

Agenda

Court Interpreter Committee

July 27, 2012
12:00 to 1:30 p.m.

Administrative Office of the Courts
Scott M. Matheson Courthouse
450 South State Street
Education Room, Suite N31

Welcome and approval of minutes	Tab 1	Judge Vernice Trease
Appeal	Tab 2	Judge Vernice Trease
Administrators' report		Rosa Oakes
Strategic planning	Tab 3	Judge Vernice Trease Tim Shea
Meeting schedule	Tab 4	Judge Vernice Trease

Committee Web Page: <http://www.utcourts.gov/committees/CourtInterpreter/>

Meeting Schedule: Matheson Courthouse, Judicial Council Room, 12:00 to 1:30 unless otherwise stated.

October 26, 2012

Tab 1

Meeting Date	Court Interpreter Committee	
January 27, 2012	Conference Room B/C	
Members Present	Member Excused	
Judge Noonan - by phone	Professor Daryl Hague	
Deborah Kreek-Mendez	Judge Trease	
Luther Gaylord	Judge Romney	
Evangelina Burrows	Dinorah Padro	
Ghulam Hashain	Wendell Roberts	
Craig Johnson		
Greg Johnson		
Maureen Magagna		
Jennifer Storrer		
Staff: Tim Shea, Rosa Oakes		
Guests:		
Topic: Approve minutes of October 28, 2011		
Discussion: Luther asked that the minutes be amended by correcting a part of the statement in his report on Approved Interpreter Qualifications that reads "The federal and state consortium tests include testing for <i>courtroom experiences</i> " to "...the three modes of interpretation." He also suggested that his statement on his lack of interest in pursuing federal certification be omitted.		
Motion: Jennifer Storrer moved to approve the minutes as amended. Evangelina Burrows seconded. Motion passed.		
Topic: Approved Interpreter Qualifications	Luther Gaylord	
Luther stated that Professor Hague had suggested at the previous meeting that giving certified interpreters a raise to \$43 or \$45 an hour would solve the problem, but Luther understands that it's not feasible.		
The committee addressed the pay reduction of current approved interpreters. Luther again stated that the Utah courts should use the most qualified interpreters. He does not believe there should be a "junior level." The justice courts typically pay competitive rates. Rule 3-306 states certified interpreters are to be used unless they are not available. Luther believes many justice courts are not following Rule 3-306, although Luther recently interpreted in Clearfield Justice Court in which two certified interpreters were used (one of which was him.)		
The committee clarified with Luther what his proposed changes to Rule 3-306 are. Luther referred to Tim's memorandum dated January 19. Luther proposed that the approved category only exist if no certification is available in a language. He restated the current credentials as Certified interpreters have passed the consortium exam; Approved interpreters have received a superior rating on the OPI (available to Spanish, Russian, and Vietnamese); Registered 1 is paid the same as Approved but there are no OPI or certification tests available in a language; and Registered 2 has been through the administrative process but has not taken or passed the OPI or certification exam. Luther clarified that in his proposal someone can pass the OPI and still get paid \$33.10		

per hour if there is no certification test available (as an Approved interpreter). If there is a test, they will not get paid the higher hourly rate until they have passed the test. Luther suggested the following options; option one would be to raise his salary; option two is the above proposal presented by him; option three (presented by Rosa) would be where in the past when a person became an Approved interpreter if there was a certified person on the roster would be paid less (such as Vietnamese.) However, if there wasn't a certified person on the roster, the approved person would be paid at a higher rate.

Rosa explains that if there is a language that is rarely used, would it be beneficial to the interpreter to pay for and take the time for additional certification. The committee agreed with Rosa. It is acceptable to pay at the higher rate because they are rarely called for service, but when they are, it is important to make it worth their time. Luther stated that he understands, especially if they have taken the OPI. Luther explained that his concern is not knowing which registered 2 interpreter is more qualified than the next.

Craig suggested the committee grandfather in the current approved interpreters. Luther agreed to grand fathering in the interpreters. Tim explained the fee structure for the testing. A suggestion was made to give the interpreters a set time to complete the certification so that the system is fair to all. The committee questions if the slight raise is worth it to interpreters. Tim explained his motivation for this was to have some type of measure of language ability. Prior to the OPI, we essentially didn't have anything to gauge ones ability to interpret. The other objective was to design something where people are not moving backwards due to something that is out of their control. Tim encouraged the committee to not include a feature that draws interpreters backwards.

Craig seconded Luther's motion. The motion is essentially that the Approved category and it's accompanying pay level would be available only to interpreters when there is no consortium certification exam available. A member stated he would like to see CJA Rule 3-306 amended to accept OPI results as a qualification for Approved status only in those languages where a consortium is not available. Tim explained that the Judicial Council would be the entity to amend the rule. The clarification was made that this rule would add further definition that this applies if "at the time that they are taking the test" so it would apply immediately as opposed to the future candidates. Luther would like to present this amendment to the Judicial Council. Tim explained that Judge Trease would do that, however, it is a public meeting so Luther can attend if he wishes. This would take care of the grand fathering condition as well.

