

COURT INTERPRETERS: STANDARDS OF PRACTICE AND STANDARDS FOR TRAINING

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I. INTRODUCTION

During the second half of this century with the passage of the Civil Rights Act of 1964¹ and the Voting Rights Act of 1965,² it became public policy to eliminate discrimination across the whole spectrum of the nation's life. Utilizing constitutional and statutory rationales, the judiciary has taken the lead in these efforts.³ As the chief vehicle for the elimination of discrimination in the life of the nation, the judiciary has also had to face the issue of bias⁴ in its own daily workings. Racial, ethnic, and cultural bias in judicial proceedings have been the focus of studies undertaken by the courts in a number of states.⁵ Invariably, evaluators

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¹ Pub. L. No. 88-352, 78 Stat. 241 (1964) (codified as amended at 28 U.S.C.S. §1447; 42 U.S.C.S. §§ 1971, 1975a-1975d, 2000a-2000h-6 (1990)).

² Pub. L. No. 89-110, 79 Stat. 445 (1965) (codified as amended at 42 U.S.C.S. §§ 1971, 1973-1973p (1990)).

³ See, e.g., *Fullilove v. Klutznick*, 448 U.S. 448 (1980) (allowing for the application of congressional authority to promote the hiring of minority-owned businesses in public works projects); *United States Dept. of Agric. v. Moreno*, 413 U.S. 528 (1973) (protecting the poor on welfare from the termination of food stamp assistance simply because they were not related to others in their household); *Swann v. Charlotte-Mecklenberg Bd. of Educ.*, 402 U.S. 1 (1971) (allowing for the implementation of school busing to eliminate discrimination in public schools); *Loving v. Virginia*, 388 U.S. 1 (1967) (declaring unconstitutional laws that prohibit mixed-race marriages); *Harper v. Virginia State Bd. of Elections*, 383 U.S. 663 (1966) (declaring unconstitutional, as discriminatory against the poor, state laws requiring the payment of a poll tax in order to vote).

⁴ For the purposes of its study on bias in Georgia's state courts, the Georgia Supreme Court Commission has defined "bias" as follows:

Bias is a preference or inclination that inhibits impartial judgment. Bias includes intentional or unintentional acts or attitudes resulting from either individual or group actions. Specifically, systemic or institutional bias differs from individual bias or prejudice. Institutional bias exists when one group uses its power to put its collective prejudices or inclinations into effect and to establish these as the norms for the entire system.

GEORGIA SUPREME COURT COMM'N ON RACIAL & ETHNIC BIAS IN THE COURT SYS., LET JUSTICE BE DONE EQUALLY, FAIRLY AND IMPARTIALLY, *reprinted in* 12 GA. ST. U. L. REV. 687, 699 (1996) [hereinafter GEORGIA REPORT].

⁵ Reports have been published by the following states: FLORIDA SUPREME COURT RACIAL & ETHNIC BIAS STUDY COMM'N, REPORT AND RECOMMENDATIONS, WHERE THE INJURED FLY FOR JUSTICE (1990) (a second Florida report with the same title was issued in 1991)

have concluded that the judicial process is not yet free from the corrosive effects of bias. On this point, the Final Report of the Commission to Study Racial and Ethnic Bias in the Courts of the Commonwealth of Massachusetts concluded that “. . . discriminatory behavior, based on racial bias or stereotype, exists throughout the courts.”⁶

While these state court studies have focused broadly on the issue of bias throughout the judicial process, each study has looked carefully at bias in court proceedings faced by individuals who do not speak English.⁷ The report of the Georgia Supreme Court Commission on Racial and Ethnic Bias in the Court System, for example, quoted approvingly a Hispanic attorney who stated that Hispanic criminal defendants are at an “immediate disadvantage” because the Georgia court system is not prepared to deal with language communication problems.⁸ Based on this and similar testimony, the members of the Georgia Commission concluded that the “lack of information and understanding of the court system, especially among the poor and recent immigrants, results in people being unaware of their rights, leading to fear and distrust of the legal system and ultimately to restricted access to the courts.”⁹ A non-English speaking witness or criminal defendant’s limited access to courts because

[hereinafter SECOND FLORIDA REPORT]; GEORGIA REPORT, *supra* note 4; COMMISSION TO STUDY RACIAL & ETHNIC BIAS IN THE COURTS, MASS. SUPREME JUDICIAL COURT, FINAL REPORT: ELIMINATING THE BARRIERS: EQUAL JUSTICE (1994) [hereinafter MASSACHUSETTS REPORT]; TASK FORCE ON RACIAL/ETHNIC ISSUES IN THE COURTS, MICH. SUPREME COURT, FINAL REPORT (1989); MINNESOTA SUPREME COURT TASK FORCE ON RACIAL BIAS IN THE JUDICIAL SYS., FINAL REPORT (1993) [hereinafter MINNESOTA REPORT]; NEW JERSEY SUPREME COURT TASK FORCE ON MINORITY CONCERNS, FINAL REPORT (1992); NEW YORK STATE JUDICIAL COMMISSION ON MINORITIES, REPORT (1991); OREGON SUPREME COURT TASK FORCE ON RACIAL/ETHNIC ISSUES IN THE JUDICIAL SYS., OR. JUDICIAL DEP’T, REPORT (1994) [hereinafter OREGON REPORT]; WASHINGTON STATE MINORITY & JUSTICE TASK FORCE, WASH. STATE SUPREME COURT, FINAL REPORT (1990). For a review of state responses to the earlier published reports, see Suellyn Scarnecchia, *State Responses to Task Force Reports on Race and Ethnic Bias in the Courts*, 16 HAMLINE L. REV. 923 (1993).

⁶ MASSACHUSETTS REPORT, *supra* note 5, at 18. See also Scarnecchia, *supra* note 5, at 924 (affirming that there is “very real evidence” of bias in state courts generally).

⁷ SECOND FLORIDA REPORT, *supra* note 5, at 12-20; GEORGIA REPORT, *supra* note 4, at 734-749; MASSACHUSETTS REPORT, *supra* note 5, at 33-50; MINNESOTA REPORT, *supra* note 5, at 69-78; OREGON REPORT, *supra* note 5, at 9-18.

⁸ GEORGIA REPORT, *supra* note 4, at 737.

⁹ *Id.* at 737-738. Similar conclusions were reached in the other reports. See, e.g., SECOND FLORIDA REPORT, *supra* note 5, at 16 (“Language barriers in criminal cases can, for all practical purposes, render a defendant absent from his own trial and defense.”); MASSACHUSETTS REPORT, *supra* note 5, at 34 (“Without communication and understanding, individuals are unable to participate in, to benefit from, to access the protection of the courts or otherwise to obtain a fair and impartial hearing from the legal system.”); OREGON REPORT, *supra* note 5, at 14 (“Significant numbers of non-English-speaking litigants are disadvantaged because they cannot understand the court system and its decisions.”).

of an inability to understand English raises serious questions related to due process and the right to confrontation.¹⁰

These constitutional issues in the context of language barriers in judicial proceedings are compounded by the explosion in the number of non-English speaking residents in the United States. In a 1995 study on court interpretation published by the National Center for State Courts (hereinafter NCSC), it was estimated that between 1980 and 1990, while the total population of the United States increased by 10%, the nation's Hispanic population increased by 53%, and the Asian and Pacific Islander minority populations increased by 108%.¹¹ Correspondingly, judicial proceedings in federal courts for which a witness or defendant was assigned an interpreter increased significantly between 1980 and 1990. Statistics published by the Administrative Office of the U.S. Courts show, for example, that during the same ten-year period, Spanish language interpreter use in federal courts increased from 23,394 to 53,240.¹² Projections based upon these trends are that the immigration rate between 1990 and 1994 was the highest five-year rate since the turn of the century and that within ten years, Hispanics will even outnumber African-Americans in the United States.¹³

To protect the constitutional rights at trial of this increasing number of non-English speakers, one common recommendation of the various state court bias reports has been to require the appointment of language interpreters in judicial proceedings.¹⁴ While this recommendation raises

¹⁰ See, e.g., *United States ex rel. Negron v. New York*, 434 F.2d 386, 389-90 (2d Cir. 1970) (stating that inadequate interpretation of witness testimony denied defendant's right to confrontation); *People v. Menchaca*, 194 Cal. Rptr. 691, 694 (1983) (holding that a defendant's impaired understanding at a preliminary hearing due to his inability to speak English is prejudicial and violative of due process); *Chavez v. Indiana*, 534 N.E.2d 731, 737 (Ind. 1989) ("The interpreter is necessary to implement fundamental notions of due process such as the right to be present at trial, the right to confront one's accusers, and the right to counsel."); *In re Garcia*, 670 P.2d 672, 673 (Wash. App. 1983) (holding that a non-English-speaking defendant was prejudiced by not being advised through an interpreter of his right to confront his accusers). The United States Supreme Court has not spoken on point regarding whether there is a federal constitutional right to an interpreter in proceedings in which a defendant or witness does not speak English. The Court did, however, hold that a non-English speaking criminal defendant is denied due process when he or she is sentenced to life imprisonment in a trial at which the arresting officer served as an interpreter and defendant had no attorney. *Marino v. Ragen*, 332 U.S. 561, 562 (1947).

¹¹ WILLIAM E. HEWITT, *COURT INTERPRETATION: MODEL GUIDES FOR POLICY & PRACTICE IN THE STATE COURTS* 11 (1995) [hereinafter *MODEL GUIDES*]. See also MASSACHUSETTS REPORT, *supra* note 5, at 9, and GEORGIA REPORT, *supra* note 4, at 698 (showing a significant increase in non-English-speaking residents in those states).

¹² Patricia Michelsen-Whitley, *Court Interpreting*, 3 CT. MGMT. & ADMIN. REP. 1, 4 (1992).

¹³ Peter Francese, *America at Mid-Decade*, AM. DEMOGRAPHICS, Feb. 1995, at 23, 26-27.

