic.
 2. Juvenile Delinquency and Truancy.
 3. Protection Orders involving domestic abuse.
 4. Dependency and Neglect.
 5. Paternity and Support when covered under Title IV-D of the Social Security Act.
 6. Relinquishment.
 7. Mental Health.
- II. B.** The court may appoint and pay for an interpreter for any party to a court case where a determination of indigency has been made in accordance with the fiscal standards established by the Supreme Court. See Chief Justice Directive 98-01 and JDF 205.
- II. C.** For those cases listed in paragraphs II.A. and II.B., the court shall pay for language interpretation services in the following circumstances:
1. During court proceedings when a defendant, one of the parties, a victim, a witness, or the parent and/or legal guardian of a minor charged as a juvenile is a non-English speaker.
 2. To facilitate communication outside of the judge's presence in order to allow a court proceeding to continue as scheduled, including pre trial conferences between defendants and district attorneys in order to relay a plea offer immediately prior to a court appearance.
 3. For the purpose of facilitating communication between client and Court Appointed Counsel as appropriate under Chief Justice Directive 04-04.
 4. During contempt proceedings when loss of liberty is a possible consequence.
 5. In the development of payment plans and the completion of pre-sentence investigations unless there is bilingual staff available to cover those functions.
 6. During mental health evaluations performed for the purpose of aiding the court in making a determination concerning competency or sanity.
- II. D.** The court shall not arrange, provide or pay for language interpretation to facilitate communication with attorneys, prosecutors, or other parties related to a case involving individuals with limited English proficiency for the purpose of gathering background information, investigation, trial preparation, client representation at a future proceeding, or any other purpose that falls outside of the immediate court proceedings, except as delineated in Section II.C. Prosecutors and clients' attorneys are expected to provide and pay for language interpretation that they deem necessary for case preparation and general communication with parties outside of court proceedings.
- II. E.** For cases other than those listed in paragraphs II.A. through II.C. above, the parties may provide and arrange for their own interpretation services. Minors, family members, parties to the case or parties who may have a conflict of interest should not be used as language interpreters. Failure by the parties to provide and arrange for language interpretation services in these cases shall not require a continuance in a case.

III. QUALIFICATIONS OF LANGUAGE INTERPRETERS

- III. A.** All language interpreters provided by the courts shall undergo a background investigation and sign an oath to abide by the Code of Professional Responsibility for Interpreters. Interpreters listed on active rosters maintained by the CIPA shall sign an acknowledgment regarding their obligations under CJD 05-05, the Continuing Education and Professional Practice Policy for Interpreters.
- III. B.** In the following circumstances professionally certified language interpreters are mandatory:
1. Courts located in areas where 5 or more professionally certified interpreters in one language reside within a 25 mile radius of the courthouse shall use professionally certified language interpreters in all felony case proceedings requiring interpretation in that language.
 2. Courts located in areas where fewer than 5 professionally certified interpreters in one language reside within a 25 mile radius of the courthouse shall at a minimum provide professionally certified interpreters during trials in class 1 felony cases, when professionally certified interpreters in that language reside in Colorado. When the language needed is Spanish, all proceedings in class 1 felony cases shall be covered by professionally certified interpreters.
- III. C.** To ensure that proceedings are interpreted as accurately as possible, courts are strongly encouraged to use professionally certified language interpreters during all court proceedings requiring a language interpreter.
- III. D.** When a professionally certified interpreter is not available, interpreters listed on the roster of active professionally qualified interpreters maintained by the CIPA shall be given preference.
- III. E.** If no professionally certified or professionally qualified language interpreter is available, language interpreters who are conditionally approved or have attended the Court Interpreter Orientation shall be given preference.
- III. F.** When an interpreter is not listed on an active interpreter roster maintained by the CIPA, the court shall, prior to initiating a proceeding, conduct a voir dire inquiry of the language interpreter to determine the interpreter's credentials.

IV. ASSIGNMENT OF MORE THAN ONE LANGUAGE INTERPRETER

- IV. A** The court shall arrange, provide and pay for two interpreters to be continuously present during the following types of hearings to prevent interpreter fatigue and the concomitant loss of accuracy in interpretation:
1. Hearings scheduled to last 2 hours or longer.
 2. Hearings with multiple limited English proficient defendants requiring interpretation when attorney/client consultation during a hearing is paramount (e.g., witness testimony, motions).

3. Hearings in which both a defendant and a witness require interpretation.
4. Hearings in which multiple languages are involved.

IV. B. The following guidelines and limitations apply to the utilization of more than one interpreter:

1. The use of electronic simultaneous interpreting equipment is encouraged as best practice in all cases, particularly in proceedings exceeding two hours in length with multiple limited English proficient defendants, or in proceedings where both the defendant and victim require interpretation.
2. In proceedings with multiple limited English proficient defendants requiring interpretation in one language, the interpreter not actively involved in providing simultaneous interpretation shall be used to facilitate attorney-client communication when needed.
3. If language interpretation is required for witness testimony in a proceeding with multiple limited English proficient defendants, a third interpreter may be provided by the court for that purpose.
4. The use of simultaneous equipment is highly encouraged to allow victims to be present at interpreted proceedings without the need for an additional interpreter.
5. Interpreters are bound by an oath of confidentiality and impartiality, and serve as officers of the court; therefore, the use of one interpreter by more than one defendant in a case is permitted.
6. Similarly, the court is not obligated to appoint a different language interpreter when an interpreter has previously interpreted during a court proceeding for another party in a case.
7. Any party may provide and arrange for interpretation services to facilitate attorney-client communication if interpretation services exceeding those provided by the court are desired.

V. TELEPHONIC INTERPRETATION

Telephonic interpretation may be utilized to facilitate access to the courts by persons with limited English proficiency. In the case of legal proceedings requiring Spanish interpreter services, telephonic interpreting should be limited to hearings lasting 45 minutes or less and interpreters holding a court certification credential should be requested.

VI. ACCESS TO SERVICES

Based on current policy, court interpreting services are only provided in the cases detailed under paragraphs II.A. through II.C. Current policy reflects the Court's commitment to consistency and fairness in the provision of interpreting services for LEP persons statewide, the Court's recognition of the serious nature and possible consequences of court proceedings for individuals who come in contact with the courts, and the need to allocate limited financial resources most effectively. For more information on the Colorado Judicial Department's efforts to provide linguistic access to LEP individuals in the court system, please refer to the Colorado Court Interpreter Program website,

<http://www.courts.state.co.us/chs/hr/interpreters/courtinterpreterpage.htm>.

VI. A. The District Administrator or designee shall manage the provision of linguistic access to the courts for LEP individuals in a district, including the establishment of procedures for scheduling and coordinating language interpreter services for all court proceedings, and the facilitation of access to all other services provided by the court as described in this CJD for persons with limited English proficiency.

VI. B. The Chief Probation Officer or designee shall manage the provision of linguistic access to probation supervision for LEP individuals in each judicial district.

VI. C. To facilitate the use of the most qualified language interpreter available, the Court Interpreter Program Administrator of the State Court Administrator's Office shall administer the training and testing of language interpreters and post rosters on the judicial website of active status interpreters who are professionally certified, professionally qualified and/or conditionally approved as defined in this CJD.

VI. D. To assist all judicial districts in their task of providing access to the courts and probation supervision to persons with limited English proficiency, the CIPA shall post on the judicial website professional translations of forms frequently used by the courts and probation services as they become available.

VI. E. To facilitate access to the courts and probation supervision by persons with limited English proficiency, signs shall be posted to advise LEP individuals regarding availability of interpreter services in those languages most commonly requiring interpretation

VI. F. To facilitate access to the courts by persons with limited English proficiency, telephonic interpretation services may be used.

VII. Appendix A

Policies regarding allocation of interpreters, professional requirements of staff interpreters, and payment of interpreters are contained in Appendix A of this directive. Appendix A may be amended from time to time as necessary. Authority to amend Appendix A of this directive is delegated to the State Court Administrator. Amendments to Appendix A may be made without requiring the reissuance of this CJD.