Vote: Yes	Motion: Passed with 1 dissenting
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New Interpreter Web Pages	Rosa Oakes
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How to request an interpreter and how to become an interpreter are new areas of information on the public website. Since the policy was changed to providing interpreters for civil cases, this was an important step. Rosa displayed and explained the sites for the committee. The request is available in Vietnamese as well. Richard Gorza who specializes in pro se litigants has recognized this site. The forms are bilingual. Ethnologue is a website which is linked through the courts site. It is an incredibly detailed site of all languages, where they stem from and usage etc. The new roster is also listed to now include separating them by language. The roster includes information for the American Sign Language and the three agencies that are contracted. The committee discussed various languages and their availability and need in the Utah

state courts. The committee questioned seeing the website if it limits the appearance to only Spanish and Vietnamese due to those translations being provided. Tim explained that the forms provided are not mandatory, they are only meant as a tool available to ease the process. Rosa suggested adding a statement "request an interpreter in any language." The committee agreed to that suggestion. Rosa sent the website to all of the interpreter coordinators so they could become familiar with it. The courts intranet (internal site) has a link as well for court personnel such as clerks or probation officers. The committee noted that there was a lot more information than previously seen on the site.

Topic: Two Pilot Programs Report to Judicial Council | By Tim Shea

The two pilot programs that the Judicial Council approved are the remote interpretation and the two Third District staff interpreters. The remote interpretation has been in place for more than a year. The staff interpreters for just under a year. Both programs have shown to be a success. The savings in the remote interpretation shows highest in the area of travel, especially to Vernal and Richfield. The staff interpreters are paid on an hourly rate regardless of the length of any individual hearing. The overall savings was approximately \$30,000 with a full-time staff interpreter. Regarding the remote interpreting equipment, the system purchased from the Florida vendor is a true plug-and-play. The system purchased from a Draper vendor requires the court to be wired into the court recording system. There have been difficulties with the Draper system linking up successfully and unless it is resolved, Tim's recommendation would be not to purchase any more of those. The courthouse does not need to be remote to accommodate the system. The Florida system costs \$15,000 and the Draper system costs \$7,500. Further conversations with Dan Becker and members of this committee as well as the Trial Court Executives lead to expanding the staff interpreter plan. Making them available to Matheson, West Jordan, Summit, and Tooele. The discussions are still in the works but we are considering the Eighth District as well. The systems require an analog line so there would need to be accommodations made.

The committee asked if the wages would increase if staff interpreters became permanent. Tim stated they would not. They would most likely decrease to include a full benefit package. Rob Parkes is conducting a salary survey to find the national medium. The committee is concerned if the pay decreases the current staff interpreter contractors would not stay.

Topic: Meeting adjourned | By Tim Shea

Meeting adjourned at 1:15 p.m.

Tab 2

Tab 3

FUTURE TRENDS IN STATE COURTS 2012

*Delaware's Successful Strides
Toward Language Access in
the Courts*

*by Maria Perez-Chambers and
Ashley Tucker*



A nonprofit organization improving justice through leadership and service to courts



DELAWARE'S SUCCESSFUL STRIDES TOWARD LANGUAGE ACCESS IN THE COURTS

Maria Perez-Chambers

Coordinator, Court Interpreter Program, Delaware

Ashley Tucker

Staff Attorney, Delaware Administrative Office of the Courts

Delaware's Court Interpreter Program is a state-funded, centralized program that coordinates all the Delaware courts' language service needs. Detailed records of all interpreter services used permit Delaware to focus on adequate funding for this program and to anticipate current and future needs of Delaware's limited-English-proficient population.

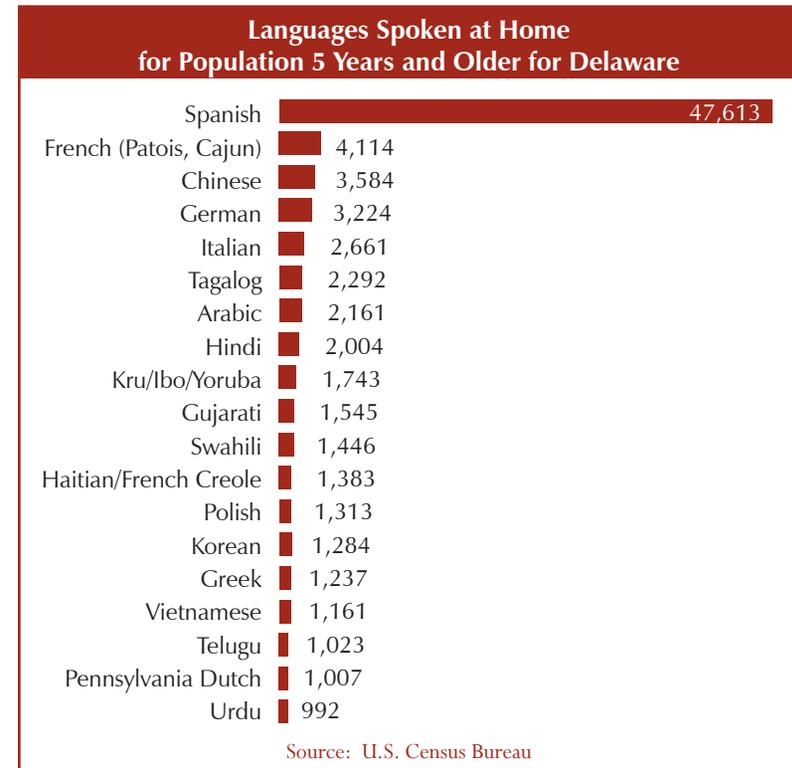
Court Interpreter Program and Language Access