¹⁴ SECOND FLORIDA REPORT, *supra* note 5, at 17 ("Court interpreters should be made available to an individual for whom English is not the primary language at the first stage of the criminal process at which his or her liberty is at risk."); GEORGIA REPORT, *supra* note 4, at 746

a number of questions,¹⁵ it presumes that there are or will be an adequate number of trained interpreters ready to perform the necessary tasks. Unfortunately, as the report of the NCSC concluded, there is already “a shortage of qualified court interpreters.”¹⁶ This NCSC finding is echoed in the various state reports.¹⁷

In view of this agreed shortage of competent language interpreters, the focus of the discussion on bias in the judiciary needs to turn to the training of interpreters. This article is an attempt to answer three questions. Part II asks: what are the professional standards of practice necessary to qualify one as a court interpreter? Part III asks: what are the curriculum guidelines for training individuals to be skilled court interpreters? Part IV asks: what are the main issues for colleges and universities seeking to implement an interpreter training program? The answers to these questions, as set out below, will support the conclusion that providing court interpreters who are trained in the standards of practice

(“A uniform system of standards for court interpreters should be established. The Supreme Court . . . should adopt standards for certification and devise standard instructions regarding the right to and use of interpreters in all levels of the courts.”); MASSACHUSETTS REPORT, *supra* note 5, at 49 (“The Trial Court should create and fund a coordinated statewide system for the provision of available and qualified interpreters and interpreter services in all civil and criminal proceedings of any nature before a judge or clerk magistrate.”); MINNESOTA REPORT, *supra* note 5, at 77 (“The Supreme Court should recommend and the Legislature should establish and fund a State Board of Interpretive Services to propose standards and procedures for the training . . . of certified interpreters.”); OREGON REPORT, *supra* note 5, at 18 (“Interpreters should be provided in all court proceedings, including court-supervised arbitration and mediation.”); *see also* Scarnecchia, *supra* note 5, at 937-938.

¹⁵ The questions raised by the appointment of court interpreters seem to fall roughly into three categories: legal, political, and ethical. The legal issues surrounding the appointment of court interpreters are closely tied to the constitutional rights of non-English-speakers, see *supra* text accompanying note 10, and most often relate to the bounds of judicial discretion exercised by judges in those cases where one or more of the parties/witnesses are non-English speakers. The political issues reach to questions of funding court interpreter services and are particularly inauspicious when states experience budgetary constrictions. Further, the impact of the movement in several states to make English the official language, while uncertain, does not portend well for an enthusiastic embrace by legislators and governors of increased funding for the needs of non-English-speakers. *The New York Times* recently noted that twenty-three states have enacted laws declaring English to be the official state language. *At a Glance: English Only Please*, N.Y. TIMES, Aug. 31, 1996, at A7 (graphic). The ethical issues raised by the appointment of court interpreters speak directly to the role of the interpreter in judicial proceedings vis-à-vis the role of the non-English-speaker, the lawyer, and the court itself. Ethical considerations have led to the establishment in a number of states of standards of practice for court interpreters. A discussion of the interpreter’s ethical obligations under the standards of practice is part of the subject of this paper. *See infra* Part II.C.

¹⁶ MODEL GUIDES, *supra* note 11, at 13.

¹⁷ *See, e.g.*, GEORGIA REPORT, *supra* note 4, at 747 (“Problem statement: . . . Lack of availability of ‘certified’ interpreters.”); MASSACHUSETTS REPORT, *supra* note 5, at 40 (“ . . . the Commission’s surveys of attorneys and judges reveal that interpreter services are not readily available.”); OREGON REPORT, *supra* note 5, at 14 (“Interpreters are often not available in offices that are associated with the court system At times, interpreters are not readily available in the courtroom itself.”).

under the appropriate college-level curriculum guidelines will improve non-English speakers' access to justice.

II. PROFESSIONAL STANDARDS OF PRACTICE FOR COURT INTERPRETERS

The professional standards of practice imposed by those state courts that have set standards seem to fall generally into three somewhat overlapping categories. These categories are accuracy, honesty, and professionalism. They are cited in various state codes of professional responsibility for court interpreters.¹⁸ These codes, where they exist, are commonly issued by the administrative office of the courts. The purpose of these codes generally is to assure equal treatment in court proceedings for individuals who do not speak English and thereby promote the administration of justice.¹⁹

A. ACCURACY

As the first professional standard of practice, accuracy requires the language interpreter to "interpret or translate the material thoroughly and

¹⁸ CAL. CODE ANN., RULES OF THE COURT, App. Div. I, § 18.3 STANDARDS OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS (Deering 1996) [hereinafter CALIFORNIA CODE]; HAW. REV. STAT. ANN., COURT RULE, CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS (Michie 1996) [hereinafter HAWAII CODE]; OFFICE OF THE CHIEF ADMIN. JUSTICE MASS. TRIAL CT., CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS OF THE TRIAL COURT (1988) [hereinafter MASSACHUSETTS CODE]; MINN. STAT., COURT RULES, CODE OF PROFESSIONAL RESPONSIBILITY FOR INTERPRETERS IN THE MINN. STATE COURT SYS. (1996) [hereinafter MINNESOTA CODE]; N.J. STAT., COURT RULES, CODE OF PROFESSIONAL CONDUCT FOR INTERPRETERS, TRANSLITERATORS, & TRANSLATORS (1996) [hereinafter NEW JERSEY CODE]; OREGON RULES OF COURT, CODE OF PROFESSIONAL RESPONSIBILITY FOR INTERPRETERS IN THE OR. COURTS (West 1997) [hereinafter OREGON CODE]; WASH. RULES OF CT. ANN., Rule 11.1 CODE OF CONDUCT FOR COURT INTERPRETERS (1994) [hereinafter WASHINGTON CODE]. In addition to these state codes, the Federal Court Interpreters Board developed a code for U.S. Courts (CODE OF PROFESSIONAL RESPONSIBILITY OF THE OFFICIAL INTERPRETERS OF THE U.S. COURTS (1979) [hereinafter FEDERAL CODE]). The Federal Code was developed pursuant to the enactment of the Court Interpreters Act of 1978, Pub. L. No. 95-539, 92 Stat. 2040 (codified as amended at 28 U.S.C.A. §§ 1, 602-04, 1827-28). The Act creates a statutory right to an interpreter in any federal criminal or civil proceeding initiated by the United States in which a party or witness is a non-English speaker. § 1827.

¹⁹ The Massachusetts Code provides an instructive, detailed statement of purpose: These standards seek to: (a) Assure meaningful access to all Trial Court Departments and court services for non-English speakers; (b) Protect the constitutional rights of criminal defendants to the assistance of court interpreter [sic] during court proceedings; (c) Ensure due process in all phases of litigation for non-English speakers; (d) Ensure equal protection of the law for non-English speakers; (e) Increase efficiency, quality, and uniformity in handling proceedings which involve a court interpreter; (f) Encourage the broadest use of professional language interpreters by all those in need of such services within the Trial Court.

MASSACHUSETTS CODE, *supra* note 18, § 1.01 (1)(a)-(f). For a discussion of the historical basis of the development of the state codes, such as the Massachusetts Code, see *supra* notes 5-17 and accompanying text.

precisely, adding or omitting nothing, and stating as nearly as possible what has been stated in the language of the speaker, giving consideration to variations in grammar and syntax for both languages involved.”²⁰ It is most often listed as the first canon or section of the various codes of professional responsibility.

Fundamentally, this standard requires the interpreter to mirror in the target language²¹ what has been said in the source language.²² Thus, the statement or response of the non-English speaking defendant or witness, which is heard by the judge and jury in English, should be exactly what was said in the source language. The commentary to the Oregon rule regarding accuracy states: “This creates an obligation to conserve every element of information contained in the source language communication when it is rendered in the target language.”²³

This comment in the Oregon rule is telling. The obligation to conserve “every element of information” contained in the communication is far more expansive than if the commentary had required simply a literal interpretation. Writing in their seminal text on court interpretation, González, Vasquez, and Mikkelson (hereinafter González) observe that “. . . language communication involves many non-verbal elements in addition to the words per se.”²⁴ The words are important, of course. For example, the Massachusetts Code states, “Each court interpreter shall provide the most accurate form of a word in spite of a possible vulgar meaning.”²⁵ Quite generally, however, the court rules affirm, “[v]erbatim, ‘word for word’ or literal oral interpretations are not appropriate when

²⁰ WASHINGTON CODE, *supra* note 18, ¶ b. In view of the distinction between interpreting and translating made in the language of the Washington Code, it ought to be made clear that the use of the word “interpret” refers to the skill of rendering words spoken “orally” in one language into those of another language. The word “translate” refers to the skill of rendering the “written” words of a document into the words of another language.

²¹ “The target language is the language into which the message is being translated.” ROSEANN DUENAS GONZÁLEZ ET AL., *FUNDAMENTALS OF COURT INTERPRETATION: THEORY, POLICY & PRACTICE* 296 (1991).

²² “Source language is the language of the original message, the one being translated ‘out of.’” *Id.*

²³ OREGON CODE, *supra* note 18, § 1 (Commentary). *Accord* MINNESOTA CODE, *supra* note 18, Canon 1 (Commentary); MODEL GUIDES, *supra* note 11, at 200.

²⁴ GONZÁLEZ ET AL., *supra* note 21, at 480.

²⁵ MASSACHUSETTS CODE, *supra* note 18, § 1.03 (1)(b). Elaborating on the accuracy standard, the Administrative Office of the Courts of New Mexico instructs its interpreters as follows:

Nuances of meaning are critical in courtroom testimony. One study found that subtle changes in word choice significantly altered witnesses’ recollections of events. When a key word in the question was changed (“About how fast were the cars going when they hit/smashed/collided/bumped/contacted each other?”), subjects who were asked the question that contained the term “smashed” tended to increase their estimate of the speed, and recalled seeing broken glass when in fact there was none. Thus, you must be very careful in selecting target language terms to make sure that they accurately and precisely reflect the source language meaning.

they distort the meaning of what was said in the source language”²⁶ Accuracy requires that interpreters bring to their work the ability to convey the totality of what was communicated, both verbal and non-verbal. “The interpreter has an obligation to convey every aspect of the witness’s testimony, not only words but also paralinguistic elements such as pauses, false starts, and tone of voice.”²⁷

The responsibility of the interpreter under the accuracy standard is, therefore, broad indeed.²⁸ He must interpret everything that is said while also conveying the meaning of what is said. The first requirement is that everything said should be interpreted “even if it appears non-responsive, obscene, rambling, or incoherent,” including apparent misstatements.²⁹ González uses this example taken from a mental health setting to demonstrate an inaccurate interpretation:

Clinician to Spanish-speaking patient: “What about worries, do you have many worries?”

