

The Long and Short of it on Probable Cause

Dennis McKenna

The other day, a student at the interpreting school where I teach stopped me in the hallway and asked for the proper translation of “probable cause.” I hesitated for a moment, saying, “Well, that depends...” As luck would have it, another student passing by blurted out “*Motivo fundado*,” as if it were written in stone. Upon hearing this, the first student, who was not looking for a complicated answer, thanked the other and proceeded on to his next class, leaving me to contemplate what had just happened.

In truth, I don’t blame either of them for their haste. We are living in times of instant gratification through Internet searches on smartphones. The first student was looking for a fast solution to an interpreting problem, and the second student provided an apparently satisfactory answer. Perhaps it is only natural that they, like everybody else, have a shortened attention span. Students nowadays are not about to wait around for an old fogey like me to give them an answer. They have to hurry up, cram for the test, pass it, and get to work as fast as possible.

Traditionally, “probable cause” has most often been translated as *motivo fundado*, the term most of us were taught and the translation often seen in bilingual legal dictionaries, glossaries, and study materials. Nevertheless, what I would have liked to say, if he had the time and inclination to listen, was that “probable cause” is a legal term of art used here in the United States for a long, long time. Our use of it is tied to the Fourth Amendment to the Constitution, written in 1791. In Colonial America the police had wide-ranging powers to conduct searches and arrest individuals with easily obtained warrants. The framers of the Constitution wanted to prevent this abuse of power and they wrote the following: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon *probable cause*, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized” (U.S. Constitution, Fourth Amendment; emphasis added).

The term “probable cause” is also used in various other legal contexts, but in criminal law it is the standard employed for the issuance of search warrants, the arrest of suspects, the holding of defendants to answer at preliminary hearings (often known as probable cause hearings), and is one of the standards used by grand juries for the handing down of indictments.

Judges have defined this standard as where a reasonable person would conclude that it is more likely than not that the suspect committed a crime and that important evidence can be obtained by conducting a search of the defendant’s person or property.

This is the source of the term “probable cause” as a standard of proof in criminal matters in the United States. Our concept of probable cause is based on the protections of the Fourth Amendment. To render interpretations most accurately, we should consult legal texts from Spanish-speaking countries related to Fourth Amendment topics to see how these concepts are expressed in their own legal jargon.

Mexico

Our first stop on this journey through the Spanish-speaking legal world is Mexico, where their 1917 Constitution contains these following oft-cited words, which closely follow our own Fourth Amendment:

Nadie puede ser molestado en su persona, familia, domicilio, papeles o posesiones, sino en virtud de mandamiento escrito de la autoridad competente, que funde y motive la causa legal del procedimiento [No one’s person, family, residence, papers or possessions shall be disturbed, except by virtue of a written order issued by a competent authority providing legal grounds and justification for the requested action.] (1917 Mexican Constitution, Article 16; author’s translation)

So if we were interpreting for a Mexican, how should we translate of the following sentence into Spanish?

1) There was no probable cause for the issuance of the arrest warrant.

Following the example provided by the constitution, the translation is as follows:

La orden de aprehensión no fue debidamente fundada y motivada.

As odd as it might sound to us, this is language that is often found in legal documents in Mexico. But this should not be so surprising, since every country has its own unique legal tradition. For other uses, such as being held to answer after a probable cause determination in court, a completely different approach is in order. At a “probable cause hearing” (sometimes known as a preliminary hearing) a magistrate determines if there is enough evidence for the case to be bound over to the superior court. Here the standard of proof is lower than that of “beyond a reasonable doubt” required in an actual trial. The court only needs to determine that there was a probability that illegal activity took place and that the defendant was the responsible party.

In Mexico, the law governing a probable cause determination to bind someone over for trial has for many years been the one established by Article 19 of the 1917 Mexican Constitution, which reads as follows:

Ninguna detención ante autoridad judicial podrá exceder del plazo de setenta y dos horas, a partir de que el indiciado sea puesto a su disposición, sin que se justifique con un auto de vinculación a proceso en el que se expresará: el delito que se impute al acusado; el lugar, tiempo y circunstancias de ejecución, así como los datos que establezcan que se ha cometido un hecho que la ley señale como delito y que exista la probabilidad de que el indiciado lo cometió o participó en su comisión [No one may be held for more than 72 hours, calculated from the time they are placed at the disposition of a given court, without an order to stand trial that states the following: the crime the accused is said to have committed; the time, place, and circumstances in which it was carried out, as well as the information that establishes that an illegal act has taken place and there exists a likelihood that the accused either committed it or participated in its commission.] (author's translation)

Here is a sample sentence that describes this situation in legal English:

2) The judge found that probable cause existed and that the defendant should be held to answer on the charge of first-degree murder.