In the 1990s, Delaware, the “Small Wonder,” faced a big problem with improving the interpreter services provided to those with special language needs in the Delaware courts. In its 1996 report, the Delaware Supreme Court’s Task Force on Racial and Ethnic Fairness found that “court interpreters have not always been available to limited-English-proficient (LEP) individuals when needed and interpreters who have been used sometimes have not provided effective interpretation or have acted in an unprofessional manner.” Although the supreme court issued Administrative Directive 107 earlier in 1996, which promulgated policies and procedures related to the use of court interpreters in the Delaware courts, the combination of the directive and the task force’s work represented important first steps in the long process of developing a strong court interpreter program. Administrative Directive 107 also created the Court Interpreter Program (CIP) in the Administrative Office of the Courts (AOC) to administer the standardized policies and practices related to providing interpreter services in the courts, as well as to overseeing credentialing, scheduling, and payment of court interpreters in languages other than English, including American Sign Language (ASL) for court users who are deaf or hard of hearing.

In response to the sustained growth of Delaware’s LEP population, and consistent with U.S. Department of Justice guidelines, 67 Fed. Reg. 41445 (June 18, 2002), the Delaware judiciary, through the AOC, remained true to its commitment to language access by developing a formal language access plan to govern efforts in support of ensuring meaningful access to all who enter the Delaware courts.

Identifying and Meeting Language Needs

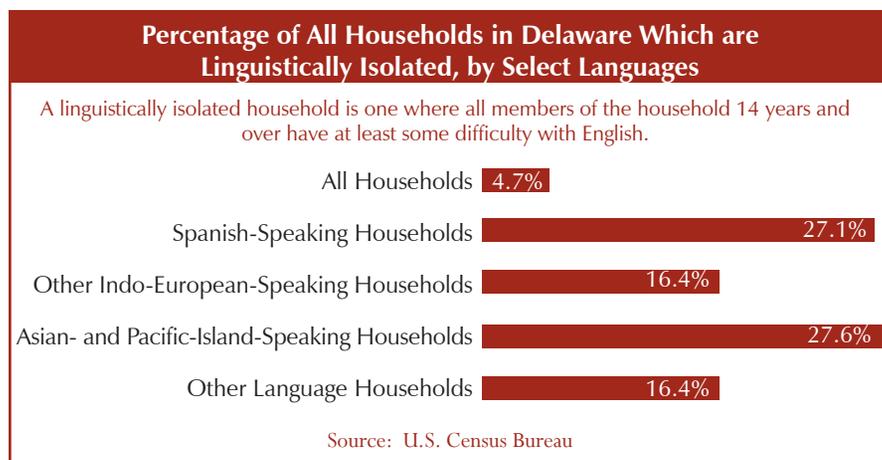
Delaware uses census data and AOC records to identify the most prevalent language needs and build its language access program accordingly. The 2010 United States Census revealed that Delaware’s Hispanic or Latino population makes up 8.2 percent of Delaware’s total population. AOC records, which track court requests for court interpreter services, confirmed that Spanish services were the most



frequently requested language services. In fiscal year 2011, a total of 2,374 court events required 6,189 foreign-language-interpreter hours and provided language assistance to an estimated 8,939 LEP litigants.¹ Of these 8,939 LEP litigants, 89 percent were Spanish speakers. Haitian Creole, the second most frequently requested language, is a distant second with 211 litigants. Spanish is, by far, the predominant language of LEP individuals accessing the Delaware courts.

Based upon this statistical information, Delaware has tailored its language services program to address geographic exigencies, the number of certified/qualified interpreters available, and court demands. Delaware has three counties—New Castle, Kent, and Sussex—of which New Castle is the most populous. Not surprisingly, New Castle County has the largest LEP population and saw 60 percent (1,427 of the 2,374) of the interpreting events in fiscal year 2011. Furthermore, courts of first instance, consisting of the justice-of-the-peace court, family court, and the court of common pleas (a misdemeanor limited-jurisdiction court), requested language services most frequently. For example, in fiscal year 2011, justice-of-the-peace courts used 22 percent, family courts used 34 percent, and courts of common pleas used 41 percent of the total interpreter hours. CIP has focused on responding to each court’s needs and specific requirements. One successful tool developed to this end is the coordinated Spanish interpreter calendars prearranged by the CIP.

Interpreters for coordinated Spanish interpreter calendars for New Castle County’s court of common pleas and family and justice-of-the-peace courts are scheduled in advance for three-month increments. The calendars are posted electronically (public folders in the state’s Outlook e-mail application), allowing access by all courts. Along with New Castle County’s coordinated Spanish interpreter calendars, individual interpreter calendars, including interpreter services secured for languages other than Spanish, are posted electronically for all courts statewide. This system has proven valuable by standardizing access to Spanish interpreters for all courts; enabling any court staff to easily determine if there is an interpreter already scheduled to provide services in that court on a given day and which interpreter is available; and serving as confirmation to the court that requested interpreter services have been scheduled.