Done at Denver, Colorado this 14th day of November, 2006.

_____/s/_____
Mary J. Mullarkey, Chief Justice

APPENDIX A

A. I. ALLOCATION OF STAFF INTERPRETERS

District Administrators may hire classified staff interpreters at their discretion and within the district's budget. Additional contract interpreting staff may be hired on an as needed basis through temporary contracts, periodic employment contracts or as independent contractors.

A. II. PROFESSIONAL REQUIREMENTS FOR STAFF INTERPRETERS

It is recommended that all staff court interpreters hired into classified positions be professionally certified. However, availability and other factors may affect a district's ability to hire only professionally certified interpreters. Therefore, all non-certified classified staff court interpreters shall become professionally certified within two years of the effective date of this CJD or within two years of the interpreter's date of employment, whichever comes later. Non-certified classified staff interpreters hired after the effective date of this CJD shall at a minimum have attended the court interpreter orientation, and preferably be listed on the roster of professionally qualified interpreters posted on the Court Interpreter Program website.

A classified staff court interpreter who fails to meet certification requirements within the time limits provided, but has reached professionally qualified roster status, is an exemplary court interpreter and has made significant efforts to become professionally certified may petition the State Court Administrator for extraordinary relief.

Based upon available funding, classified staff court interpreters who gain federal or state certification shall be designated a Court Interpreter II and will receive the corresponding additional compensation as established by the Colorado Judicial Department compensation plan.

A. III. PAYMENT OF INTERPRETERS AND OTHER LEP RELATED SERVICES

A.III.A. Compensation Rate for Non-Classified Spanish Interpreters. The maximum compensation for a non-certified Spanish language interpreter working as an independent contractor or temporary/periodic contract employee shall be \$25/hour. The maximum compensation for a professionally certified Spanish language interpreter working as an independent contractor or temporary/periodic contract employee shall be \$30/hour. In extraordinary circumstances, the District Administrator or designee may appoint a professionally certified independent contract Spanish language interpreter at an hourly rate in excess of those established in this directive.

A.III.B. Compensation Rate for Non-Classified Interpreters working in languages other than Spanish. The maximum compensation for an interpreter working as an independent contractor or temporary/periodic contract employee in a language other than Spanish shall depend on the interpreter's certification status and language availability in the judicial district. Every effort shall be made to coordinate the rate of pay for interpreters working in languages other than Spanish in the various judicial districts.

A.III.C. Minimum Shift Assignments. Interpreters working as independent contractors or temporary/ periodic contract employees shall be contracted to work for a set period of time, which shall not be less than two consecutive hours on any given day irrespective of the number of cases requiring language interpretation. When interpreting assignments require that the interpreter work beyond the time for which he or she was contracted, interpreters shall be paid in 15 minute increments. Judicial districts are encouraged to maximize efficiencies in the utilization of language interpreter services in order to keep language interpreter wait time to a minimum.

A.III.D. Payment for Travel Time. At the discretion of the administrative authority, an interpreter may be paid mileage and/or half the hourly interpreter rate for travel time. In extraordinary circumstances, the interpreter may be paid the full hourly interpreter rate when round trip travel exceeds 150 miles.

A.III.E. Overnight Travel. In the case of trials or hearings exceeding one day duration, language interpreters may be compensated for food and lodging at the standard rate established by the Colorado Judicial Department Fiscal procedures when round trip travel of 120 miles or greater is required to secure a professionally certified Spanish language interpreter, or the best qualified interpreter in the case of languages other than Spanish. To receive reimbursement for food or lodging expenses, the language interpreter must receive authorization from the court for the expenses in advance of the actual expenditure. Reimbursement of allowed food and lodging expenses through the District Administrator will be made only if itemized receipts are provided and expenses are within the allowable ranges as defined in the Colorado Judicial Department Fiscal Procedures.

A.III.F. Cancellation Policy. Contract interpreters whose assignment is cancelled within seventy-two (72) hours of the assignment start time shall be paid for the scheduled time up to a maximum of sixteen (16) hours unless otherwise assigned by the Colorado Judicial Department. If the assignment is cancelled with more than a seventy-two (72) hour notice, the scheduling District is under no obligation to pay the cancellation fee.

Appendix D: Colorado Interpreter Workload Analysis

An Interpreter Workload Analysis

February 23, 2007

Report Prepared By the Office of the State Court Administrator

Project Staff Planning and Analysis Division

Gregory Tooman, Management Analyst
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Interpreter Workload Analysis

Executive Summary

In order to anticipate future interpreter need and to provide a framework for estimating the cost of expanding interpreter services, the Colorado Judicial Department, Division of Human Services and Division of Planning and Analysis worked together to develop a workload model for interpreters.

The model was developed from a case counting study, which determined the number of cases receiving interpreter services for mandatory case types, and a workload model, which determined the amount of time required to provide interpreter services. For both studies, the definition of work requiring court-appointed interpreters was provided by Chief Justice Directive 06-03.

The case counting study involved asking participants in each district to report the number of active cases receiving interpreter services using a web-based survey tool. The study occurred over a four month period from June through September, 2006.

The workload model was developed through a focus group approach. Groups of Managing Interpreters, staff interpreters, and freelance interpreters were asked to indicate how long case-related services took to provide for a variety of case types. All services were related to hearings.

From these two sources, a total amount of time required to provide interpreter services for each district was developed. Based on the difference between the amount of time necessary for interpreter services and the amount of employee time available to provide the services, the need for additional freelance interpreter services was estimated.

The cost of providing employee and freelance interpreters was estimated based on the workload model, and compared to actual interpreter costs for FY 2006. The difference between the two \$54,321.97 out of a budget of \$4.8 million dollars (or 1.90% of the total) represents an extraordinary convergence between modeled cost and actual cost, and is a strong indicator in the validity of the model.

Additional highlights from the study include:

- Interpreter cases make up 16.5% of the caseload as a whole in Colorado. The majority of interpreter cases are located in the front range population centers, and are distributed in proportion with the general caseload.
- The vast majority of the interpreter cases were for Spanish interpretation. Language Other than Spanish (LOTS) cases made up less than 3% of the total caseload.
- Most of these time-per-case values are approximately twice the time-per-case values found in the Judge Weighted Caseload Model. Comparing the two shows that the interpreter values vary in the expected direction compared to the judge values (that is, the interpreter values are higher because interpreter cases take longer) but are not excessively high. This can be considered an additional source of validity for the model.

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Interpreter Workload Analysis

The growth of the Limited English Proficiency (LEP) population in Colorado and an increased emphasis on interpreter access as part of due process¹ has made the management of interpreter services a significant issue for the courts. Despite efforts to effectively manage the service and streamline processes, the trial courts in Colorado incurred cost overruns for interpreter services in both fiscal years 2005 and 2006. In other words, the need for interpreters surpassed the level of resources that were initially provided.

In order to appropriately calculate the future need for interpreter services for trial courts and avoid future cost overruns, the Judicial Branch has taken steps to improve the management of interpreter services. These steps include the development of a comprehensive policy concerning the types of cases and conditions where interpreter services are required, and a method of more accurately counting the number of cases where interpreter services are provided using the ICON/E-clipse database.

Although these steps are necessary to help define the need for interpreter services and costs, they are not sufficient. In order to provide the kind of detail necessary to anticipate future interpreter need and to provide a framework for estimating the cost of expanding interpreter services, the Colorado Judicial Department, Division of Human Services and Division of Planning and Analysis (P&A) worked together to develop a workload model for interpreters.

The Structure of Interpreter Services in Colorado

Historically, funding for interpreter services were allocated through the larger mandated costs section of the statewide trial court budget. Given the increasing demand for interpreter services, and as part of a coordinated effort to manage the interpreter program more effectively, the interpreter budget was separated from mandated costs and given its own line-item beginning with the FY2007 budget.