Interpreter to patient: “Is there anything that bothers you?”

Patient’s response: “I know, I know that God is with me, I’m not afraid, they cannot get me [pause] I’m wearing these new pants and I feel protected, I feel good, I don’t get headaches anymore.”

ADMINISTRATIVE OFFICE OF THE COURTS, 1996 ORIENTATION WORKSHOP FOR NEW MEXICO COURT INTERPRETERS, pt. 3, at 1-2 [hereinafter *NEW MEXICO MANUAL*].

²⁶ MINNESOTA CODE, *supra* note 18, Canon 1 (Commentary). *Accord* OREGON CODE, *supra* note 18, § 1 (Commentary); MODEL GUIDES, *supra* note 11, at 200. Discussing the problems posed for interpreters by English idioms like “to run the gamut” and “so much the better,” and English metaphors like “he tore his hair out” and “she was caught red-handed,” the New Mexico Court Administrative Office tells interpreters: “You must always try to find an equivalent idiom or metaphor in the target language; do not translate them literally. Remember that the primary focus in interpreting is conveying meaning, not translating individual words.” *NEW MEXICO MANUAL*, *supra* note 25, pt. 3, at 2.

²⁷ GONZÁLEZ ET AL., *supra* note 21, at 480. Several of the codes reiterate this obligation of the interpreter as follows: “The interpreter has a twofold duty: 1) to ensure that the proceedings reflect in English precisely what was said by a non-English speaking person, and 2) to place the non-English speaking person on an equal footing with those who understand English.” MINNESOTA CODE, *supra* note 18, Canon 1 (Commentary); OREGON CODE, *supra* note 18, § 1 (Commentary); MODEL GUIDES, *supra* note 11, at 200.

²⁸ In a decision in which it ruled that police acted illegally by failing to appoint an independent qualified interpreter immediately after the defendant’s arrest, the Minnesota Supreme Court characterized the world in which interpreters operate as follows: “Translation obviously is not a single two-way street between two languages. Rather, it is a busy intersection at which at least five thoroughfares meet—the two languages with all their eccentricities, the cultures of the two speech communities, and the speech situation in which the statement was uttered.” *State v. Mitjans*, 408 N.W.2d 824, 832 (Minn. 1987) (quoting PETER FARB, *WORD PLAY: WHAT HAPPENS WHEN PEOPLE TALK* 199 (1973)).

²⁹ MINNESOTA CODE, *supra* note 18, Canon 1 (Commentary); OREGON CODE, *supra* note 18, § 1 (Commentary); MODEL GUIDES, *supra* note 11, at 200.

Interpreter to clinician: "He says that he is not afraid, he feels good, he doesn't have headaches anymore."³⁰

An accurate interpretation by a court interpreter (and, for that matter, a medical interpreter) would have rendered in the target language exactly what the speaker said; it would not have summarized or edited as was done here.³¹ By failing to render a word-for-word interpretation, the interpreter in this example provided the clinician with no information regarding the psychological state of the patient. Indeed, on the basis of the interpreter's rendering, the clinician could have concluded that the patient's condition was not related at all to mental instability, but rather to an occasional headache.

The second requirement of accuracy is that the "meaning" of what is said also be conveyed. This is particularly important in the courtroom where triers of fact rely upon the total message. Interpreters, therefore, need to convey the paralinguistic aspects of communication manifested by the non-English speaker as well as conveying the words themselves. In a manual for court interpreters prepared by the Administrative Office of the Courts in New Mexico, the point is made as follows:

Triers of fact (juries) need to have a clear understanding of the emotions such as anger, fear, shame, or excitement that are expressed by witnesses. Humans convey their emotions not only in words, but also in facial expressions, posture, tone of voice, and other manifestations. These non-linguistic means of expression are very closely tied to culture and language, so when people don't speak the same language they may misunderstand the emotional content of a message. The court interpreter has an obligation to convey emotions in a way that seems natural in the target language, rather than merely repeating words like an automaton.³²

Because of the importance of accuracy to the triers of fact, any inaccurate interpretation, particularly during criminal proceedings, can create constitutional issues leading to reversal.³³ One area of common concern

³⁰ GONZÁLEZ ET AL., *supra* note 21, at 479-80.

³¹ Confronted with testimony that does not make sense, New Mexico advises:

It is particularly difficult to interpret the testimony of a person who is highly excited or has mental problems and does not necessarily make sense. It is important for the interpreter to make every effort to state exactly what the witness said, no matter how illogical or irrelevant it may be.

NEW MEXICO MANUAL, *supra* note 25, pt. 3, at 3.

³² *Id.*

³³ Inaccurate interpretation, like no interpretation at all, has vital importance in determining whether a non-English speaking defendant has been denied due process. The California Court of Appeal in *People v. Menchaca*, 194 Cal. Rptr. 691, 694 (Cal. Ct. App. 1983) set out

relates to unrecorded conversations between the witness and the interpreter. The duty of the interpreter is "to ensure that the official record of the proceedings in English reflects precisely what was stated by the non-English speaking witness or defendant in another language" ³⁴ The record will not reflect this if the interpreter is drawn into an exchange with the witness that is not interpreted into the target language. ³⁵ Where such an incomplete record results in a conviction, the defendant can raise the argument that he was denied the right to due process. For instance, in *People v. Starling*, ³⁶ the Appellate Court of Illinois reversed a conviction and ordered a new trial in a case where the interpreter regularly engaged in unrecorded conversation with the complaining witness while that witness was on the stand. ³⁷ "Due process rights of persons charged with crimes cannot be short-cut by avoiding the ritual of translating each question and answer as required [by law]." ³⁸

the constitutional problem raised by inaccurate or inadequate interpretation by quoting at length from the decision by the Arizona Supreme Court in *State v. Rios*, 539 P.2d 900 (1975):

A defendant's inability to spontaneously understand testimony being given would undoubtedly limit his attorney's effectiveness, especially on cross-examination. It would be as though a defendant were forced to observe the proceedings from a soundproof booth or seated out of hearing at the rear of the courtroom, being able to observe but not comprehend the criminal processes whereby the state had put his freedom in jeopardy. Such a trial comes close to being an invective against an insensible object, possibly infringing upon the accused's basic "right to be present in the courtroom at every stage of his trial."

Id. at 901 (citing *State v. Natividad*, 526 P.2d 730, 733 (1974)).

³⁴ JUDICIAL COUNCIL OF CALIFORNIA, PROFESSIONAL ETHICS & THE ROLE OF THE COURT INTERPRETER 2 (1994) [hereinafter CALIFORNIA COMMENTARY]; see also MINNESOTA CODE, *supra* note 18, Canon 1 (Commentary); OREGON CODE, *supra* note 18, § 1 (Commentary); MODEL GUIDES, *supra* note 11, at 200. Roseann Duenas González et al. make the same point as follows: "For the court interpreter, protecting the record is accomplished through disciplined and rigorous attention to transferring the conceptual message and style from the SL (source language) to the TL (target language)." GONZÁLEZ ET AL., *supra* note 21, at 17.

³⁵ Because interpreters are often the only persons in an official capacity who speak the language of the non-English-speaking witness, the witness will at times feel a special bond with the interpreter. This can lead to attempts by the witness to seek advice, ask questions, and engage in other conversation with the interpreter that is not responsive to the question put by counsel. To protect against such exchanges, the Massachusetts Code states that "[t]he non-English speaker shall be instructed not to ask direct questions of the court interpreter or initiate any independent dialogue with said interpreter including legal advice or explanations on any statement made during the proceedings." MASSACHUSETTS CODE, *supra* note 18, § 1.03(6)(c)(2).

³⁶ 315 N.E.2d 163, 168 (1974).

³⁷ The bounds of the interpreter's role are defined by the various codes. Consistent with the instruction to be given to a witness as noted in the Massachusetts Code, *supra* note 35, the scope of the interpreter's practice is only to ensure an accurate interpretation. The commentary to the Model Guides warns that interpreters "should refrain from initiating communications while interpreting unless it is necessary for assuring an accurate and faithful interpretation." MODEL GUIDES, *supra* note 11, at 206.

³⁸ 315 N.E.2d 163, 168 (1974).

In a subsequent case, the Massachusetts Supreme Judicial Court provided the following guidelines for interpreters regarding interpreter-witness exchanges:

1. Counsel should address his questions to the witness in the second person, and not to the interpreter.
2. The interpreter should translate the question exactly without any additional or supplementary remarks of his own.
3. The interpreter should then translate the answer of the witness in the first person, neither editing nor adding to the witness's words. Even if the answer is nonresponsive, the interpreter should give it and allow the judge to pass on its admissibility, for the interpreter's sole function is to translate.³⁹

Similarly, the Eleventh Circuit has ruled that "the general standard for adequate translation of trial proceedings requires continuous word for word translation of everything relating to the trial a defendant conversant in English would be privy to hear."⁴⁰

As an adjunct to the accuracy standard, all the codes of professional responsibility require practicing interpreters to maintain and improve their skills through continuing education.⁴¹ More will be said about education later, but it is important at this point to affirm the connection between accuracy and professional training.

B. HONESTY

While accuracy as a standard addresses the interpreter's skill and ability to facilitate communication, the second professional standard of practice, honesty, relates directly to the interpreter's personal integrity. Three specific obligations appear in the various state codes under this standard. First, interpreters are required to represent honestly to the court their "certifications, training, and pertinent experience."⁴² It is then

³⁹ Commonwealth v. Festa, 341 N.E.2d 276, 283 (1976).