In Mexico, this could be stated as follows: *El juez dictó auto de vinculación a proceso contra el indiciado después de determinar que existía la probabilidad de que él lo cometió o participó en la comisión del delito de homicidio calificado.*

Or simply:

There was a finding of probable cause and the defendant was held to answer on the charge of first-degree murder.

Translation: *Se le decretó auto de vinculación a proceso por su probable responsabilidad penal en la comisión del delito de homicidio calificado.*

Both of these translations are technically correct and easily understood by Mexican nationals. The first translation of sample sentence (2) uses the term *indiciado* for defendant. This is because, depending on the stage of the proceedings, the defendant is known as the *indiciado*, *inculgado*, *incriminado*, *acusado*, *encausado*, *procesado*, *sentenciado*, *enjuiciado*, *condenado*, and *reo*. When discussing this kind of legal translation for court, Spanish interpreters in the U.S. often make comments like, "No one will understand that." But it may be that our own cobbled together translations are actually more confusing to a native speaker than a targeted translation. The country-specific translation takes into account the legal culture of a given nationality and uses the terminology that the LEPs are accustomed to hearing.

Guatemala

In the case of Guatemala, the constitution states:

Artículo 6.- Detención legal. Ninguna persona puede ser detenida o presa, sino por causa de delito o falta y en virtud de orden librada con apego a la ley por autoridad judicial competente.

[Article 6. - Lawful Detention. No one shall be jailed or imprisoned unless it is for a crime or misdemeanor and as a result of a warrant that was legally issued by the judge or magistrate with jurisdiction over the matter.] (Guatemalan Constitution, 1993; author's translation)

Following the example provided by the constitution, the translation of the first sentence above is:

La orden de aprehensión carecía de fundamento por no basarse en ningún hecho delictivo.

The constitution also has the following provision:

Artículo 13.- Motivos para auto de prisión. No podrá dictarse auto de prisión, sin que preceda información de haberse cometido un delito y sin que concurren motivos racionales suficientes para creer que la persona detenida lo ha cometido o participado en él.

[Article 13. - Grounds for holding someone to answer. No one may be held to answer without evidence that a crime occurred and probable cause to believe that the person in custody either committed it or participated in its commission.] (Guatemalan Constitution, 1993; author's translation)

And for our second sample sentence (see above):

In Guatemala, this can be translated as follows:

El juez dictó auto de prisión contra el sindicado después de determinar que existían motivos racionales suficientes para presumir la responsabilidad penal en la comisión del delito de homicidio calificado.

Here, the term *sindicado* is used for defendant. Guatemala shares this peculiarity with Colombia and Panama. Newspaper headlines cry out with this language ("Capturan a menor de 13 años sindicado de asesinar a una persona en un campo de fútbol," February 7, 2011.) In these same countries *sindicar* is a verb that means to formally charge with a crime. In Guatemala, the term *motivos racionales suficientes* can also be found in news accounts:

Reporteros sin fronteras recuerda que, según el Código Procesal Penal guatemalteco... la detención preventiva es una medida excepcional, que sólo se contempla si existe información de un hecho y motivos racionales suficientes para creer que el acusado cometió un delito o participó en él. [Reporteros Sin Fronteras recalls that, according to the Guatemalan Code of Criminal Procedure... pretrial detention is an exceptional measure, which is only considered in cases in which there is information that something occurred and that there is probable cause to believe that the defendant committed a crime or participated in its commission.] (“Serias dudas sobre las acusaciones contra un periodista a quien mantienen detenido,” June 10, 2011; author’s translation)

Nicaragua

Other examples of “probable cause” in Latin America include the case of Nicaragua, where their legislature enacted the following rules:

Artículo 231... Los jefes de las delegaciones de la Policía Nacional, bajo su responsabilidad personal, podrán emitir orden de detención, con expresión de las razones que la hagan indispensable, contra quienes haya probabilidad fundada de la comisión de un delito sancionado con pena privativa de libertad... [Article 231... The National Police station chiefs, on their own authority, may issue arrest warrants in which they state the reasons why they are absolutely necessary, against those for whom there is probable cause that they committed a crime punishable by jail or imprisonment...] (Nicaraguan Code of Criminal Procedures, 2001; author’s translation)

Following the model of the Nicaraguan code of criminal procedure, the first sentence can be translated as follows:

No hubo probabilidad fundada de la comisión de un delito para justificar la emisión de la orden de arresto provisional.

As far as the second use of “probable cause,” the one referring to the burden of proof that needs to be met to bind someone’s case over for trial, Nicaraguan law has the following provision:

Artículo 268. Sustento de la acusación. El Ministerio Público y el acusador particular, si lo hay, deberán presentar ante el juez elementos de pruebas que establezcan indicios racionales suficientes para llevar a Juicio al acusado. [Article 268. Substantiating the charge. The Public Prosecutor and the private accuser, if there is one, shall present sufficient evidence to enable the court to establish that there is probable cause to try the defendant.] (Nicaraguan Code of Criminal Procedures, 2001; author’s translation)

In Nicaragua, the translation of our second model sentence would be as follows:

El juez determinó que existen indicios racionales para presumir la posible participación del acusado en el asesinato y remitió la causa a juicio oral y público.