Each district is allocated a portion of the interpreter budget, based on past expenditures and expected future usage. District administrators are responsible for providing the service within their district for District and County Court. Historically, district administrators were given considerable leeway as to how services were provided. However, during the study period a chief justice directive clarifying the policy for interpreter service provision was enacted.

Spanish is by far the predominant language for which interpretation is required in Colorado trial courts. Spanish language interpretation is estimated to make up 98% of statewide interpreter need.

¹ See Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 FR 41455, June 18, 2002.

Interpreter services are provided through one of three sources:

1. Managing Interpreters, whose primary job function is to manage the assignment of interpreters to the trial courts within a judicial district, but who also provide direct interpreter services as a secondary function. Managing Interpreters exist in most urban court locations.
2. Staff Interpreters, whose primary job function is to provide interpreter services to the trial courts, but who also may manage the assignment of additional interpreter services in places where a Managing Interpreter does not exist. Staff interpreters are available in some urban and some rural districts, and vary as to whether they are full or part time.
3. Independent Contract Language Interpreters (e.g. freelance interpreters) provide interpreter services to the majority of interpreter cases in the state. They are compensated through the District Administrator's office in each of Colorado's 22 Judicial Districts. Freelance interpreters are paid by the hours they work, not by the number of cases for which they provide services, and there are a variety of methods used by the districts to track service provision. In districts where no Managing Interpreter exists, the assignment of interpreters and their compensation for services are sometimes handled by separate individuals, making it difficult to count the number of cases for which freelance interpreters provide services.

District Administrators are urged to contract with freelance Spanish interpreters who are certified as court interpreters through the program administered by the State Court Administrator's Office (SCAO). Because certified interpreters are not always available, district administrators are permitted to hire non-certified interpreters as needed. However, the SCAO is moving to end the practice of hiring non-certified Spanish language interpreters in the future. At this time this policy does not pertain to interpreters who work in Languages Other Than Spanish (LOTS).

Cases Requiring Court-Appointed Interpreters

Historically, there had not been a statewide policy for defining the conditions under which the court was required to provide an interpreter. This led to a lack of clarity concerning the utilization of moneys budgeted for interpreter services, as districts grappled with a definition of what is mandatory and therefore paid for by the trial courts.

In order to reduce ambiguity as to the case types and conditions under which interpreter services are required, a Chief Justice Directive (CJD) concerning the use of interpreters was issued (CJD 06-03, see Appendix 1). The CJD was approved and signed by the Chief Justice after this study ended. However, a provisional copy of CJD 06-03 – functionally identical to the final version – was used as a guide to define mandatory interpreter services for the purpose of this study.

Workload Study Overview

An analysis of workload is designed to measure the amount of time it takes to provide services on cases of different types, since it is assumed that different types of cases have different time/effort requirements. The resulting model of interpreter workload can be used to calculate the future need for interpreters based not on expected caseload alone, but on the ability of interpreters to cover the work generated by those cases. The workload analysis had five key steps:

1. Measuring Caseload: For any case-dependent service to the trial courts, it is necessary to measure caseload in order to determine workload. However there was, at the time of the study, no method to accurately determine the number of cases receiving interpreter services. Therefore, a relatively short-term study was undertaken to estimate the number of cases receiving interpreter services.
2. Defining Work: Interpreters in focus groups were asked to describe the routine activities they engaged in when providing interpreter services for each case type.
3. Estimating Time: Focus groups were asked to estimate the average amount of time necessary to complete each activity for the case types under discussion. Participants were also asked to determine how often these activities are performed, since not all cases will require all of the activities that are defined.
4. Validation: Final time values were presented to Managing Interpreters for validation. Managing Interpreters were asked to indicate their level of confidence in the results of the study, and were given an opportunity to suggest modifications to the amount of time-per-case calculated in the model.
5. Model Building: By estimating the amount of time the average case takes and the number of cases expected in a year, the total amount of time necessary to provide interpreter services for a year was calculated for each judicial district.

Study Methodology

Defining Interpreter Cases

For the study, cases and conditions requiring a court appointed interpreter were derived from CJD 06-03, which was, at the time of the study, a provisional document. Based on the language of the CJD, the following was used to define mandatory interpreter cases for the purposes of both the caseload study and the workload study:

- All Felony, Misdemeanor, and Misdemeanor Traffic Offense hearings, including Restitution;
- Juvenile Delinquency and Truancy hearings;
- Protection Order Hearings involving domestic abuse, whether in District Court (related to Domestic Relations cases) or County Court;
- Dependency and Neglect/Permanency Placement hearings, including termination of parental rights hearings;
- Juvenile Paternity and Support hearings which fall under Title IV-D of the Social Security Act;
- Juvenile Relinquishment hearings;
- Contempt hearings, when loss of liberty is a possible consequence;

- Mental Health hearings, and;
- Any type of case not already listed IF one or more of the parties is indigent (as defined by

Chief Justice Directive 98-01). Cases were also to be included if interpreter services were required for:

- Pre-hearing matters when the subsequent scheduled hearing did not take place;
- Settlement attempts after a hearing begins; and
- Post-judgment matters related to sentencing and pre-sentencing evaluations.

Measuring Interpreter Caseload

At the time of this study, it was not possible to count the number of cases receiving interpreter services in trial courts using existing data management systems. Part of the reason for this was structural: interpreter services are often provided by freelance interpreters paid for through the district administrator's office in each of Colorado's 22 judicial districts. Freelance interpreters are paid by the hours they work, not by the number of cases for which they provide services, and district administrators do not have a uniform, common way of tracking interpreter utilization at the level of the individual case. Part of the reason has also been institutional: although fields for interpreter usage exist in the ICON/E-clipse, they required repetitive and duplicative data entry, and had not been uniformly used by clerks doing case processing work.

Because there was no verifiable, objective method for counting interpreter cases in the trial courts, it was necessary to provide one – if only on a short term basis – in order to calculate a yearly interpreter caseload.

The caseload study was designed in May of 2006, and implemented in June. A contact person in each judicial district was asked to enter case information into an online data collection website created by P&A. Often, the contact person was the Managing Interpreter or staff interpreter in that district. Where neither Managing Interpreters nor staff interpreters existed, a contact person was provided for the study by the District Administrator. Usually this was the Clerk of Court or other person responsible for assigning freelance interpreters to cases as necessary.

Each contact person was provided with a memo concerning the purpose of the study, and how it related to the larger workload analysis and the provision of interpreter services. This was followed by detailed instructions on the entry of cases online (a review of the caseload study materials can be found in Appendix 2). The instructions detailed:

- 1 A list of cases that should be counted in the study, based on the definition of mandatory case types provided in the provisional CJD on court-appointed language interpreters (CJD 06-03);
- 2 The type of information needed for each case;
- 3 The correct method for data entry;
- 4 Contact information for the project manager at Planning and Analysis, in the event of questions or a need for technical assistance.

Participants in the study were asked to log onto the caseload counting module at least once a week to enter information. They were asked to enter the case number of each case that received interpreter services through the court that week, and to indicate the type of case.

In addition, participants were asked about a series of “workload modifiers” that could influence the

development of the workload model. The workload modifiers included:

- Whether the interpretation was for a contempt hearing;
- Whether the interpretation involved an indigent party for a non-mandatory case type;
- Whether the case was a LOTS case; and
- Interpretation for Multiple Persons

Because a case that is not on the mandatory list would still qualify for a court-appointed interpreter if a party is indigent or for a contempt hearing, a relatively high count of either of these characteristics would suggest increasing the types of cases included in the workload model. A relatively high count for LOTS cases or a large number of cases where interpretation was for multiple people per case might lead to a modification of the time-per-case values developed in the workload model, since interpretation on these cases would normally take longer to complete.

Data collection began on the first day of June, and ran through the last day of August, 2006.