⁴⁰ United States v. Joshi, 896 F.2d 1303, 1309 (11th Cir. 1990). The court added, however, that "occasional lapses" from the standard will not usually render the trial fundamentally unfair. *Id.*

⁴¹ "A court interpreter should, through continuing education, maintain and improve his or her interpreting skills and knowledge of procedures used by the courts." *See, e.g.,* HAWAII CODE, *supra* note 18, at Rule 15; CALIFORNIA CODE, *supra* note 18, at ¶ f; MASSACHUSETTS CODE, *supra* note 18, § 1.03(4)(a); MINNESOTA CODE, *supra* note 18, Canon 10; NEW JERSEY CODE, *supra* note 18, Canon 9; NEW MEXICO CODE, *supra* note 18, Canon 10; OREGON CODE, *supra* note 18, § 11.

⁴² *See* MINNESOTA CODE, *supra* note 18, Canon 2; HAWAII CODE, *supra* note 18, Rule 10; NEW JERSEY CODE, *supra* note 18, Canon 8; NEW MEXICO CODE, *supra* note 18, Canon 2; OREGON CODE, *supra* note 18, § 2.

within the discretion of the court to accept or reject the qualifications of the interpreter to interpret during the proceedings.⁴³ Upon presentment, the interpreter implicitly conveys to the court that he has the requisite skill to provide accurate interpreting services.⁴⁴ It is disruptive and costly to the judicial process when, after having accepted a case, an interpreter is incapable of interpreting the proceedings. This can happen readily, even to experienced interpreters, for instance, if they have not developed the technical vocabulary necessary to the case at hand.⁴⁵ Thus, while the honesty standard requires a true representation of one's credentials, it also requires that the interpreter report to the presiding officer any impediment to the interpreter's delivery of services occurring after the proceedings have begun.⁴⁶

This second aspect of the honesty standard, "assessing and reporting impediments to performance," further requires that the interpreter disclose "any personal bias he or she may have involving any aspect of the

⁴³ In all states, the appointment of an interpreter falls within the discretion of the trial judge. The power of appointment is most commonly recognized by statute or court rule. *See, e.g.,* ALASKA R. EVID. 604; ARK. CODE ANN. § 16-89-104(c) (Michie 1995); MINN. GEN. R. PRAC. § 8.02; V.I. CODE ANN. tit. 4, § 323 (West 1994). This discretionary power of appointment is coupled with the discretionary power to accept or reject the qualifications of the interpreter. *Commonwealth v. Salim*, 503 N.E.2d 1267, 1274 (Mass. 1987) (holding that "the qualifications of an interpreter fall within the area of the judge's discretion"); *see generally* MODEL GUIDES, *supra* note 11, at 125-146 (setting out the judges' guide to standards for interpreted proceedings). In states that have placed the authority to certify interpreters in administrative bodies, interpreters present themselves to the court presumptively qualified. Charles M. Grabau, *Court Interpretation Services in The Massachusetts Trial Courts: One Step Forward, Two Steps Back*, BOSTON B.J., Sept.-Oct. 1995, at 4. However, even a presumptively qualified interpreter's accuracy can be challenged and his interpretation set aside during trial if the judge determines that the interpreter's error is substantial or prejudicial. It is ultimately within the court's discretion to determine as to the correct interpretation. MODEL GUIDES, *supra* note 11, at 136-137.

⁴⁴ "Acceptance of a case by an interpreter conveys linguistic competency in legal settings." MINNESOTA CODE, *supra* note 18, Canon 2 (Commentary); OREGON CODE, *supra* note 18, § 2 (Commentary); MODEL GUIDES, *supra* note 11, at 201.

⁴⁵ For interpreters caught in this situation, several codes advise as follows: "Even competent and experienced interpreters may encounter situations where routine proceedings suddenly involve technical or specialized terminology unfamiliar to the interpreter, e.g., the unscheduled testimony of an expert witness. When such situations occur, interpreters should request a brief recess in order to familiarize themselves with the subject matter." MINNESOTA CODE, *supra* note 18, Canon 8 (Commentary); OREGON CODE, *supra* note 18, § 9 (Commentary); MODEL GUIDES, *supra* note 11, at 208.

⁴⁶ "Interpreters shall call to the attention of the court any factors or conditions that adversely affect their ability to perform adequately." HAWAII CODE, *supra* note 18, Rule 10. Factors that can adversely affect the interpreter's ability to perform range from unfamiliarity with terms to environmental factors within the courtroom, fatigue, inadequate preparation, and difficulty in understanding a witness. *See generally* MINNESOTA CODE, *supra* note 18, Canon 8 (Commentary); OREGON CODE, *supra* note 18, § 9 (Commentary); MODEL GUIDES, *supra* note 11, at 207-209.

proceedings”⁴⁷ Because interpreters are bound to “act strictly in the interests of the court they serve,”⁴⁸ the court is their client. Avoiding bias obligates an interpreter to be neutral, to serve the interests of the court by not taking sides or prejudging the case. For instance, the New Mexico interpreter manual instructs the interpreter regarding neutrality as follows:

Furthermore, you must not make value judgments about the language or demeanor of the parties you interpret for. If the witness uses incorrect grammar or vulgar speech, or if he wears inappropriate dress, you should interpret his or her testimony just as faithfully as you would that of any other witness. You should not, for example, roll your eyes or use a sarcastic tone to convey to others that you consider the testimony improper or untruthful.⁴⁹

The third aspect of the honesty standard compels the interpreter to “report to the court any actions by any persons that may impede the interpreter’s compliance with any law, any provision of [the code of professional responsibility] or any other official policy governing court interpreting and sight translating.”⁵⁰ For instance, if a non-English speaking witness asks the interpreter for legal advice, the interpreter must explain that he cannot give it; if the witness persists, the interpreter must inform the court of the witness’s entreaties.⁵¹

⁴⁷ See OREGON CODE, *supra* note 18, § 9 (Commentary); CALIFORNIA COMMENTARY, *supra* note 34, at 17; HAWAII CODE, *supra* note 18, Rule 5; MASSACHUSETTS CODE, *supra* note 18, § 1.04(3)(a),(c),(e),(f); NEW JERSEY CODE, *supra* note 18, Canon 3; WASHINGTON CODE, *supra* note 18, ¶ d.

⁴⁸ HAWAII CODE, *supra* note 18, Rule 1. Acting in the interests of the court that they serve, interpreters are designated as officers of the court in California, *see* CALIFORNIA COMMENTARY, *supra* note 34, at 27, and Minnesota, *see* MINNESOTA CODE, *supra* note 18, Canon 3 (Commentary), and admonished to “promote public confidence in the administration of justice” in New Jersey, *see* NEW JERSEY CODE, *supra* note 18, Canon 1.

⁴⁹ NEW MEXICO MANUAL, *supra* note 25, pt. 3, at 7.

⁵⁰ OREGON CODE, *supra* note 18, § 10. *Accord* HAWAII CODE, *supra* note 18, Rule 16; MASSACHUSETTS CODE, *supra* note 18, § 1.05(1); MINNESOTA CODE, *supra* note 18, Canon 9; NEW JERSEY CODE, *supra* note 18, Canon 10; WASHINGTON CODE, *supra* note 18, ¶ f.

⁵¹ All of the codes are clear that interpreters must not give legal advice. *See, e.g.*, CALIFORNIA CODE, *supra* note 18, ¶ d; HAWAII CODE, *supra* note 18, Rule 9. Situations may arise, however, that pose legitimate dilemmas, as the New Mexico Manual explains:

It is clear, then, that the court interpreter should refrain from usurping the role of the attorney. Nonetheless, the situation is not always clear cut; defendants often ask interpreters questions about the proceedings during breaks, or even in open court. If the defendant is speaking on the record, of course, you must simply interpret the question into English. But questions asked off the record pose a subtler dilemma. Sometimes there is a fine line between practicing law and defining words in linguistic terms, or simply giving information that a lay person might dispense.

New Mexico Manual, *supra* note 25, pt. 3, at 8-9.

C. PROFESSIONALISM

The third standard of practice for interpreters is professionalism. In this category are the interpreter's duty to avoid conflicts of interest,⁵² maintain confidentiality and avoid public comment,⁵³ and maintain a professional demeanor.⁵⁴ Each of these aspects of the professionalism standard speaks to the role of the interpreter in the courtroom.⁵⁵ González states the matter simply: "The interpreter shall confine himself or herself to the role of interpreting."⁵⁶ Further, it is not the role of interpreters to comment on the proceedings, divulge privileged information (such as conversations between attorney and client), or deliver interpreting services in a manner that calls attention to themselves by their demeanor or dress.⁵⁷

One thicket that can present great obstacles to the interpreter is a conflict of interest. As the commentary of the NCSC's Model Code of Professional Responsibility advises: "The interpreter serves as an officer of the court and the interpreter's duty in a court proceeding is to serve the court and the public to which the court is a servant."⁵⁸ A conflict of interest, as with interpreter bias, compromises this duty to the court. Even the appearance of a conflict of interest may raise serious questions in the public forum about the integrity of the judicial process itself. As a

⁵² CALIFORNIA CODE, *supra* note 18, ¶ b; HAWAII CODE, *supra* note 18, Rule 5; MASSACHUSETTS CODE, *supra* note 18, § 1.04(3); MINNESOTA CODE, *supra* note 18, Canon 3; NEW JERSEY CODE, *supra* note 18, Canon 3; OREGON CODE, *supra* note 18, § 3.

⁵³ CALIFORNIA CODE, *supra* note 18, ¶ c; HAWAII CODE, *supra* note 18, Rule 4; MASSACHUSETTS CODE, *supra* note 18, § 1.03(3); MINNESOTA CODE, *supra* note 18, Canons 5-6; NEW JERSEY CODE, *supra* note 18, Canons 6-7; OREGON CODE, *supra* note 18, §§ 6-7; WASHINGTON CODE, *supra* note 18, ¶ e.