This usage can be seen in Nicaraguan news articles, such as this one (Martinez, 2006), where the court, “... *consideró que los elementos aportados por el Ministerio Público... establecieron indicios racionales para presumir la posible participación de Duarte en el robo, por lo que remitió la causa a juicio oral y público*” [... determined that the evidence presented by the Public Prosecutor’s office... established probable cause that Duarte had committed the robbery, resulting in him being held to answer on the charge]; author’s translation).

Thinking Points:

These examples from Mexico, Guatemala, and Nicaragua, show that in each place the concept of “probable cause” is expressed differently, and none of them closely resembles our daily use of *motivo fundado* in U.S. courts in the course of our duties as Spanish interpreters. To add to the complexity of our job as language professionals, the same term could not be used in both of the situations we discussed within any one country. For our two sample sentences, one for the issuance of an arrest warrant, and the other to hold someone to answer, each of the two contexts required its own separate translation.

But that’s not all. In each country they also refer to “arrest warrant,” “held to answer,” and even “defendant” in different ways as well. Unfortunately for us, legal translation and interpretation is not always as simple as we would like it to be. Context really does matter. Some terms are interchangeable, while others may not be so easily understood across all nationalities. As Daniel DeCoursey reported in his discussion of Tony Rosado’s class on Mexican legal terminology at this year’s NAJIT conference, when Mr. Rosado described the experience of a group of Mexican legal professionals visiting our courts, “It turned out that the Mexican attorneys and judges did not understand many of the terms the interpreters bandied about, and were even amused by some, because they were not used in the Mexican legal code.”

In the end, the student who was in such a hurry to know the proper translation of “probable cause” got a far more satisfying answer from his classmate than he would have gotten from me. But while it may be all right to learn *motivo fundado* as a translation for “probable cause” when you are studying to pass an interpreting exam, it would be a mistake to assume that this is an ideal translation and that we should never look for other more appropriate solutions on a case by case basis. From time to time, someone will point out to me a “mistake” in the criminal court dictionary that I authored, saying that the translation that I give for a particular term is “wrong.” I eagerly inquire about the term, and the person almost always cites a translation that is regularly taught at an interpreting school someplace, as if it were the one and only translation that is acceptable. I always thank the person for pointing out my book’s shortcoming and promise to do more research. It pains me to see that students are allowed to think that there is a perfect translation that is always best for any and all circumstances. Even those working in the so-called hard sciences recognize that there is no real certainty about the physical world. Scientists are always open to reports about new observations and explanations of physical events. We, who work in a far more fuzzy reality of court interpreting, with procedures, terminology, and legal culture that vary from place to place, should follow their lead and be open to a general reexamination of our preferred translations and strive to do a better job at describing our American legal world to Spanish-speakers.

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Translation: Pecha Kucha

Nancy Festinger

Hurry up and wait. Are the papers in order? Are all the parties present? Has the defendant been produced? How long will the judge be in chambers on another matter? A courthouse is more of a plodding place than a creative beehive, but recently the Clerk of Court of the U.S. District Court of the Southern District of New York got everyone dancing to a different beat. She gave every department head exactly one week to come up with a Pecha Kucha—which, she informed us, was a wonderful idea, all the rage in Japan. Our newly minted Pecha Kuchas were needed to explain the work of each of the various courthouse units to a recently inducted federal judge. If successful, our presentations would become part of every new judge's orientation to the district.

Kuchie what? It sounded like a cuddle toy. Most of us had never heard the words "Pecha Kucha" and went scurrying to the Internet to see what it was all about. Apparently begun as an alternative to Powerpoint (considered passé and boring), Pecha Kucha is a technique developed in 2003 by an architectural firm in Tokyo to get designers' creative juices flowing by challenging them to do brief and barreling public presentations taking only six minutes each. Pecha Kucha nights, in which many presentations followed in quick succession, became popular happenings. [See [Pecha Kucha on Wired.com](#).] The structure was to use 20 slides shown at 20-second intervals to get across the excitement of whatever project you were working on. The idea quickly spread from design to other fields.

Although we were offered technical assistance by our training department, this project shook people up. One week to prepare a finished product, in the midst of our regular workload? How to convey in pictures the policies and procedures of a word-heavy environment? Six minutes to flop or impress? Thirty-some different departments of the Clerk's Office had to run with the ball or be left behind.