A second successful tool used to meet the needs of the courts and LEP individuals is evening calendars. The justice-of-the-peace courts historically see the largest numbers of litigants, English speaking and LEP. To address these numbers, the justice-of-the-peace courts schedule “Hispanic Arraignments,” where calendars are scheduled specifically for Spanish-speaking defendants charged with motor vehicle violations and other misdemeanors. These calendars are scheduled on set days per week, depending on the demand. Two interpreters and two judges are assigned to these calendars, and up to 30 Spanish-speaking LEPs may be scheduled.

In addition to these two specific tools, the CIP administers standard general procedures to secure interpreter services. Every court in each county has two staff members responsible for receiving requests for interpreter services from within their court, state agencies, the Delaware Bar, or other sources. These staff members schedule and post the secured language services. Court staff have been trained by the CIP coordinator on these general procedures. Preference is given to securing in-person, certified, or duly qualified interpreters from the Delaware Interpreter Registry for all hearings. The coordinator provides support to court staff to address requests for rare languages or those for which there are no certified/qualified interpreters in the registry, or if an unusual circumstance arises.

Additional procedures are in place for unanticipated needs for language services. The initial step is to secure an in-person interpreter through the electronic calendars. Absent the timely availability of an in-person interpreter, CIP offers two types of telephonic interpreter services. One service is manned by Delaware registry interpreters and permits judges to access the more frequently used languages at reasonable rates; the other service is offered through an outside-language-services vendor. Telephonic services are usually reserved for nonevidentiary hearings, such as arraignments and *capias* returns.

Data Collection and Analysis

A third important tool helps track and quantify the demand for language services to forecast future needs and projected costs. The request-for-payment form was designed by the CIP coordinator and the AOC’s fiscal department for use with all foreign language and ASL interpreter assignments. Interpreters complete the form immediately, which includes all pertinent information about the services rendered, such as in-person or telephonic service; county and court; interpreter arrival and departure time; number of litigants receiving service; whether LEP was a defendant, litigant, parent of juvenile, witness, or victim; and type of hearing. Data collected from each RFP form is compiled electronically (using an Excel format) and tallied, along with expenditures, for all events. A summary captures the total number of events for each language, the total number of litigants served in each court and for each county, and expenditures per language.

At year’s end, the CIP coordinator issues a report including the total number of interpreting hours provided broken down by court and county; the number of LEP litigants receiving services by court and county; number of LEP litigants who were defendants/litigants, parents of juveniles, witnesses, or victims; types of hearings; number of interpreting events by language; and total expenditures for the fiscal year. These data are used for fiscal projections, to calibrate the number of interpreters needed, and to confirm that appropriate language services are being provided.

Program and Funding

Delaware’s Court Interpreter Program is centrally managed by the AOC under the direction of the Court Interpreter Program Advisory Board. The board is

composed of five judges, a certified interpreter, and the AOC’s CIP coordinator. The coordinator’s position is full-time and currently held by a certified interpreter. The coordinator is responsible for overseeing the entire program, ranging from performing daily administrative tasks; developing appropriate policies and guidelines; conducting recruiting, education, and training; and maintaining a registry of court-approved interpreters. The registry is updated once a year and distributed to the courts and relevant agencies, such as the Delaware Department of Justice and the Public Defender’s Office.

The Court Interpreter Program was initially started with grant funds but is now state funded through a separate budget appropriation within the judicial branch budget. Budgeted monies pay for interpreter services received, as well as for other program needs such as candidate orientation, training, and certification exams.

All of Delaware’s court interpreters provide services on a contractual basis, and those on the registry have, as independent contractors, entered into service agreements with the AOC. To date, there are no full-time or part-time staff interpreter positions.

Training and Educational Outreach

To communicate the Delaware judiciary’s language access plan to all the Delaware judges and court staff and to standardize practices in all courts, the CIP coordinator has made presentations on the plan and general and court-specific procedures to judges and court staff in all courts and counties. All relevant materials, such as procedures, the language access plan, the registry, and required forms, are available through the Delaware judiciary’s “intranet” page.

Spanish	7,943
Haitian Creole	211
Mandarin	49
Arabic	32
Vietnamese	30
Turkish	25
Russian	25
Hindi	17
Korean	21
Portuguese	11
Thai	6
Cantonese	4
French	3
Malayalam	2
Mende	2
Swahili	2
Bengali	1
Ewe	1
German	1
Greek	1
Punjabi	1
Twi	1
Ukrainian	1

The judges are also provided with bench cards on “Best Practices for Working with Court Interpreters in the Courtroom.” The bench cards explain how judges can evaluate the language proficiency of those who appear in their courtroom and determine whether interpreter services should be provided. Judges are also provided with guidelines to evaluate an interpreter’s credentials and qualifications, and an overview of the interpreter’s role, duties, and responsibilities to the court and the parties.

Educational outreach extends to other agencies, such as the Public Defender’s Office and the Office of Conflict Counsel, as well as members of the Delaware Bar. Materials, such as the “Best Practices for Attorneys Working with Foreign Language and ASL Interpreters,” are disseminated through the state bar association. Presentations on best practices by the CIP coordinator have been sponsored by courts and agencies.