⁵⁴ Maintaining a professional demeanor requires interpreters to observe the established protocol for the delivery of interpreter services, to dress in a manner appropriate to the court, to speak so as to be heard throughout the courtroom, and otherwise to be unobtrusive. *See* CALIFORNIA COMMENTARY, *supra* note 34, at 27-28; HAWAII CODE, *supra* note 18, Rules 2, 6; MASSACHUSETTS CODE, *supra* note 18, § 1.03(5); MINNESOTA CODE, *supra* note 18, Canon 4; NEW JERSEY CODE, *supra* note 18, Canon 4; NEW MEXICO CODE, *supra* note 18, Canon 4; OREGON CODE, *supra* note 18, Canon 5.

⁵⁵ "There are two basic reasons for having an interpreter present in a court case: to enable the defendant to understand the proceedings, and to enable the court to understand all non-English speakers who address the court." NEW MEXICO MANUAL, *supra* note 25, pt. 3, at 7. *See also supra* note 27 and accompanying text.

⁵⁶ GONZÁLEZ ET AL., *supra* note 21, at 500.

⁵⁷ The issues raised here relate to the level of professional detachment required of an interpreter. The New Mexico Manual instructs as follows:

As an interpreter, you must be mindful at all times that communication is the primary objective of the interpretation process. You are not there to show off your knowledge or to impress people with your abilities While it is important for you to establish a rapport with the people you are interpreting for, you should not become too involved with them.

NEW MEXICO MANUAL, *supra* note 25, pt. 3, at 9; *see also supra* text accompanying note 54.

⁵⁸ MODEL GUIDES, *supra* note 11, at 202; *see also supra* text accompanying note 48.

guide, the NCSC's model code provides examples of circumstances that are presumed to create an actual or apparent conflict.⁵⁹

The area of conflict of interest that seems to have raised the most issues on appeal relates to persons acting as interpreters for competing parties in the same criminal proceeding. These parties may be prosecution and defendant, complaining witness and defendant, or co-defendants. For instance, in *People v. Menchaca*,⁶⁰ the California Court of Appeal ruled that a criminal defendant is denied due process when a court fails to provide him with his own interpreter separate from the interpreter used by the court for the witnesses. The court stated, ". . . a third party witness interpreter cannot effectively discharge the translating responsibilities owed to the defendant."⁶¹ Further, a Massachusetts case, *Commonwealth v. Delrio*,⁶² provided an interesting twist on this theme: one defendant was allowed to interpret his co-defendant's pre-Miranda admission. After the conviction of the co-defendant, the co-defendant appealed on the ground that the interpreting defendant was not "an indifferent interpreter" and may have slanted or misrepresented the co-defendant's statement to his own advantage.⁶³ On this and related grounds, the Massachusetts Appeals Court reversed the conviction.⁶⁴

Potential conflicts of interest and the other issues raised by the professional standards of practice for interpreters form a convenient starting point for discussing the basic elements of a viable training program in court interpretation. Indeed, the standards of accuracy, honesty, and professionalism set the objectives of any interpreter training curriculum.

⁵⁹ The Model Code provides:

The following are circumstances that are presumed to create actual or apparent conflicts of interest. . . :

1. The interpreter is a friend, associate, or relative of a party or counsel for a party involved in the proceedings;
2. The interpreter has served in an investigative capacity for any party involved in the case;
3. The interpreter has previously been retained by a law enforcement agency to assist in the preparation of the criminal case at issue;
4. The interpreter or the interpreter's spouse or child has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that would be affected by the outcome of the case;
5. The interpreter has been involved in the choice of counsel or law firm for that case.

MODEL GUIDES, *supra* note 11, at 203-204.

⁶⁰ 194 Cal. Rptr. 691 (Cal. Ct. App. 1983).

⁶¹ *Id.* at 694.

⁶² 497 N.E.2d 1097 (1986).

⁶³ *Id.* at 1100.

⁶⁴ *Id.* at 1103.

III. CURRICULUM GUIDELINES FOR COURT INTERPRETER TRAINING

From what has already been said, it should be clear that court interpreter education is not legal education, nor is it language education. Rather, while incorporating elements of law and language, interpreter education is fundamentally a program to train individuals in utilizing communication skills in a manner consistent with the duty owed by interpreters to the court. In 1988, T. Edward Hollander, Chancellor of Higher Education for New Jersey during that state's innovative Project on Legal Interpretation, wrote:

Contrary to popular belief, interpreter education is not foreign language centered since the mastery of at least two active languages at [or] near native level of proficiency is a prerequisite for work and/or study in the field. Interpreter education is, by definition, a multi- and inter-disciplinary endeavor which centers around the mastery of communication-based tasks.⁶⁵

Training in these communication-based tasks became the center of the Curricular Guidelines for the Development of Legal Interpreter Education written by the New Jersey Consortium in Legal Interpretation and Translation (hereinafter New Jersey Guidelines).⁶⁶

The focus of the training under the New Jersey Guidelines is skill development in translation, consecutive interpretation, and simultaneous interpretation. These are the primary tasks that court interpreters are asked to perform.⁶⁷ The Federal Court Interpreter Certification Examination Manual confirms the centrality of these tasks.⁶⁸ The manual ad-

⁶⁵ NEW JERSEY CONSORTIUM OF EDUCATORS IN LEGAL INTERPRETATION & TRANSLATION, CURRICULAR GUIDELINES FOR THE DEVELOPMENT OF LEGAL INTERPRETER EDUCATION, app. at 10 (1988) [hereinafter NEW JERSEY GUIDELINES].

⁶⁶ As stated in the preface to the guidelines, the objective of the New Jersey Consortium is:

to develop comprehensive academic programs to meet the immediate and long-range needs of the Judiciary: to provide currently practicing bilingual interpreters with educational opportunities which have never before existed as well as to produce a cadre of highly skilled professionals to meet the future needs of the State's linguistic minorities.

Id. at ii.

⁶⁷ The tasks of consecutive and simultaneous interpretation are set out in the Court Interpreters Act of 1978, § 1827(k), 28 U.S.C.A. §§ 1, 602-04, 1827-28 (1996) and the Court Interpreter Amendments Act of 1988, 28 U.S.C. § 1 nt. (1996). See also MASSACHUSETTS CODE, *supra* note 18, § 1.03(8)(a)(b) (distinguishing the circumstances when simultaneous and consecutive interpretation modes should be employed).

⁶⁸ ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS, THE FEDERAL COURT INTERPRETER CERTIFICATION EXAMINATION MANUAL (SPANISH/ENGLISH) 5, 31-32 (1994-1996) [hereinafter FEDERAL MANUAL].

vises examinees that the federal interpreter "oral examination is a criterion-referenced test of the three interpretation modes most commonly required in federal court: sight translation, consecutive interpretation, and simultaneous interpretation."⁶⁹ A brief description of each of these tasks follows.

A. SIGHT TRANSLATION

Sight translation is the oral rendering of a written text.⁷⁰ "Here the court interpreter must bring to bear the requisite knowledge of the written word which characterizes the work of the legal translator, but must carry out the translation with the same rapidity of response which is required of court interpretation."⁷¹ This requirement to translate a legal document or form upon sight can arise at any stage of the legal process. The federal interpreter examination tests sight translation skills by utilizing notarized statements, laws, simulated probation reports, presentence reports, and depositions.⁷² Similarly, for training individuals in sight translation, the New Mexico manual for court interpreters reproduces sample criminal complaints, a waiver of appearance, a criminal summons, and a bench warrant, among others.⁷³

B. CONSECUTIVE INTERPRETATION

Consecutive interpretation is "the interpretation of a statement from one language into another after the speaker has finished the communication."⁷⁴ This communication skill is most commonly utilized to interpret a witness's testimony for the court.⁷⁵ Because consecutive interpretation requires that the interpreter remember what has been said over a period of several minutes before delivering it into the target language, listening

⁶⁹ *Id.* at 28.

⁷⁰ "Sight translation refers to *orally interpreting a written document* into another language." OFFICE OF THE ADMINISTRATOR FOR THE COURTS, STATE OF WASHINGTON, COURT INTERPRETER ADVISORY COMMITTEE INTERIM REPORT 2 (1990) [hereinafter WASHINGTON INTERIM REPORT]. For a general discussion of sight translation, see GONZÁLEZ ET AL., *supra* note 21, at 401-11.

⁷¹ NEW JERSEY SUPREME COURT TASK FORCE ON INTERPRETER & TRANSLATION SERVICES, EQUAL ACCESS TO THE COURTS FOR LINGUISTIC MINORITIES 64 (1985) [hereinafter NEW JERSEY TASK FORCE].

⁷² FEDERAL MANUAL, *supra* note 68, at 28.

⁷³ NEW MEXICO MANUAL, *supra* note 25, pt. 5.

⁷⁴ WASHINGTON INTERIM REPORT, *supra* note 70, at 2.

⁷⁵ *Id.* See also MASSACHUSETTS CODE, *supra* note 18, § 1.03(8)(b) (indicating that the consecutive mode is used when non-English speakers are giving testimony or when the judge, counsel, or officer of the court is in direct dialogue with such speaker); MODEL GUIDES, *supra* note 11, at 34 (stating that witness interpreting is conducted in the consecutive mode). For a general discussion of consecutive interpretation, see GONZÁLEZ ET AL., *supra* note 21, at 379-400.

is crucial to accuracy.⁷⁶ As part of interpreter training in consecutive interpretation, instruction in note-taking⁷⁷ and memory⁷⁸ is important. Sometimes, to assist in accurately rendering long narrative testimony into the target language, the interpreter may have to signal the witness to pause in order to allow for the interpretation.⁷⁹ Part of one's training in consecutive interpretation must include instruction in how an interpreter should approach this and other similar types of direct interaction with a witness.⁸⁰

C. SIMULTANEOUS INTERPRETATION

Simultaneous interpretation is "the interpretation of a statement virtually immediately after it is spoken"⁸¹ It is rendered by the interpreter while the speaker continues to speak. For most simultaneous interpretation, the interpreter speaks in whispered tones intended to be heard only by the one receiving the interpretation.⁸² For example, an interpreter during a trial uses the simultaneous mode when sitting at the defense table with a non-English speaking defendant and interprets testimony that is being given in English into the language of the defendant. The simultaneous mode may also be used at the time of arrest, upon the reading of the Miranda warnings.⁸³ In many states, where warnings have become quite elaborate, the interpreter plays a crucial role by simultaneously rendering the warnings into the target language. Practicing the warnings can be a very useful training exercise in simultaneous interpreting.⁸⁴

These three communication tasks—sight translation, consecutive interpretation, and simultaneous interpretation—form the core of the inter-

⁷⁶ See generally GONZÁLEZ ET AL., *supra* note 21, at 380-81 (indicating that because it taxes a bilingual person's memory more heavily to remember something said in their non-native language, interpreters need to develop the most deliberate and alert form of listening called "attending" listening).