Measuring Workload

A workload analysis for interpreters was conducted in August, 2006. A focus group procedure was used to determine the common activities performed by interpreters on cases, and how much time those activities took to complete. Managing Interpreters, staff interpreters, and freelance interpreters were urged to participate. Focus groups were conducted in Denver (at the Denver West office of SCAO), as well as meeting space in judicial buildings in Colorado Springs, Greeley, and Grand Junction. Focus group locations were chosen to provide participants with an opportunity to participate without an undue amount of travel, and to provide an opportunity to hear from equal numbers of interpreters from rural and urban court locations.

Participants included interpreters from the following judicial districts:

- The 2nd (Denver District, Juvenile, and Probate Court)
- the 4th
- the 7th
- the 8th
- the 9th
- the 12th
- the 17th
- the 18th
- the 19th
- the 20th
- the 21st

The focus groups for this study were conducted by the project manager from P&A and the Court Interpreter Program Administrator. The groups were mediated in accordance with the “Delphi Process.” In general, Delphi is a structured process for collecting and distilling knowledge from a group of experts by means of structured discussion with controlled opinion feedback. Delphi is designed to facilitate communication in such a way as to create a group judgment that is free of the types of biases – such as “follow the leader” tendencies – that often plague group decision making.

Sessions began with a short review of the nature and purpose of the study, the organization of the court interpreter program, and how the focus group results would be used as part of the overall workload study. The groups then reviewed the list of case types requiring mandatory interpreter services.

So that interpreters could provide a total amount of time necessary to complete work on a single case (which might cross several days and multiple settings), it was useful to describe work in units or “activities,” so that time could be assigned to them. These activities were to be definable and discrete – that is, each activity had a recognizable “start” and “stop” point, and could not be confused with any other activity.

After determining the activities that made up interpreter work for a given case type, participants in the focus groups were asked to estimate:

- How long each activity, on average, took to complete;
- Given that not all activities are required for all cases, what percentage of a total yearly caseload would require each activity;
- How much interpreter waiting time (if any) is involved in each activity; and
- Based on standards of practice requiring multiple interpreters on some occasions, the number of interpreters routinely scheduled for an activity.

Participants were encouraged to discuss the structure of the court where they worked and how it contributed to the time required to complete activities. In all cases, the group asked to reconcile the differences in their various responses to create a single, group value. In situations where court structure was decided to be too different to reconcile time values or activities, separate values were recorded.

Groups were given four hours to complete work on as many case types as possible. Given that four hours was not enough time to move through the list in its entirety and provide an adequate amount of time for discussion, different focus groups were provided with the list of case types in a different order. Although no group got through the list of case types entirely, data for each case type was provided by at least two groups in the study.

Results

Caseload Study

Data from the caseload study was downloaded from the data collection website two weeks after the end of the reporting period, in order to give participants time to finalize data entry. In cases where there was a question as to the accuracy or completeness of the data submitted (either too high or too low a case count) results were reviewed with a managing interpreter or district administrator. In all cases where a review occurred, changes to the data were based on objective information from ICON/E-clipse data or other records of interpreter service.

Data Cleanup

Participants were encouraged to enter all cases receiving interpreter services once per week, even if the case number might have been previously entered. This instruction was designed to minimize the possibility that a case might be mistakenly omitted. It also required that duplicate cases be trimmed from the data.

The caseload study was designed to estimate the number of new case filings that require court-financed interpreter services in a year. However, the data from the caseload study included cases that had been filed prior to the start of the study period, inflating the totals. This was especially true of felony criminal cases, since these cases often take longer to reach resolution than other mandatory case types. In order to reduce the impact of cases filed before the start of the study, cases were removed from analysis if they had a case number prefix (the first four digits of the case number) lower than “2006.” The resulting counts were more in line with expectations for a three month period.

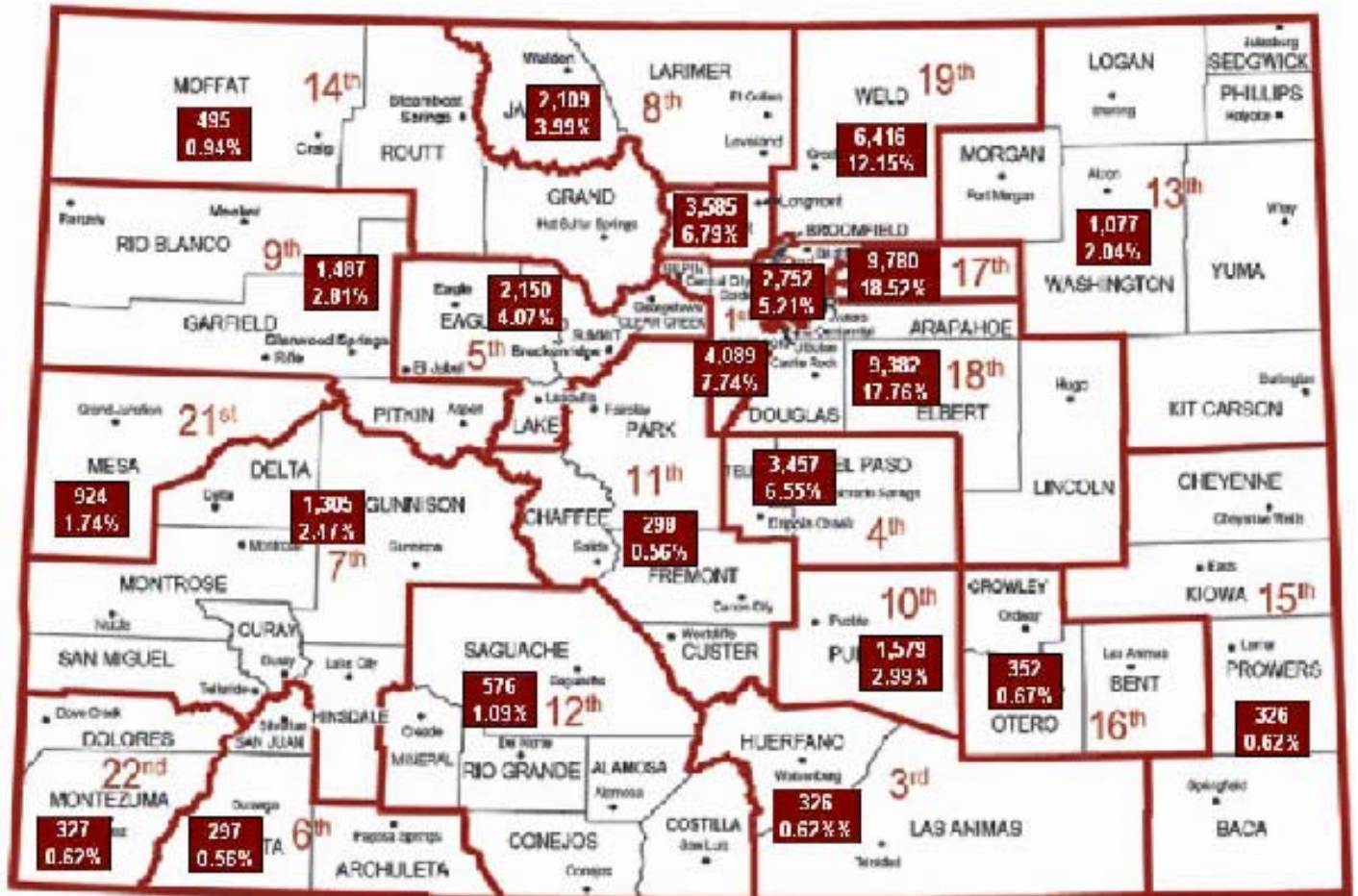
Yearly Estimated Caseload

The three-month counts, trimmed of cases filed before 2006 and duplicate entries, were multiplied by four to create a yearly estimated total. This generated a total of 53,088 interpreter cases yearly, or 16.5% of the total yearly caseload.² The counts, displayed on a map by district, can be found in Figure 1.