Pilot Programs and Future Initiatives

In line with language-access-plan goals, and in conjunction with court-sponsored initiatives, such as the Delaware Courts: Fairness for All Task Force, efforts are underway to expand the range of services that will ensure fair access to the courts for all individuals. As a result of a 2009 pilot project, non-bilingual court staff can access telephonic interpreter services to assist LEP individuals at the point of first contact with the court. First contact often occurs when an LEP individual makes an unscheduled appearance at court and has questions or wants to pay a fine. Court staff have been provided with materials to help determine the LEP individual’s native language before they access telephonic interpreter services.

The CIP translation initiative has asked each court to identify their most frequently used critical documents and has translated those documents into Spanish. Spanish information brochures and complaint forms are available online, and additional efforts are being made to promote the availability of the court educational materials to the public through their distribution to community centers and other means. A Spanish video illustrating the civil processes in the justice-of-the-peace and the family courts is currently in production.

Finally, efforts are underway to identify current bilingual (English/Spanish) employees and affirmatively hire bilingual employees. The courts are stepping up their efforts to reach out to diverse communities through outreach programs so that the different communities’ needs can be better understood and served in the future.

Conclusion

Delaware’s Court Interpreter Program is now in its 15th year, and great strides have been made in turning what once represented a big problem in providing qualified court interpreters to LEP individuals in court, into a more manageable, if still demanding, one. The CIP’s framework and goals are guided by the Delaware judiciary’s language access plan, and it is a state-funded, centralized program with a dedicated staff that coordinates all the courts’ language requirements. By focusing on gathering statistical data, the Court Interpreter Program can help quantify which language services are needed, which courts require the most services, the types of services used by each court, the number of interpreters required, and the overall cost of the program. This information helps the program better judge the individual language-access needs of each court and anticipate the projected costs and future needs for language services in Delaware courts.

ENDNOTES

¹ An event is defined as a court proceeding involving one or more LEP litigants requiring interpreter services. An event may also encompass one or several types of hearings: arraignments, pleas, and violations of probation or mediation, for example.

RESOURCES

American Translators Association. www.atanet.org/docs/Getting_it_right_int.pdf

Empire Justice Center, Model LEP Plans.

http://onlineresources.wnyc.net/pb/orcdocs/LARC_Resources/LEPResources/ModelLEP/ModelLEP.htm

Limited English Proficiency: A Federal Interagency Website. www.lep.gov

National Association of Judiciary Interpreters and Translators (NAJIT). www.najit.org/index.php

NAJIT Position Papers. www.najit.org/publications/positions.php

National Center for State Courts. State Court Interpreter Programs.

www.ncsc.org/Education-and-Careers/State-Interpreter-Certification.aspx



300 Newport Ave.
Williamsburg, VA 23185-4147
Phone (800) 616-6164

DENVER, CO

707 17th St., Ste. 2900
Denver, CO 80202-3429

ARLINGTON, VA

2425 Wilson Blvd., Ste. 350
Arlington, VA 22201-3320

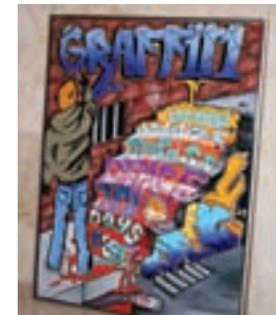
WASHINGTON, DC

111 Second St., NE
Washington, DC 20002-7303

Knowledge and Information Services (800) 616-6164
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Court Consulting Services (800) 466-3063
External Affairs and Communications (888) 450-0391
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Justice Eileen C. Moore was charged with finding artwork for the new 4th District Court of Appeal building in Santa Ana, California with no budget. She contacted the school superintendent and then the probation department got involved. Students read court cases and depicted them in murals. This year's Trends cover was created by a 17 year old at Juvenile Hall. The case involved gang violations and disfiguring a public place and the young artist had also been charged with graffiti crimes. The resulting mural hangs in the courthouse, along with more than a dozen other paintings depicting Orange County, California cases.



EXECUTIVE ORDER
(Language Services in the Courts)

Pursuant to the authority granted to the Chief Justice of the Rhode Island Supreme Court by § 8-15-2 of the Rhode Island General Laws (1997 Reenactment), it is hereby ordered as follows:

In an effort to promote the accuracy and integrity of judicial proceedings and to preserve fundamental principles of fairness and access to justice, the Rhode Island unified judicial system is committed to continuing to provide language access services to limited English proficient (LEP) persons who come in contact with the Rhode Island state court system. LEP persons should have meaningful access to the courts in a language that they are able to understand, and in which they are able to be understood by the Court. This Executive Order governs the appointment and use of oral interpreters and bilingual staff in court proceedings and operations conducted by the Rhode Island Judiciary and shall be applicable as described herein.

A. Definitions

1. *Authorized interpreter.* A certified interpreter, and a qualified interpreter, person or entity authorized by the Administrative Office of State Courts (AOSC) to interpret in specified court operations.
2. *Bilingual staff.* An employee of the Court other than an interpreter who has demonstrated proficiency in English and a second language in accordance with standards set by the AOSC and is authorized by the AOSC to engage in court operations in a language other than English.
3. *Certified interpreter.* An interpreter who appears on the roster maintained by the Office of Court Interpreters (OCI) as certified in accordance with the standards set forth in Executive Order No. 2009-05, and in compliance with the requirements of the AOSC.
4. *Court operation.* Offices, services and functions of the court, other than court proceedings, that may have contact with the public or any party, including:
 - a. The Clerk's Offices and Judicial Records Center;
 - b. Programs or services operated, managed or contracted by the court for mandatory use by parties or the court;
 - c. Court appointed professionals, and other individuals, employed, contracted or supervised by the court to assist the court or mandated by the court for a party in connection with a court proceeding;
5. *Court proceeding.* Any hearing, trial or other appearance before any court in this state in an action, appeal or other proceeding, including any matter conducted by a judicial officer.
6. *Filing party.*
 - a. The plaintiff or petitioner in a civil action.
 - b. The Attorney General or police department submitting an arrest warrant, information or indictment in a criminal case.