⁷⁷ See generally *id.* at 392-95 (advising court interpreters to take only notes that are needed, to abbreviate, and to use pictures, diagrams, and relative positions on the page).

⁷⁸ See generally *id.* at 382-86 (emphasizing the vital role of memory in consecutive interpretation and strategies that interpreters can utilize to improve retention).

⁷⁹ See generally *id.* at 392 (indicating that, confronted with lengthy testimony, the interpreter must intervene when he knows that he cannot retain any more of the witness's statement); NEW JERSEY TASK FORCE, *supra* note 71, at 62 (recommending that interpreters employ hand signals to encourage witnesses to pause so as to allow the interpreter to render the interpretation).

⁸⁰ González warns that situational control by the interpreter should be exerted "in limited situations, and only rarely" GONZÁLEZ ET AL., *supra* note 21, at 395.

⁸¹ WASHINGTON INTERIM REPORT, *supra* note 70, at 2 (emphasis omitted). For a general discussion of simultaneous interpretation, see GONZÁLEZ ET AL., *supra* note 21, at 359-78.

⁸² MODEL GUIDES, *supra* note 11, at 34.

⁸³ *Miranda v Arizona*, 384 U.S. 436, 478-79 (1966).

⁸⁴ The New Mexico Manual sets out an expanded version of the Miranda warnings as a simultaneous interpreting exercise. NEW MEXICO MANUAL, *supra* note 25, pt. 5.

preter's practice. These tasks, in addition to instruction in the workings of the legal system and the interpreter's ethical and professional responsibility to that system, are the center points around which an interpreter training curriculum should turn.⁸⁵

The burden of designing such a curriculum has been lightened significantly by the issuance of the New Jersey Guidelines.⁸⁶ These guidelines include a design for court interpreter instruction that encompasses programs leading to an undergraduate degree, a post-baccalaureate professional certificate, and a graduate degree. Before reviewing the guidelines, it should be noted that the New Jersey effort constitutes the most complete study and plan for implementing a college-level court interpreter curriculum so far undertaken in the United States.

The first question addressed by the New Jersey Guidelines is what is a professional interpreter. The six-part definition holds that a professional interpreter is one who has: complete fluency in two languages; developed interpretation skills; a wide general knowledge; specialized knowledge in a given field (the legal system for court interpreters); bicultural sensitivity; and a sense of professionalism.⁸⁷ Because this article has already addressed some issues related to skills, specialized knowledge, and professionalism, the following discussion will be limited to the other three parts of the definition—fluency in two languages, general knowledge, and bicultural sensitivity—and their relation to the accuracy standard for interpreters.

Complete fluency in two languages is a *sine qua non* of accurate interpretation.⁸⁸ The New Jersey Guidelines caution, however, that such fluency requires more than simply being able to read, speak, and write two languages. It also encompasses "familiarity with slang, regionalisms, colloquialisms, dialectical variations, and specialized vocabu-

⁸⁵ The Washington Court Interpreter Advisory Committee summarizes the skills to be tested for certifying interpreters: vocabulary and grammar, bilingual fluency, simultaneous and consecutive interpretation, cultural awareness, knowledge of legal procedure, ethics, and interpersonal skills, among others. WASHINGTON INTERIM REPORT, *supra* note 70, at 15-17.

⁸⁶ See source cited *supra* note 65.

⁸⁷ *Id.* at 2-3. The New Jersey definition compares favorably with the Washington summary of "skills to be tested" for certifying interpreters; see *supra* note 85 and accompanying text. Also, the job specifications for an entry level court interpreter as outlined by the NCSC incorporate all of the elements of the New Jersey definition with the exception of the "wide general knowledge" criterion. See MODEL GUIDES, *supra* note 11, at 48.

⁸⁸ Explaining that linguistic considerations are primary for court interpreters, the New Jersey Supreme Court Task Force wrote:

It is not enough merely to be bilingual. Rather a court interpreter must be able to speak both English and the second language at a certain level of proficiency. Even so, being bilingual is only the starting point. The skills of the professional court interpreter involve much more than a simple process of providing semantic equivalence.

NEW JERSEY TASK FORCE, *supra* note 71, at 61 (citation omitted).

lary.”⁸⁹ These are echoed by the NCSC guidelines, which hold interpreters to knowledge of “phonology, vocabulary, grammar and dialectology” in two languages.⁹⁰

Linked to this expansive view of bilingual fluency is bicultural sensitivity. Since interpretation entails communication across cultures as well as languages, accurate interpretation requires that interpreters understand “differences in gestures, reactions, attitudes towards time, [and] forms of personal address.”⁹¹ The *Massachusetts Code of Professional Conduct for Court Interpreters of the Trial Court* refers to this capacity as “cultural fluency” and calls for “awareness and full comprehension of cross-cultural factors including but not limited to, expectations, attitudes, values, roles, institutions”⁹² On the issue of wide general knowledge, interpreters, as do all professionals, must be able to call upon their understanding of life and the world in the performance of their duties. “One cannot interpret what one does not understand, and one cannot understand what one does not know.”⁹³

After defining the abilities of a professional interpreter, the New Jersey Guidelines propose “a two-level, multiple track educational program”⁹⁴ for interpreter training. The proposed program envisages both an undergraduate pre-professional course of study leading to a minor in legal interpretation⁹⁵ and a graduate level program leading to a professional certificate, diploma, or master’s degree. At both levels, instruction will need to take account of whether students are practicing or aspiring interpreters. This will dictate the speed and rigor of the course of study.

The undergraduate minor outlined in the New Jersey Guidelines is an eighteen to twenty-four credit module within a liberal arts bachelor program. Instruction in the communication skills of translation and interpretation, and a legal content course, presumably incorporating in-

⁸⁹ NEW JERSEY GUIDELINES, *supra* note 65, at 2.

⁹⁰ MODEL GUIDES, *supra* note 11, at 48.

⁹¹ NEW JERSEY GUIDELINES, *supra* note 65, at 3. Stating that communication is cultural as well as linguistic, the New Jersey Supreme Court Task Force noted: “Culture lays behind words that are spoken and the norms, value systems and symbols of the culture shape the meaning of those words. When persons from different cultures attempt to communicate, the norms, value systems and symbols which shape the meaning of words they speak often differ.” NEW JERSEY TASK FORCE, *supra* note 71, at 31.

⁹² MASSACHUSETTS CODE, *supra* note 18, § 1.02:

⁹³ NEW JERSEY GUIDELINES, *supra* note 65, at 2.

⁹⁴ *Id.* at 5.

⁹⁵ In view of the New Jersey curriculum proposal to create a minor in “legal interpretation,” it is appropriate to note that while the phrases “court interpretation” and “legal interpretation” are at times used interchangeably, “court interpretation” applies more precisely to that branch of legal interpretation that is practiced preparatory to and during judicial proceedings. “Legal interpretation” is a more inclusive concept and relates broadly to interpretation in the whole range of legal practice, e.g., administrative hearings, legal conferences, legal consultations, and other settings as well as during judicial proceedings.

struction in the legal system and the standards of practice for court interpreters, comprise fifteen of the credits. The remaining credits provide an opportunity for instruction in language, language-related, or culture-related courses. The minor is supplemented by the remainder of the bachelor of arts curriculum, which accents study in the social sciences and in communication and linguistics.⁹⁶ Currently, the only undergraduate minor in legal interpretation in the United States is offered at William Paterson College in New Jersey. There are no bachelor degree programs in legal interpretation anywhere in the United States.⁹⁷

Under the New Jersey Guidelines, the graduate level course of study is a forty-two credit program. It presumes that applicants will have already completed the interpretation minor on the undergraduate level or will complete twelve credits in translation and interpretation during the first semester of the graduate program before proceeding to the forty-two credit master's core. The core includes intensive instruction in translation and interpretation as well as courses in public speaking and legal process, and an interpreter internship.⁹⁸ Currently, the only master's degree in legal interpretation is offered by the University of South Carolina at Charleston. Its curriculum is generally reflective of the New Jersey Guidelines.⁹⁹

The few remaining programs of study in legal interpretation in the United States take the form of either sequenced programs often leading to a professional certificate, or non-sequenced courses and workshops. Some are credit, and some are non-credit programs. Most sequenced programs provide a series of courses similar to the sequence outlined in the New Jersey Guidelines. These include courses in translation, consecutive and simultaneous interpretation, and legal process and content. Sequenced programs generally range in length from 150 to 210 hours, roughly the equivalent of fifteen to twenty-one credits or non-credit Continuing Education Units (CEUs).¹⁰⁰

⁹⁶ NEW JERSEY GUIDELINES, *supra* note 65, at 15-20.

⁹⁷ This information on the state of undergraduate legal interpretation was confirmed in telephone interviews conducted by the author in October 1996 with Virginia Benmaman, Director of the Master of Arts in Bilingual Legal Interpreting Program and a member of the Project Advisory Committee for the NCSC MODEL GUIDES, see *supra* note 11, and with Marilyn Tayler, Project Director of the New Jersey Legal Interpretation Project, which prepared the NEW JERSEY GUIDELINES, see *supra* note 65, for legal interpreter education.

⁹⁸ NEW JERSEY GUIDELINES, *supra* note 65, at 20-26.