As Figure 1 shows, interpreter cases are concentrated in the population centers of the state – 83% of all cases appear in the courts defined as “urban” in the judge weighted caseload model. This ratio shows a greater concentration of interpreter cases in urban courts than the ratio found in the statewide caseload as a whole, where 79% of all cases are heard in urban courts. Sixty-eight percent of all interpreter cases are located in the Denver metropolitan area (defined as Denver District Court, along with the 1st, 17th, 18th, 19th, and 20th Judicial Districts).

² This 16.5% represents a comparison of the estimated yearly interpreter caseload with the caseload totals for criminal traffic, misdemeanor, felony, juvenile delinquency, juvenile dependency, domestic violence protection orders, juvenile paternity and support, and truancy cases found in the 2006 Annual Statistical Report.

Figure 1: Estimated Yearly Interpreter Caseload by District



Workload Modifiers

Participants were asked to include case-related information that might influence the amount of time necessary to complete work on cases. These Workload Modifiers were:

LOTS Cases

LOTS cases made up a very small part of the total caseload – only 442 cases or 2.73% of the total. LOTS cases were concentrated in the Denver Metro area (the 1st, 2nd, 17th, and 18th judicial districts).

Number of Persons Interpreted For

Interpretation was indicated for one person per case in the vast majority of cases - 15,443 or 95.56% of the total. Only 3.69% of the total was for two persons, and less than one percent (0.75%) was for more than two persons. The most common cases with multiple persons were Juvenile cases.

Indigence

The majority of cases where indigence was indicated were for case types where interpreter services were mandatory anyway – Felony Criminal, Misdemeanor, & Traffic. The remaining cases were very small in number – 82 or 0.5% of the statewide total.

Contempt

Contempt was indicated for only 22 cases in the study (0.14% of the statewide total). As with indigence, the majority of cases where contempt was indicated were for case types where interpreter services were already mandatory – Felony Criminal, Misdemeanor, & Traffic. Only one case was recorded for a case type that was not mandatory – County Civil.

Workload Study

Time-per-activity values for each case type were compared across focus groups in order to guard against outliers. No extreme scores were found; therefore all scores were averaged to create mean time-per-activity values for each case type.

Since all activities are not required for all cases, focus groups were also asked to indicate how often each activity would occur (expressed as a percentage). Percentages were also averaged across focus groups to create mean percentages for each activity within each case type.

Modifications to Workload Data

Activities for the emerging interpreter workload model were modified so that they could be easily related to existing models of workload for judges and staff. In some cases, this required a mere change in labeling. In other cases, activities were combined.

Workload data was reviewed in a meeting of managing interpreters. Most values derived in the workload study were validated, however it was noted that, in some cases, percentages indicated by the focus groups appeared to be larger than common court practice would indicate. This is not surprising, given that interpreters are not responsible for overall case management in the trial courts. Interpreters simply did not have an appropriate frame of reference for determining how often, for example, the average misdemeanor case goes to trial. In order to modify the percentages from focus groups so that

they adhere to current court practice, a variety of sources were utilized, including:

The Judge Weighted Caseload Model

For several case types, percentages for preliminary hearings were modified to equal the percentages used for preliminary hearings in the judge weighted caseload model. The court and jury trial rates were also modified in several instances to match those in the judge weighted caseload model.

Data Query for ICON E-clipse

Percentages were modified based on specific queries made to the trial court database.

Modifications to percentages include:

- 1) The percentage of truancy cases with review hearings
- 2) The percentage of domestic violence temporary protection orders that become permanent
- 3) The percentage of permanent protection orders with hearings to modify the order Probation services also provided data from ICON E-clipse which modified the rate of revocation of probation for:
 - 4) Juvenile Delinquency cases
 - 5) Misdemeanor cases
 - 6) Driving Under the Influence/Driving While Ability Impaired (DUI/DWAI) cases
 - 7) Traffic (non-DUI/DWAI) cases.

Management Reports from Child Support Enforcement

Management reports from the Child Support Enforcement Coordinator led to changes in the rate of contempt hearings occurring in Paternity and Support cases.

Final Workload Study Data

The final results from the workload study for all activities and case types can be found in Appendix 3. Time values for each activity were computed using the following data elements:

- The amount of time an individual activity takes to perform;
- The amount of waiting time experienced by interpreters for the activity;
- The likelihood that the activity will be required (e.g. the percentage of cases per year that an interpreter can be expected to perform the activity);
- The number of interpreters needed to complete the activity, based on interpreter practice guidelines.

For each activity, a “weighted value” was created, using the variables listed above. The weighting calculation was: (time per activity + waiting time) * rate of occurrence * number of interpreters = weighted value

The resulting weighted values were summed to create a time-per-case value (an annotated example illustrating the development of time-per-case values can be found in Figures 2 and 3 on the following page).

Figure 2: Annotated Example of Workload Calculations; CR Case Type

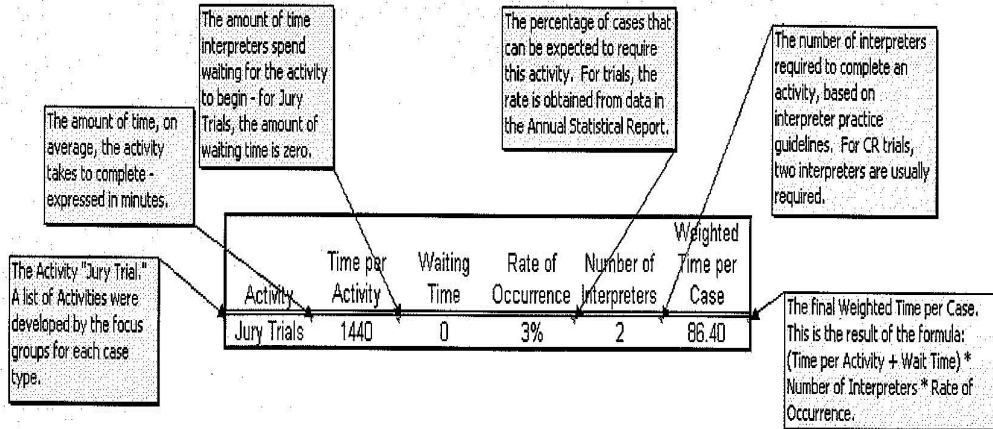


Figure 3: Annotated Example of Time per Case Calculations, CR Case Type

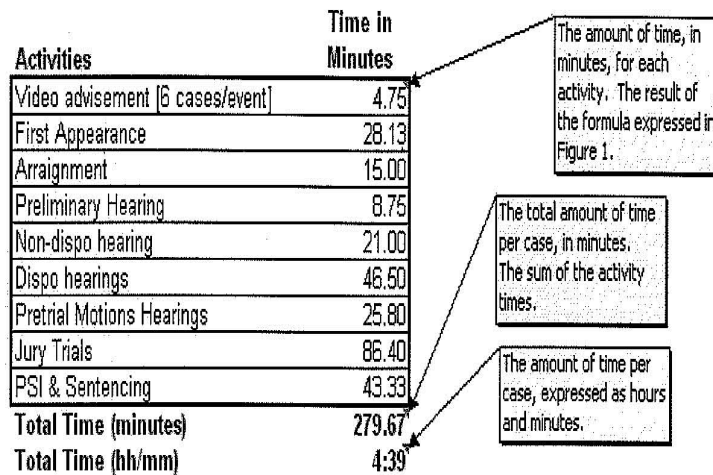


Table 1 shows the time-per-case values for each of the mandatory interpreter case types in total minutes, and the same values in hours and minutes (hh:mm).