7. *Interpret.* The oral rendering of spoken communication from one language to another without change in meaning.
8. *Judicial officer.*
 - a. A justice, judge or magistrate of the court who presides over a court proceeding; or
 - b. Any other person presiding over a court proceeding, including an arbitrator, master, hearing officer, review officer or other like officer of the court.
9. *Language services.* Court services provided by an interpreter, bilingual staff, or by means of translation.
10. *Limited English proficient.* With respect to persons whose primary language is not English, and who are not Deaf or hard of hearing, the inability to adequately understand or communicate effectively in English in a court proceeding or contact with a court operation.
11. *Party.*
 - a. In a civil action, a plaintiff, defendant (or petitioner and respondent), including a person who brings or defends an action on behalf of a minor or incompetent, the parent or legal guardian of a minor party, and a legal guardian of a plaintiff or defendant;
 - b. In a criminal case, the defendant, the alleged victim, and the parent or guardian of a minor alleged victim or of a juvenile in a juvenile proceeding.
12. *Qualified interpreter.* An interpreter other than a certified interpreter who appears on the roster of qualified interpreters maintained by the AOSC and administered by the Office of Court Interpreters; or is found by the judicial officer on the record to have met the requirements of § 8-19-3(b)(2) and (c) of the Rhode Island General Laws (1997 Reenactment) and the requirements set by the AOSC in the Judiciary's Language Access Plan.
13. *Remote interpreting.* A process utilizing remote technology by which an interpreter assists in a court proceeding or operation without being physically present.
14. *Remote technology.* A system comprised of various equipment, software, and audio and visual communication linkage components to facilitate remote interpreting.
15. *Translation.* The rendering of a writing from one language to another without change in meaning.
16. *Witness.* A person who testifies in a proceeding.

B. General Rules

1. The judicial officer in any court proceeding shall appoint an interpreter for a limited English proficient person upon request of a party or whenever a party or testifying witness in the proceeding is limited English proficient, subject to the provisions of Section C(4) below.
2. Court staff members shall upon request or in any oral communication between a court staff member and a limited English proficient person provide service through bilingual staff or contact the Office of Court Interpreters to obtain the assistance of an authorized interpreter.
3. The judicial officer in any court proceeding may appoint an interpreter for a non-party individual with a "significant interest" based on an evaluation of the following four factors:
 - a. The relationship of the individual to the matter;

- b. the seriousness of the matter;
 - c. the impact of the outcome on the individual;
 - d. and whether interpretation is already being provided to another party in the proceeding and could be easily transmitted with the use of available technology.
4. The Court should provide the most competent interpreter services in a manner that is best suited to the nature of the proceeding.

C. Procedure – Proceedings

1. Notice to court.
 - a. As shall be set forth in the Judiciary’s Language Access Plan, the Office of Court Interpreters shall establish procedures to gather available information from all filing parties as to the identity of any limited English proficient party or witness and the primary language of such persons at the time of the initial filing.
 - b. Any party to a pending proceeding may at any time provide or amend available information to the Office of Court Interpreters (OCI) as to the identity of any limited English proficient party or witness and the primary language of such persons.
 - c. Any court employee who becomes aware that a party or witness in a pending proceeding is limited English proficient shall inform the Office of Court Interpreters.
2. Notice to parties.
 - a. As shall be established in the Judiciary’s Language Access Plan, the OCI shall create a written notice in English, Spanish, Portuguese, and such other languages for which a significant demand exists as determined by the AOSC, stating that the court will provide a competent interpreter for any limited English proficient party or witness at no charge, explaining the procedure to request an interpreter and to request a translation of the notice into other languages. The AOSC shall provide or require the filing party to provide such notice to each defendant in a proceeding.
 - (1) In civil matters, the notice shall be incorporated in or attached to the initial pleading to be served upon the defendant.
 - (2) In criminal matters, the notice shall be incorporated in or attached to the initial charging documents provided to the defendant, or provided by the court to the defendant at his or her initial court appearance.
 - b. At any proceeding for which an interpreter has not been assigned or appointed, the judicial officer or court staff shall inform the parties to a case that may involve a limited English proficient party or witness of the availability of a court interpreter.
3. The Office of Court Interpreters shall assign a certified interpreter to each court proceeding for which an interpreter appointment may be required under Section B(1) provided that if a certified interpreter is not available, the Office of Court Interpreters shall:
 - a. Assign a qualified interpreter; and
 - b. Report to the judicial officer the efforts made to obtain a certified interpreter in the event a qualified staff interpreter is not available.
4. Appointment of interpreter.
 - a. A judicial officer shall appoint a certified interpreter for a person who is limited English proficient when required by Section B(1); provided, however, that:
 - b. A judicial officer may appoint a qualified interpreter if the officer finds:

- (1) In any civil or criminal proceeding that a certified interpreter is unavailable and the abilities of an available qualified interpreter meet the requirements set forth in § 8-19-3(b)(1) and (2) of the Rhode Island General Laws (1997 Reenactment); and
 - (2) In a civil proceeding after consideration of the nature and duration of the proceeding, the potential cost and delay to appoint a certified interpreter, and the abilities of the available qualified interpreter, that use of a qualified interpreter is in the interests of justice; or
 - (3) In a criminal proceeding, that the nature and duration of the proceeding permit the use of a qualified interpreter pursuant to § 8-19-3(b)(3) of the Rhode Island General Laws (1997 Reenactment).
- c. A judicial officer may appoint more than one interpreter after consideration of the nature and duration of the proceeding; the number of parties in interest and witnesses requiring an interpreter; the primary languages of those persons; and the quality of the remote technology that may be utilized.
5. Oath. The judicial officer or court clerk shall administer an oath or affirmation to a non-staff court interpreter in the proceeding as set forth in the Judiciary's Language Access Plan.
 6. Remote Technology.
 - a. A judicial officer may allow an interpreter appointed pursuant to this section to interpret remotely only if remote technology is available and:
 - b. The proceeding is conducted such that:
 - (1) The officer, a party in interest or attorney is also appearing remotely in addition to the interpreter;
 - (2) The interpreter, if practicable, is in the same location as the limited English proficient party in interest or witness; or
 - (3) The proceeding is non-evidentiary, less than thirty minutes in duration, and does not utilize more than one interpreter; and
 - c. The remote technology meets the standards set by the AOSC and allows the officer, parties, attorneys and witnesses to hear each other and the interpreter clearly.
 7. The judicial officer shall dismiss an interpreter and appoint a replacement if the interpreter:
 - a. Is unable effectively to communicate with the judicial officer, the parties, or a limited English proficient person, including cases in which the interpreter self-reports such inability;
 - b. Has a conflict of interest due to a relationship with a person involved in the proceeding or an interest in the outcome; or
 - c. Is acting in violation of the Code of Ethics and Professional Responsibility for Court Interpreters in the Rhode Island Judiciary, the Rhode Island Code of Ethics, or the Judiciary's Code of Ethics.

The judicial officer shall notify the Office of Court Interpreters of the dismissal of any interpreter and the grounds therefor.
 8. Audio Recording.
 - a. The court shall create an audio recording of any interpreted proceeding in a courtroom with audio recording equipment that shall include anything said by a limited English proficient witness or party while testifying or responding to a

colloquy, together with the rendition of the interpreter during those portions of the proceeding. The court shall maintain such recordings in accordance with the requirements applicable to other records of proceedings.

- b. Transcriptions of such proceedings shall be made available at a rate established by the Office of Court Interpreters.
9. Absent a finding of good cause, nothing herein shall be construed to prevent a party from procuring the assistance of an interpreter in addition to one appointed by the judicial officer to assist that party or to monitor the performance of the appointed interpreter.

D. Language Services in Court Operations.

1. A court entity, employee or judicial officer that appoints, contracts, or authorizes non-court entities and persons not employed by the court to engage in court operations as set forth in Section A(4), shall ensure that language services are provided to limited English proficient persons at no charge utilizing standards equivalent to those defined in the Judiciary's Language Access Plan for other court operations.
2. As set forth in the Judiciary's Language Access Plan, the AOSC may establish and utilize tiered standards for bilingual staff or authorized interpreters that take into account the nature and purpose of communications engaged in by different operations or job positions.
3. Nothing in this Order is intended to require language services for:
 - a. Supreme Court Appellate Mediation Program cases in which all parties are represented by counsel; and
 - b. Supervised child custody visitations not occurring on court premises;
 - c. Any function operated, managed, contracted or supervised by another state department, agency or division.

E. Interpreter costs

1. The AOSC shall be responsible for paying the reasonable fees of court interpreters, other than court employees, for an interpreter assigned to or appointed in a proceeding or for interpreting work ordered or directed by the Court in a court operation.
2. The court shall not charge, assess, or obtain reimbursement for interpreter costs or fees from any party to a proceeding in which an interpreter is utilized or from any person utilizing the assistance of an interpreter in a court operation.

F. Privilege

It is the intent of this Executive Order that:

1. No communication deemed privileged under applicable law shall be rendered unprivileged on account of an interpreter's presence provided that the interpreter is engaged in interpreting authorized by this Order; and
2. No interpreter shall be permitted or compelled to testify in any proceeding as to statements made or interpreted during a communication privileged under applicable law.

G. Implementation

1. Language Access Plan

The AOSC shall establish and implement a Language Access Plan (LAP) by December 31, 2012 which shall set forth the management actions needed to implement this Executive Order, including the tasks to be undertaken, assignment of responsibility, deadlines and processes, and shall include provisions which require the AOSC to make good faith efforts to expand the Courts' capacity to generate audio recordings of interpreted proceedings, and when proceedings are recorded, to make the audio recordings of interpreted proceedings available to interested persons.