⁹⁹ UNIVERSITY OF CHARLESTON SOUTH CAROLINA, MASTER OF ARTS IN BILINGUAL LEGAL INTERPRETING (1996). Georgetown University offers a program in interpretation and translation that carries graduate credit, but the program is limited to conference interpreting and leads only to a certificate of proficiency in translation. GEORGETOWN UNIVERSITY, INTERPRETATION AND TRANSLATION (1996).

¹⁰⁰ A review of several sequenced-program brochures indicates programs of the length noted: Bentley College (Massachusetts), 150 hours; New York University, 175 hours; University of Minnesota, 195 hours; Monterey Institute (California), 210 hours.

A peripheral, yet important issue relating to curriculum guidelines is the matter of admission standards. What criteria ought to be used in admitting individuals to a legal interpreter program? The two criteria central to the consideration of admission standards are bilingual fluency and adequate prior education.

Regarding the former, there is no difference of opinion. As already noted, legal interpreter education is not language education. Thus, every educational program for interpreters expects that a student seeking admission be bilingual.¹⁰¹ The New Jersey Guidelines call for screening tests to measure bilingual ability.¹⁰² While the formats of these bilingual screening tests often vary from institution to institution,¹⁰³ the objective of all of them is to assure that students who undertake instruction in communication skills are not hobbled by an inability to speak the languages in which they seek to train.¹⁰⁴

As to the latter criterion, adequate prior education, there appears to be a difference of view. The question is, what is "adequate?" The New Jersey Guidelines indicate that "[a] comprehensive professional legal interpretation program should be offered at the graduate level to allow students the time and opportunity at the undergraduate level to develop their general knowledge."¹⁰⁵ This reliance upon undergraduate study to provide the necessary level of general knowledge is reflected in the policies of some states that require certification of interpreters. For instance, in Massachusetts, the Office of Court Interpreter Services will not certify an interpreter who does not already have a bachelor's degree.¹⁰⁶

¹⁰¹ The University of Minnesota is typical of other programs in this regard. Its program flyer states: "Applicants are expected to already possess native-like proficiency in both languages in which they plan to interpret." UNIVERSITY OF MINNESOTA, DEVELOP PROFESSIONAL INTERPRETING AND TRANSLATION SKILLS (1995).

¹⁰² NEW JERSEY GUIDELINES, *supra* note 65, at 7.

¹⁰³ For example, the respective program brochures indicate that New York University requires applicants entering its Certificate in Court Interpreting program to pass an oral exam, which takes the form of a fifteen-minute telephone interview; Bentley College requires a seventy-minute exam consisting of a written translation section from English to Spanish and vice versa and an oral "shadowing" exercise. For a discussion of shadowing as a testing tool, see Georganne Weller & Javier Lopez, *Shadowing Exercises as an Evaluation Criterion of Entrance Examinations for Conference Interpretation Programs*, LOOKING AHEAD: PROC. 31 ANN. CONF. AM. TRANSLATORS ASS'N 67 (1990).

¹⁰⁴ One aspect of all legal interpreting programs is to assist students in developing their specialized legal vocabularies. While students must be bilingual at the outset of their studies, there is no expectation that students bring to their studies an already-developed technical vocabulary.

¹⁰⁵ NEW JERSEY GUIDELINES, *supra* note 65, at 7. The legal interpretation sequence of courses offered at William Paterson College (New Jersey) is an undergraduate "minor." It is considered "pre-professional" consistent with the New Jersey Guidelines. *Id.* at 15-20.

¹⁰⁶ The bachelor's degree requirement was confirmed in an interview conducted by the author on August 23, 1995 with Maribel Pintado-Espiet, Coordinator of the Office of Court Interpreter Services of the Commonwealth of Massachusetts.

The admissions practices of the educational institutions offering programs in legal interpretation, however, do not adhere uniformly to this second criterion.¹⁰⁷ This may be attributable to a difference in opinion regarding whether possession of a bachelor's degree is the only valid measure of the level of wide-ranging knowledge needed to act effectively as an interpreter. In 1990, the Office of the Administrator for the Courts in the State of Washington recommended that "no education or experience prerequisites should be required" to sit for the certification examination and be certified as a court interpreter.¹⁰⁸ The reason given for this recommendation is that practicing interpreters in Washington have varying educational backgrounds and that requiring prerequisites might eliminate otherwise qualified interpreters.¹⁰⁹

As is often the case, the two views on this issue reflect the tension between the ideal and the pragmatic. Clearly, a four-year undergraduate degree program does provide the time and opportunity for individuals to develop their minds and expand their understanding of the world around them. Ideally, an undergraduate degree ought to be an admission criterion. The reality is, however, that there is a shortage of interpreters.¹¹⁰ States like Washington have come to rely upon interpreters without formal education, but whose life experience has proven invaluable to the delivery of interpreter services. Some of these interpreters have lived and worked in two cultural environments and thereby have developed an understanding of the world around them that should not be invalidated by the rigid application of an academic standard. The ability of those who do not hold bachelor's degrees to become proficient interpreters is recognized also by the Administrative Office of the United States Courts, which states in its examination manual for interpreters that "no formal educational requirements" need be met to be eligible for certification as a federal interpreter.¹¹¹ The differences in opinion relating to this issue will be resolved as interpreter education matures. The ultimate solution will likely be premised upon the need for flexibility in assessing an aspiring interpreter's range of general knowledge. Undergraduate study, or life and work experience, or some combination of the two coupled with passing a state or federal certification examination might best serve the

¹⁰⁷ With the exception of the interpreter programs at the University of Charleston South Carolina and Georgetown University, both of which offer graduate level credit, court interpreting programs generally do not require a bachelor's degree as an admission criteria. This is confirmed in the program brochures of the following institutions: Bentley College (Massachusetts), Monterey Institute (California), University of Minnesota, and New York University.

¹⁰⁸ WASHINGTON INTERIM REPORT, *supra* note 70, at 17.

¹⁰⁹ *Id.*

¹¹⁰ See *supra* notes 16-17 and accompanying text.

¹¹¹ FEDERAL MANUAL, *supra* note 68, at 6.

objective of providing an adequate pool of qualified interpreters to meet the needs of the courts.

IV. ISSUES FOR COLLEGES AND UNIVERSITIES SEEKING TO IMPLEMENT COURT INTERPRETER TRAINING

From the foregoing discussion regarding curriculum guidelines, it should be clear that colleges and universities ought to and will play a significant and expanding role in interpreter training. The debate over requiring a bachelor's degree aside, no one would deny the value of an undergraduate education in any of life's endeavors. Further, the need for focused instruction in the communication skills of consecutive and simultaneous interpretation and sight translation can best be met by institutions that are established and structured to teach. Of course, as colleges and universities move into the field of court interpreter education, a number of issues will need to be addressed. Although not predictive of the range of those issues, there are three that almost immediately will confront any college or university entering the field of court interpreter training. These issues are the relationship between the academic institution and the court, the costs of an interpreter training program, and the recruitment of qualified faculty.

Regarding the relationship between the academic institution and the court, the main issue is one of coordination. In short, who trains and who certifies? In several states requiring that interpreters be certified before engaging in courtroom practice, the distinction between the training of interpreters and their certification is clearly delineated so that, as one might expect, the academic institutions train and the courts certify. For instance, in the State of Washington, by statute,¹¹² the function of certification is placed in the office of the administrator of the courts and the function of training is given over to academic institutions working cooperatively with the administrator.

Under the Washington certification regime, it is the court administrative office that is authorized to "establish and administer a comprehensive testing and certification program for language interpreters."¹¹³ This responsibility of the courts in Washington to certify interpreters, who then assume roles as officers of the court,¹¹⁴ is consistent with the prac-

¹¹² WASH. REV. CODE § 2.43.070(1)(2) (1989).

¹¹³ *Id.* at (1). The importance of placing the authority to certify court interpreters in a public entity is "to protect the public interest." NEW JERSEY TASK FORCE, *supra* note 71, at 179.

¹¹⁴ The Washington Code, *supra* note 18, ¶ a, refers to a court interpreter as being "like an officer of the court." Other codes are more emphatic in stating that interpreters *are* officers of the court. *See, e.g.*, CALIFORNIA COMMENTARY, *supra* note 34, at 27; MINNESOTA CODE, *supra* note 18, Canon 3 (Commentary); NEW MEXICO CODE, *supra* note 18, pream.; MODEL GUIDES, *supra* note 11, pream.

tice of courts generally in certifying or licensing those who practice before the bar as lawyers. It is and should be the responsibility of the courts to certify court officers. Even in those states that have not yet established a formal process for certifying interpreters within the administrative office of the courts, the responsibility for deciding whether an interpreter is to function in the courtroom remains a responsibility of the judicial department.¹¹⁵

Regarding training, however, the role of the judiciary is secondary. The Washington statute parallels the New Jersey recommendation¹¹⁶ that the courts should work cooperatively with institutions of higher education to develop an interpreter training curriculum and should designate several of those institutions to conduct the training.¹¹⁷ Reinforcing this point are the guidelines prepared by the National Center for State Courts, which recognize that the courts are not equipped to prepare and establish long-term, formalized programs for court interpreter education.¹¹⁸ Thus, colleges and universities must fulfill this function. This division of responsibility is logical and efficient. The task for colleges and universities, then, is to coordinate their efforts in preparing court interpreter

¹¹⁵ Both the selection and appointment of an interpreter is a judicial function. Regarding the selection of an interpreter in those states without a formal certification process, the services of an interpreter are often enlisted by the court clerk or another court interpreter. The practice of those New England states that do not have formal certification is instructive. In New Hampshire and Vermont, a list of possible interpreters is compiled by court administrative personnel in Concord and Montpelier, respectively, and distributed to clerks of court in those states. The names are often compiled from other listings by private agencies in those states. In Maine, like New Hampshire and Vermont, the clerks of court select interpreters from a list, but the list is compiled by the clerk herself. In Portland, the clerk often relies upon the Greater Portland Language Bank for compiling a list of potential interpreters. In Connecticut, the Chief Court Interpreter in Hartford and his assistant in Bridgeport qualify interpreters and assign them where needed. In Rhode Island, interpreters are selected by court administrators through placement agencies. Regarding the appointment of an interpreter in a judicial proceeding, the presiding judge ultimately exercises that responsibility. *See supra* note 43 and accompanying text. (The practices of the New England states regarding selection were confirmed in telephone interviews the author conducted with the respective court administrators in July and August 1995).