Table 1: Final Time-per-Case Values

Case Type	Time (minutes)	Time (hh:mm)
Criminal	246.78	4:06
Dependency & Neglect	421.0	7:01
Juvenile Delinquency	183.18	3:03
Juvenile Truancy	106.71	1:46
Juvenile Paternity and Support	87.5	1:27
Domestic Violence Protection Order	30.0	0:30
Misdemeanor	59.88	1:00
Criminal Traffic	42.65	0:43
DUI/DWAI	57.15	0:57

The final time-per-case-values for the interpreter study were compared to values used in the Judge Weighted Caseload Model where case types were equivalent for both models (see Table 2). The results were generally encouraging, with most of the interpreter time-per-case values approximately twice the judge time-per-case values. This relationship makes sense for two reasons:

- 1 It is assumed that cases take longer to complete when interpreters are required; and
- 2 Both the judge and interpreter time-per-case values are tied primarily to hearings as the events that drive the model.

This is not to say that the relationship between judges and interpreters is truly equivalent – there are a great many differences between the two in the work done both pre- and post-hearing. Still, comparing the two shows that the interpreter values vary in the expected direction compared to the judge values (that is, the interpreter values are higher, but not excessively). This can be considered a source of validation for the model.

Table 2: Comparison of Interpreter Time-per-Case and Judge Time-per-Case

Case Type	Interpreter Time	Judge Time	Judge Time x 2
Criminal Dependency & Neglect	246.78	144 200	288 400
Juvenile Delinquency Misdemeanor	421.0	90 33.5	180 67
Criminal Traffic DUI/DWAI	183.18	20 33	40 66
	59.88		
	42.65		
	57.15		

The Interpreter Work-Year

In order to determine the number of cases an interpreter can provide services for in a year, the amount of time per year that can be devoted to case work – minus administrative tasks and other non-case-related job duties – must be derived. To derive this value, a group of managing interpreters were asked to determine the amount of time per year that interpreters spend on non-case activities. Participants

were asked to provide time estimates for managing interpreters, staff interpreters, and freelance interpreters.

Detailed results can be found in the tables in Appendix 4. Calculations begin with the number of understood work-hours per year, which is:

$$52.2 \text{ weeks per year} * 40 \text{ hours of work per week} = 2,088 \text{ work-hours per year}$$

Participants were asked to list the duties that interpreters were required to complete that were unrelated to providing direct interpreter services for the trial courts. Duties were divided into three groups:

1. Leave and other time off,
2. Job-related administrative duties, and
3. Case-related travel time.

For all three groups, 80 hours of leave was included to account for the court holidays – the 10 days per-year when court is closed. In addition, participants adopted a value of 250 hours per year of total leave for both Managing and Staff Interpreters. This value is equal to the amount of leave time currently given to case-processing staff in the Staff Weighted Caseload Model. Combining court holiday and leave hours yielded a total of 330 hours of leave time for all interpreters employed by the courts.

For the Managing Interpreter model, time values were derived for multiple administrative duties, including:

- Meetings/Conferences 80 hours/year
- Scheduling/Coverage 96 hours/year
- Phone Calls/Correspondence 48 hours/year
- Education/Training 20 hours/year
- Review of Statute/Policy 24 hours/year
- General Supervision 74 hours/year

For the Staff Interpreter model, time values were derived for a smaller list of administrative duties, including:

- Meetings/Conferences 12 hours/year
- Phone Calls/ Correspondence 30 hours/year
- Education/Training 14 hours/year

Case-related travel time was calculated separately for interpreters working in urban and rural areas. Urban managing and staff interpreters were given 34 hours per year of travel time, while rural staff interpreters were given 196 hours per year of travel time.

Since freelance interpreters are compensated hourly for the time they work, only the ten court holidays were removed from their yearly total.

The total non-case time for each group was subtracted from the 2,088 hours per year available for work to provide the amount of time per year available for case work (see Table 3).

Table 3: Work-Hours per Year for Interpreters

Interpreter Type	Hours per Year		
	Leave Time	Non-Case Time	Case Time
Managing Interpreter (Urban)	330	376	1,382
Managing Interpreter (Rural)	330	538	1,220
Staff Interpreter (Urban)	330	90	1,668
Staff Interpreter (Rural)	330	252	1,506
Freelance Time Available	80	0	2,008

Model Development

A model of interpreter usage was developed using the following elements (for an annotated example, see Figures 4 and 5):

1. Caseload Data – the caseload study’s three months of data was projected to one full year by multiplying the caseload totals by four. Yearly caseload counts were developed by district for each case type.
2. Time per Case – Weighted time values were created for each activity, and these values were summed to create a single time per case value (see the annotated examples in Figures 2 and 3).
3. Service Time per Year – For each case type, the number of cases expected in a year in each district (from the caseload data) was multiplied by the amount of time required to provide services to one case (from the workload study). This yielded a total amount of time-per-year necessary to provide services to all of the cases expected in a district³.
4. Interpreter Time Available – for all districts with managing interpreters and/or staff interpreters, the amount of employee interpreter service time was calculated by multiplying the available staff FTE by the number of minutes available per year for interpreter services. Subtracting the employee service-time from the total service time needed yields the amount of freelance time required (if any) to cover the total need for interpreter services.

³ In those cases where caseload data was not available because no cases of that type were worked on in the district during the caseload study period, a proportional representation was calculated. This proportional value was determined by calculating the percentage of cases statewide would require interpreter services based on the model, and then applying that percentage to the number of cases of that type filed in the district during fiscal year 2006, as reported in the *2006 Annual Statistical Report*.

Figure 4: Total Interpreter Service Time Calculation, Annotated

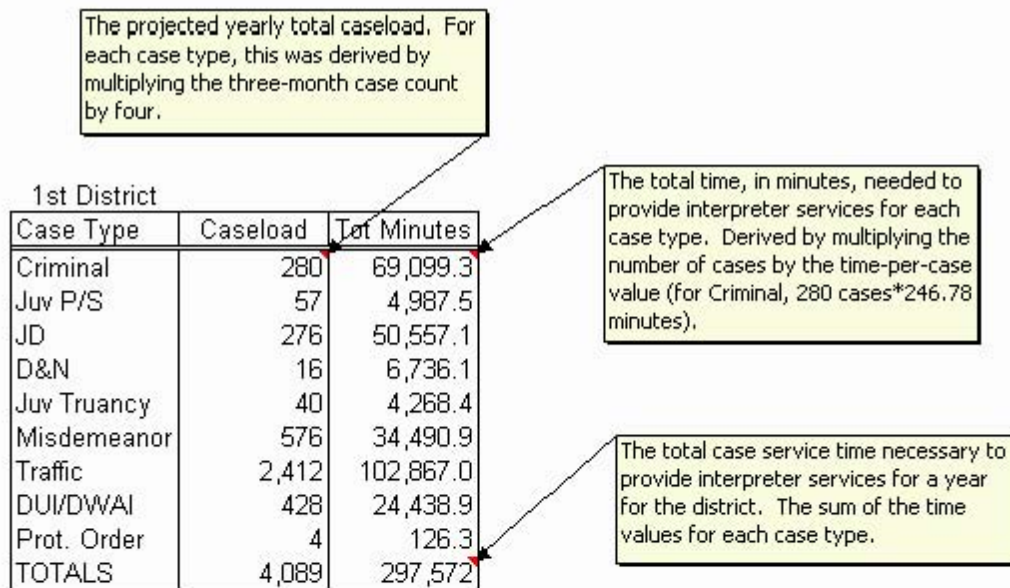
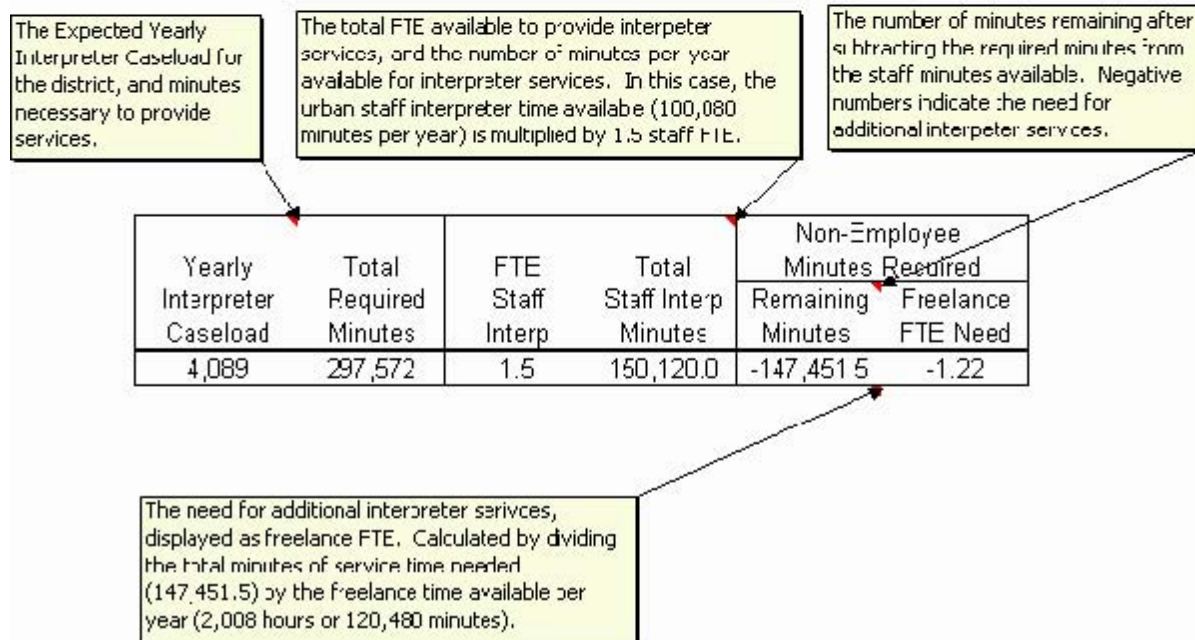