2. Language Access Stakeholders

The Office of Court Interpreters (OCI) shall work in conjunction with any newly established language access stakeholder committees, or any such other committees as determined by the Chief Justice to implement this Executive Order by providing input to the LAP, considering the need for conforming changes to court rules, suggesting ongoing improvements to language access, assisting in outreach and training efforts, evaluating the implementation of this Executive Order and the Language Access Plan, and assisting in other activities to improve language access in the courts. Such committee(s) shall include relevant stakeholders including court staff and non-court staff persons with expertise in court language access issues, lawyers or advocates for limited English proficient clients, and at least one representative from the Attorney General's office, the Public Defender, and Rhode Island Legal Services.

H. Monitoring

Within six (6) months after the effective date of this Order and annually thereafter, the Office of Court Interpreters shall submit detailed reports to the Chief Justice and the State Court Administrator, a copy of which shall be available on the Judiciary's website, documenting the efforts made to comply with this Executive Order and shall include the following categories of information:

- a. The actions the OCI has taken or intends to take to implement this Executive Order, and execute the completed LAP including any further policies or procedures drafted or issued for these purposes; and any language-related notices, forms, and signs drafted, translated, or issued;
- b. Data on services provided pursuant to this Executive Order and the LAP, by court or court program, location, language, and form and mode of language assistance, including any data indicating:
 - i. Any delays resulting from unavailable language assistance; and
 - ii. Instances in which language assistance is not provided and the reasons therefor.
- c. Data on the utilization of interpreters and bilingual staff broken down by:
 - i. Language;
 - ii. Qualification level (certified or qualified) of interpreters;
 - iii. Interpreter employment status as staff interpreter or contractor;
 - iv. Interpreters' state of residence/business;
 - v. Court or court program, including location; and
 - vi. Type of proceeding and case type.

- d. Information regarding any problems encountered in implementing this Executive Order and the LAP, including feedback gathered from the stakeholders committee, bench, bar, staff, and public; and
 - i. The process established to receive and respond to language access complaints; and
 - ii. The number, nature, and disposition of any language access complaints;
- e. The steps taken to notify the bench, bar, litigants, and public, including LEP communities, of any policies or procedures to implement this Executive Order and the LAP, and any response thereto;
- f. The trainings provided to judges, staff, and others regarding this Executive Order and any related language access matters, including the content of the trainings, training materials, dates held, trainers, and names and positions of attendees;
- g. Steps taken to recruit, train, set standards for, qualify, and certify interpreters, translators, and bilingual staff;
- h. Lists of authorized interpreters, translators, and bilingual staff specifying language, test results, and type of authorization;
- i. Lists of documents, signage, forms, web content, and audio or video content that have been or will be translated, the languages completed or intended for each, and the means by which the items will be distributed internally and made available to litigants;
- j. Figures on budget requests and spending for language services.

I. Administrative complaints

- 1. Any person aggrieved by an alleged violation of this Order in a court proceeding or operation may file an administrative complaint with the Office of Court Interpreters.
- 2. The State Court Administrator or his or her designee shall review and respond to an administrative complaint within thirty (30) days of its receipt.
- 3. The AOSC shall make complaint forms readily available in court houses, court offices and on the website of the Rhode Island Judiciary, and shall also provide complaint forms translated into Spanish, Portuguese, and such other languages for which a significant demand exists as determined by the AOSC. Such complaint shall include a notice that no court personnel may retaliate against any person filing a complaint or assisting in the investigation or resolution of a complaint.
- 4. Nothing herein shall be construed to:
 - a. restrict an aggrieved person from seeking to enforce this Order in a proceeding, including an appeal; or
 - b. provide any authority to alter, satisfy or vacate any judgment or order.

J. Effective Date

This Executive Order shall be effective on July 1, 2012 and shall be implemented in accordance with the Language Access Plan.

Entered as an Order of this Court this **13th** day of **June, 2012**.

ENTER:

By Order,

_____/s/
Paul A. Suttell
Chief Justice

_____/s/
Clerk

Tab 4

2012

July							August							September						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7				1	2	3	4							1
8	9	10	11	12	13	14	5	6	7	8	9	10	11	2	3	4	5	6	7	8
15	16	17	18	19	20	21	12	13	14	15	16	17	18	9	10	11	12	13	14	15
22	23	24	25	26	27	28	19	20	21	22	23	24	25	16	17	18	19	20	21	22
29	30	31					26	27	28	29	30	31		23	24	25	26	27	28	29
														30						
October							November							December						
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	1	2	3	4	5	6					1	2	3							1
7	8	9	10	11	12	13	4	5	6	7	8	9	10	2	3	4	5	6	7	8
14	15	16	17	18	19	20	11	12	13	14	15	16	17	9	10	11	12	13	14	15
21	22	23	24	25	26	27	18	19	20	21	22	23	24	16	17	18	19	20	21	22
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2013

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20	21	22	23	24	25	26	17	18	19	20	21	22	23	17	18	19	20	21	22	23
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28	29	30					26	27	28	29	30	31		23	24	25	26	27	28	29
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July							August							September						
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6	7	8	9	10	11	12	3	4	5	6	7	8	9	8	9	10	11	12	13	14
13	14	15	16	17	18	19	10	11	12	13	14	15	16	15	16	17	18	19	20	21
20	21	22	23	24	25	26	17	18	19	20	21	22	23	22	23	24	25	26	27	28
27	28	29	30	31			24	25	26	27	28	29	30	29	30	31				