¹¹⁶ The 1985 recommendation of the New Jersey Task Force was that the "Chief Justice should recommend that the Chancellor of the Department of Higher Education designate several public institutions as centers for (1) training court interpreters . . ." NEW JERSEY TASK FORCE, *supra* note 71, at 183. This recommendation led to the preparation of the court interpreter curriculum guidelines referred to herein as the New Jersey Guidelines. *See generally* NEW JERSEY GUIDELINES, *supra* note 65.

¹¹⁷ The 1990 recommendation of the Washington Court Interpreter Advisory Committee that long-term education of court interpreters be "coordinated through the Higher Education and/or Community College Boards" and "be developed in Washington's community college and/or university extension system." WASHINGTON INTERIM REPORT, *supra* note 70, at 8. This recommendation is consistent with WASH. REV. CODE § 2.43.070(2) (1989).

¹¹⁸ "It is unrealistic for court policy makers and court managers to expect that [longer term, formalized programs of education and training for court interpreters] can be designed or paid for with court funds." MODEL GUIDES, *supra* note 11, at 53.

education curricula with the administrative office of the courts of the state in which they are located. This will assure that the curriculum being designed is consistent with the needs of local courts and is appropriate to the certification process that will confront graduates upon completion of their training.

The efficiency of this design whereby courts certify and academic institutions train is unfortunately not universally accepted. The Massachusetts model, by statute, places the responsibility for both training and certifying court interpreters in the Office of Court Interpreter Services,¹¹⁹ a department of the Administrative Office of the Trial Court. The difficulties created by this arrangement are far-reaching. They affect both the functioning of the interpreter services office itself and the relationship between that office and any academic institution seeking to establish an interpreter training program. As to the functioning of the office, the burdens placed upon the director are overwhelming. She must train, test, and certify interpreters in several languages; coordinate the assignment of interpreters as needed throughout the state on a daily basis; assure the payment of interpreters for the delivery of interpreter services; and conduct disciplinary hearings for those interpreters accused of violating the code of professional responsibility.¹²⁰

The practical result of placing such a heavy burden on the Massachusetts Office of Court Interpreter Services is that the educational function has not been accomplished. Since 1993, no interpreter training has been undertaken by that office and no new interpreters have been certified.¹²¹ Further, this assignment of the training function to the Office of

¹¹⁹ "The coordinator of court interpreter services . . . shall specifically: (1) establish and conduct a training program for interpreters in which they shall be trained and examined on language proficiency, proper conduct in court, professional ethics and other matters deemed appropriate and after successfully completing the course shall be duly certified . . ." MASS. GEN. L. ch. 221C, § 7(e)(1) (1986).

¹²⁰ *Id.* § 7(e)(2-4).

¹²¹ During 1995-1996, the Massachusetts Senate Post Audit and Oversight Bureau conducted a review of court interpreter services in Massachusetts at the request of the Senate Majority Leader Thomas Norton. A major finding of the review related to interpreter training and examination for certification. The review found: "During the last three years, O.C.I.S. [Office of Court Interpreter Services] halted training and examination for common and rare languages because of lack of funding." SENATOR THOMAS NORTON, SENATOR THOMAS NORTON RELEASES REVIEW OF COURT INTERPRETER SERVICES, Feb. 13, 1996 (on file with author). Since the writing of this article, Massachusetts has moved to revise the mandate of O.C.I.S. by contracting with the University of Massachusetts to train and certify court interpreters. In the author's view, while placing the training element in the hands of the University is a positive move by Massachusetts, the accompanying placement of the certification aspect of O.C.I.S.'s mandate is troubling. Such a move not only appears to be an abdication by the court of its traditional responsibility to certify those who practice within the courtroom, but also may lead to the creation of a monopoly within the state for the training of interpreters since students would likely be inclined to attend a training program that led to certification rather than one that did not. As a public policy matter, it would seem that in view of the already-noted

Court Interpreter Services complicates any relationship between that office and academic institutions in Massachusetts that might contemplate undertaking a court interpreter training program. Primarily, the issue here is whether an academic program can or would be recognized as a substitute for the statutorily mandated training program of the Office of Court Interpreter Services. Secondly, the issue is whether students who complete a training program at an academic institution will be allowed to sit immediately for the certification examination without further training. In sum, colleges and universities should review the relevant statutes and rules of court in their state on the issues of certification and training and develop a strategy to meet them.

The second issue of concern to colleges and universities entering into the field of court interpreter training is the issue of cost. Cost is always an issue in higher education, of course, but in interpreter training it comes with its own unique signature. For instance, if a college were to offer a program in paralegal education, all students in the program could be enrolled in one sequence of courses with each course capable of being taught by one instructor. The available student body for such a program sequence would potentially be large while instructor salary costs per student would be low for the college.

If a college were to offer a program in interpreter training, however, the equation would be much more complicated. To start with, not all interpreter students could be enrolled in the same sequence of courses. For instance, a sequence of courses taught for Spanish-English interpreters could not also be taken by Russian-English interpreters or Cambodian-English interpreters. For obvious reasons, each group would require its own classroom with its own instructor. As one can imagine, the cost of offering such a program for ten Spanish-English students, ten Russian-English, and ten Cambodian-English students would be much higher than offering a program for thirty paralegal students, all of whom speak one language.

While cost is a unique issue in interpreter training, two strategies may assist in resolving the funding dilemma. The first strategy is a tried and true one: seek outside funding sources for scholarships, equipment purchases, and establishing faculty chairs. Sources can range from federal and state agencies to state bar associations and to corporations and businesses that have an interest in the issue either because they operate within a community with a significant number of non-English speakers

shortage of competent court interpreters, the interest of access to the courts would be better served by encouraging as many colleges and universities as possible within the state to establish curricula for the training of interpreters.

or because they do business internationally.¹²² For state-sponsored colleges and universities, increased legislative appropriations also ought to be part of the solution.

A second strategy for cost containment has been followed by Vancouver Community College (British Columbia) and by the University of Minnesota. It is "the multilingual model" for classroom interpreter training. Bruce Downing, who directs the interpreter program at the University of Minnesota (Minneapolis), describes the model as follows: "Instead of setting up separate programs for each language pair, one program can accommodate them all by focusing on theoretical and practical topics that are germane to all interpreting students and then breaking into groups based on language pairs for language-specific issues and interpreting lab work."¹²³ Of course, such an approach would still require separate tutors to work with the smaller, same-language pair groups in addition to the lead instructor who would teach all students together on the topics of common interest. The costs actually saved in operating the multilingual model would depend upon the number of tutors required and would also need to be balanced against the development costs for such a model. Assuming, however, that the model is developed and that the lead instructor and tutors establish a compatible and continuous pedagogical relationship, the model ought to realize some cost saving.

The third issue of concern for colleges and universities entering upon the field of interpreter education must be the recruitment of competent faculty. Because court interpreter training is a relatively new effort, however, the pool of qualified faculty is not large. Many individuals already practicing as court interpreters did not have the advantage of developing their skills and vocabulary in a training environment deliberately focused on teaching sight translation, consecutive and simultaneous interpretation, and the professional standards of practice. Most court interpreters would affirm that they simply taught themselves to be interpreters. Often, individuals who are bilingual are believed to be capable of interpreting. Thus, many court interpreters were pressed into service unprepared and subsequently built on the experience. As a result, some or many of these individuals will have been inadequately prepared to undertake an instructor's role in an interpreter program. Also, many individuals practicing as court interpreters may not be certified by any ju-

¹²² The University of Minnesota has been successful in its attempts to obtain outside funding for its interpreter training program. Both the Federal Office of Refugee Settlement and the Bush Foundation have made substantial contributions. Telephone Interview with Bruce Downing, Interpreter Program Director, University of Minnesota (Jul. 10, 1995).

¹²³ BRUCE T. DOWNING & LAURIE SWABEY, A MULTILINGUAL MODEL FOR TRAINING HEALTH CARE INTERPRETERS 9-10 (Dec. 10, 1991). A workshop based on this paper was presented at the National Conference on Health and Mental Health of Soviet Refugees, held in Chicago on Dec. 10-12, 1991.

dicial authority. While these individuals may be competent, they may lack the credentials that colleges and universities invariably require of their faculties. Finally, recalling the fact that interpreter training is not foreign language-centered,¹²⁴ it should be clear that most modern language college faculty, although bilingual, will have not been trained in the skills required of a court interpreter. This will eliminate most modern language instructors from the pool of potential interpreter training faculty.

As a starting point in recruiting interpreter faculty, therefore, it seems appropriate to seek out those individuals who meet three criteria: individuals who have at least a bachelor's degree, who are certified to function as court interpreters by some judicial authority (for example, the Administrative Office of the United States Courts), and who have actual interpreting experience in the courtroom. Of course, if an individual meets all three criteria and also has some teaching experience in any subject area, that person should be rated as a very good candidate for faculty recruitment.

V. CONCLUSION

The need to create viable programs to train court interpreters is a clarion call to colleges and universities to move to the forefront in the development and design of interpreter training curricula. Taking their cue from the professional standards of practice for court interpreters, colleges and universities must work with their state judicial administrators to develop instructional programs that incorporate the goals of accuracy, honesty, and professionalism for interpreters. In order to accomplish this, these academic institutions must provide instruction in the communication-based tasks of sight translation, and consecutive and simultaneous interpretation, and in the professional standards of practice for interpreters. The design of curricula to accomplish these objectives can take several forms. These can include undergraduate and graduate-level degree programs, continuing education certificate programs, or other types of sequenced training that meet the peculiar needs of the localities within which the academic institution functions. The creation and operation at the university level of quality instructional programs for court interpretation will increase the number of qualified court interpreters. In turn, this increase will assist the courts in meeting their responsibility to eliminate the fear and distrust of the judicial system felt by many non-English speakers so that all receive equal access to justice.

¹²⁴ See *supra* note 65 and accompanying text.