Figure 5: Total Interpreter Service Time Available and Required, Annotated



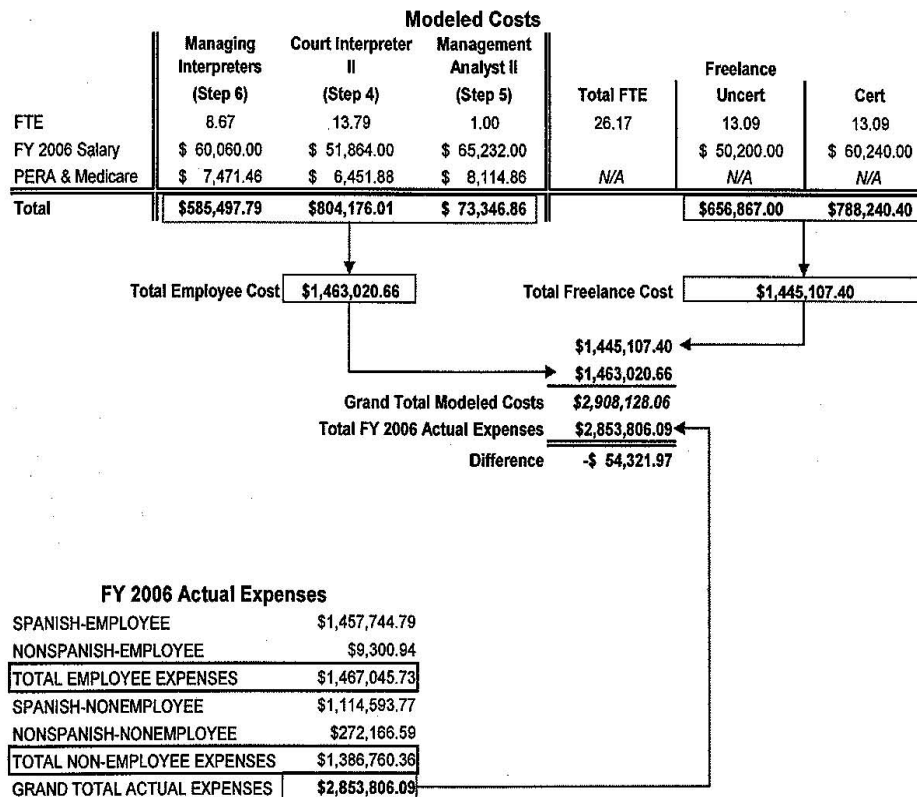
Appendix 5 contains the per-district calculations for total service time, interpreter time available, and freelance time required.

Financial Modeling

Once the total hours necessary to cover the existing interpreter need has been established, it is possible to cross-verify the results with the actual cost of providing interpreter services. With input from the SCAO Budget Office and the Interpreter Program Manager, statewide employee costs for interpreter services were estimated for FY2006⁴. The estimated cost of freelance interpreters statewide was calculated based on the required freelance FTE from the interpreter utilization model. It was assumed that half of all freelance interpreters in FY2006 were certified interpreters (compensated at \$30 per hour) and half were non-certified (compensated at \$25 per hour). Combining the estimated employee costs and estimated freelance costs yields a total estimated interpreter expense.

The comparison of estimated costs and actual costs can be seen in Figure 5. The difference between the two -\$ 54,321.97 for a budget of \$4.8 million dollars (1.90% of the total) represents an extraordinary convergence between modeled cost and actual cost, and is a strong indicator in the validity of the model.

Figure 6: A Comparison of Modeled Costs to Actual Expenses for Interpreter Services, FY2006



⁴ This cost was estimated – rather than known – because of the widespread use of part-time staff interpreters, whose utilization may vary based on the needs of the district in which they work

Modeling Changes in Interpreter Services

The model that has been developed can be used to project changes to multiple variables that make up the total interpreter expense. Estimated changes to the cost of providing interpreter services can be calculated based on:

- Changes to the size of the interpreter caseload;
- Changes to case types covered;
- Changes to the number of certified interpreters vs. non-certified interpreters providing service;
- Changes to the number of staff interpreters and managing interpreters providing services.

Conclusions/Recommendations

An overall interpreter workload model was developed from two sources:

- A case counting study, which determined the number of cases receiving interpreter services for mandatory case types; and
- A workload model, which determined the amount of interpreter time required for interpreter services.

From these two sources, a total amount of required interpreter service-time for each district was developed. Based on the difference between the total amount of time necessary for interpreter services and the amount of employee time available, the need for additional freelance interpreter services was estimated. The cost of employee and non-employee interpreters was estimated, and compared to actual costs for FY 2006. The estimated and actual costs were extremely close, providing a source of external validity for the model.

The current model provides a “snapshot” of the amount of effort required for – and the costs of – interpreter services. In order to use the model to effectively predict the costs of interpreter services in the future, an objective and comprehensive method of counting interpreter cases must be developed. Devising a method to count interpreter cases in the future must be seen as the most pressing concern in managing interpreter costs. Therefore, it is recommended that there be a concerted effort to educate and train case processing staff in the use of the interpreter module in ICON-E/clipse. The alternative – a replication of the case counting study described in this report – is viable, but is a somewhat unwieldy and labor-intensive compared to modifying regular case processing to include interpreter information.

Currently, the model is “neutral” to the issue of LOTS cases. Those cases indicated as LOTS in the case counting study were applied to the statewide caseload total used in calculating interpreter need and costs. Likewise, LOTS costs were included in figuring the actual 2006 expenditure for interpreters. However, LOTS cases can vary widely in cost (depending upon interpreter availability and other logistical issues), are very small in number (representing 2.7% of the statewide total in the caseload study), and are not evenly distributed statewide. Therefore, expenditures for LOTS cases cannot be predicted year to year with any regularity (especially on a district-by-district basis). Because of this, it is recommended that funds for LOTS cases not be allocated based on the workload model, especially at the district level. Other methods to manage the LOTS caseload should be developed.

The workload model is designed to determine the amount of interpreter time required to complete work on cases where a court-financed interpreter is mandatory, based on the language of CJD 06-03. The model assumes that (a) the court is financing an interpreter in every mandatory case, and (b) the court is never financing an interpreter for non-mandatory cases. The model can accurately reflect costs

only inasmuch as these assumptions are correct. It is recommended that, to the extent possible, interpreter provision become uniform statewide, adhering to the guidelines contained in CJD 06-03. This should not be seen as an impediment to expanding the interpreter program to cover additional case types and situations – rather, it is recommended that changes to the list of mandatory case types be accompanied by a change to the workload model to reflect the additional expense.

The workload model can be modified at various points to simulate changes in the system, including estimating the cost of increased caseloads, changes to the number of certified interpreters used by the Colorado courts, and changes in the numbers of managing and staff interpreters at the district level. Despite the model's flexibility, it can become dated rather quickly, especially in an area like interpreter services, where policies and caseloads are changing rapidly. Therefore it is recommended that the maintenance of the workload model – including periodic re-measurement (three to five years at a minimum) – be ongoing and continuous.

Appendix E: Focus Group Protocol for Site Visits

Appendix E: Focus Group Protocol for Site Visits

Purpose: The purpose of the informal focus group with judicial officers and court managers is to gain their perspective on the issues. The precise focus will depend in part on what is learned in the initial morning meetings and observations, to clarify or refine information already obtained.

I. The organization of interpreter services

1. What is unique/key/effective about how the court has organized the delivery of interpreter services?
2. How is the provision of interpreter services integrated into how judges organize their calendars? Could it be done more effectively? How is that coordinated across court facilities?
3. What is the relationship between the provision of interpreter services and the number/location of court facilities? What about those court facilities either inhibits or facilitates the efficient utilization of interpreters?
4. How is the need for an interpreter identified and tracked during the life of a case? How is this taken into account in developing current and future schedules?
5. How is court interpreter service measured? What is the “unit of service”? A case? A defendant? An event?

II. The prioritization of interpreter services

1. What principles/business rules are used to prioritize assignments across:
 - a) locations;
 - b) case categories (criminal, family, civil, juvenile, traffic);
 - c) within case categories, how do you prioritize by case type?
2. If funds and interpreters were readily available, what prioritization would the court like to see in place with civil case category?

III. The supply of court interpreters

1. How many interpreters does the court utilize?
2. How does that break down by language/what are the problems with availability (by language) and how do you try to solve them?
3. Within language, how does it break down by certified/registered/neither?

4. How does that break down by staff vs. independent contractor?

IV. Policy issues

1. What is your perspective as a judge/manager on the value, if any, of having interpreters in civil proceedings? In which cases would it be most important?
2. What do you see as the major challenges/obstacles/concerns/impact if legislation mandating interpreters in civil cases is passed? (e.g., funding, availability of certified interpreters, facility/space constraints, recruitment).
3. What is your perspective on the value of using certified vs. non-certified interpreters? Informal (friend or family) interpreters?
4. What is your perspective on the value of using interpretation services provided over the telephone?

Appendix F: “I Speak” Cards



LANGUAGE IDENTIFICATION FLASHCARD

<input type="checkbox"/> املأ هذا المربع إذا كنت تقرأ أو تتحدث العربية.	Arabic
<input type="checkbox"/> Խոսողո՞ւմ ե՞նք 'նչո՞ւմ կատարեք այս քառակուսում', եթե խոսում կամ կարդում եք հայերեն:	Armenian
<input type="checkbox"/> যদি আপনি বাংলা পড়েন বা বলেন তা হলে এই বাক্সে দাগ দিন।	Bengali
<input type="checkbox"/> សូមបញ្ជាក់ក្នុងប្រអប់នេះ បើអ្នកអាន ឬនិយាយភាសា ខ្មែរ ។	Cambodian
<input type="checkbox"/> Matka i kahhon komu un taitai pat un sang i Chamorro.	Chamorro
<input type="checkbox"/> 如果您具有中文閱讀和會話能力，請在本空格內標上X記號。	Chinese
<input type="checkbox"/> Make kazyè sa a si ou li oswa ou pale kreyòl ayisyen.	Creole
<input type="checkbox"/> Označite ovaj kvadratić ako čitate ili govorite hrvatski jezik.	Croatian (Serbo-Croatian)
<input type="checkbox"/> Zaškrtněte tuto kolonku, pokud čtete a hovoříte česky.	Czech
<input type="checkbox"/> Kruis dit vakje aan als u Nederlands kunt lezen of spreken.	Dutch
<input type="checkbox"/> Mark this box if you read or speak English.	English
<input type="checkbox"/> اگر خواندن و نوشتن فارسی بدرهستین، این مربع را علامت بگذارید.	Farsi

<input type="checkbox"/> Cocher ici si vous lisez ou parlez le français.	French
<input type="checkbox"/> Kreuzen Sie dieses Kästchen an, wenn Sie Deutsch lesen oder sprechen.	German
<input type="checkbox"/> Σημειώστε αυτό το πλαίσιο αν διαβάζετε ή μιλάτε Ελληνικά.	Greek
<input type="checkbox"/> अगर आप हिन्दी बोलते या पढ़ सकते हैं तो इस गोले पर चिह्न लगाएँ।	Hindi
<input type="checkbox"/> Kos lub voj no yog koj paub twm thiab hais lus Hmoob.	Hmong
<input type="checkbox"/> Jelölje meg ezt a kockát, ha megérti vagy beszél a magyar nyelvet.	Hungarian
<input type="checkbox"/> Markaam daytoy nga kahon no makabasa wenno makasaoka iti Ilocano.	Ilocano
<input type="checkbox"/> Marchi questa casella se legge o parla italiano.	Italian
<input type="checkbox"/> 日本語を読んだり、話せる場合はここに印を付けてください。	Japanese
<input type="checkbox"/> 한국어를 읽거나 말할 수 있으면 이 칸에 표시하십시오.	Korean
<input type="checkbox"/> ໃຫ້ໝາຍໃສ່ຊ່ອງນີ້ ຖ້າທ່ານອ່ານຫຼືປາກພາສາລາວ.	Laotian
<input type="checkbox"/> Zaznacz tę kratkę jeżeli czyta Pan/Pani lub mówi po polsku.	Polish

<input type="checkbox"/>	Însemnați această casuță dacă citiți sau vorbiți Românește.	Romanian
<input type="checkbox"/>	Пометьте этот квадратик, если вы читаете или говорите по-русски.	Russian
<input type="checkbox"/>	Ma'a pe fa'a iloga le pusa lea pe afai e te faitau pe tusitusi i le gagana Samoa.	Samoa
<input type="checkbox"/>	Обележите овај квадратик уколико читате или говорите српски језик.	Serbian (Serbo-Croatian)
<input type="checkbox"/>	Označte tento štvorček, ak viete čítať alebo hovoriť po slovensky.	Slovak
<input type="checkbox"/>	Marque esta casilla si lee o habla español.	Spanish
<input type="checkbox"/>	Markahan ang kahon na ito kung ikaw ay nagsasalita o nagbabasa ng Tagalog.	Tagalog
<input type="checkbox"/>	ในกาเครื่องหมายลงในช่องถ้าท่านอ่านหรือพูดภาษาไทย.	Thai
<input type="checkbox"/>	Faka'ilonga'i 'ae puha ko'eni kapau 'oku te lau pe lea 'ae lea fakatonga.	Tongan
<input type="checkbox"/>	Відмітьте цю клітинку, якщо ви читаете або говорите українською мовою.	Ukrainian
<input type="checkbox"/>	اگر آپ اردو پڑھتے یا بولتے ہیں تو اس خانہ میں نشان لگائیں.	Urdu
<input type="checkbox"/>	Xin đánh dấu vào ô này nếu quý biết đọc và nói được Việt Ngữ.	Vietnamese
<input type="checkbox"/>	צייכנט דעם קעסטל אויב איר שרייבט אדער ליינט אידיש.	Yiddish

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