I was tempted to reproduce some scenes from our yearly comedy show about the courthouse, but then thought better of it. As all interpreters do, I like deciding quickly. I jotted down the bare bones of what was useful for any judge to know, and then searched for a metaphor to convey each idea. I didn't spend a long time choosing but grabbed the first clear image I found and then played with the sequence, experimented with background colors, decided to forego special effects like sound or animation, and concentrated on the main points: what we do, where we do it, and how we do it, trying to squeeze in a bit of background, some humor and friendly advice.

When the time came for a dry run, the Clerk suggested I eliminate the legal background (which I had considered essential) and reduce the total number of slides. They went from twenty to sixteen to ten. The version I am sharing with you here was not the final, but one of the intermediate edits.

There were about 40 people in the conference room as we sat through everyone's Pecha Kuchas. The new judge was presented—bombed was more like it—with a dizzying array of facts, figures and pictures from every department. The whole parade took an hour and a half. I'm not sure how much he was able to retain, but he definitely emerged with a greater appreciation of all the activities performed by various courthouse personnel. In the process, I, too, learned about units I never knew existed, and saw employees I had never seen before. This overview would surely be useful as orientation for all employees, not just judges.

Indeed, the Clerk's idea is to eventually post all the Pecha Kuchas on the court intranet for general reference. Our live presentations were pronounced successful, but we were all begged to edit down our slides even more for the next time. I'm hoping that a wise judge will suggest that this number of presentations should be heard over a period of two separate sessions.

PDF: [Southern District of New York Interpreters' PechaKucha](#)

If you would like the Power Point version of this presentation with presenter notes, please contact zalina@najit.org.

[The author is chief interpreter at the U.S. District Court, Southern District of New York.]

Message from the Chair

Dear colleagues,



I hope that this latest issue of Proteus finds you well. My first several months as Chairman have been very exciting and jam-packed. I have had the pleasure of traveling to various events where I was pleased to see so many of our members playing prominent roles. I would like to thank every single one of our members, volunteers, directors and administrative staff for everything you do for NAJIT and our profession.

In June, I participated in the Southeast Regional Medical Interpreters conference in Nashville, TN and the Interpret America summit in Washington, DC. In July, I attended the Legal Interpreter Member Section's annual meeting during the conference of the Registry of Interpreters for the Deaf (RID) in Atlanta, GA and this month I attended the Congress of the *Federation Internationale des Traducteurs* (FIT) in San Francisco, CA. The nature of my participation varied at these events, but I attempted to convey the view that both the industry as a whole and the individual practitioner will benefit from a commitment by organizations like ours to the concepts of collaboration, inclusion and empowerment.

Although these meetings and conferences were spread across different geographic areas and industry sectors, various common themes emerged and were quite telling. These themes included: fragmentation of industry stakeholders resulting in detriment to the individual practitioner; duplication of effort by sector-specific organizations; the dilution of strength due to a lack of a common voice in issues affecting the industry and a need to elevate the visibility and prestige of the industry as whole.

Many of the most crucial problems facing the individual practitioner today find their origins in, or are exacerbated by, the above common themes. NAJIT, therefore, needs to address these common issues by engaging the larger interpreting and translation community. We have applied for full membership in FIT and I look forward to continued work with organizations both in the U.S. and abroad so that we can jointly address some of the common challenges that face us all. It is our obligation to mirror our members, reflecting and addressing their needs and concerns and empowering them to effect change.

We focus our efforts, first and foremost, by providing the tools and credibility necessary for the individual practitioner to advocate for him- or herself. We also have an obligation to provide guidance and support to the numerous state and local associations that provide the grassroots component of what should be a coordinated effort. I am pleased to report that NAJIT continues to show our commitment to these principles, in theory and in practice. Our Bench and Bar Committee has recently completed projects on training and education for attorneys on how to work with interpreters, as well as a concise document enumerating the most important points of court interpreting in the U.S. You can now find these on our web site. We also continue to work on the Laying the Path project of the ABA that is proposing standards for language access in state courts. In the interests of the industry as whole, we are working closely with other organizations and leaders across all sectors in order to leverage our mutual experience and prominence in specific areas for the benefit of the greater good. Strengthening the industry will provide a backdrop for all interpreters to flourish.

Additionally we have been very active in supporting our members and their local and state associations with regard to issues of particular importance to them. Our Advocacy and Public Relations committees have issued over half a dozen letters in support of or opposition to various issues throughout the country since I wrote to you last. I, personally, have consulted with members and organizational leaders to provide whatever support we can, in the most effective way possible. I look forward to continuing these efforts.

It is important to note, however, that no matter the size of an organization, its power is completely derived from its members. In a very real sense all that we do would be impossible without your support. Your membership dues and participation in NAJIT events provide the lifeblood for our efforts. Each of you empowers NAJIT to effect change through the obvious financial contributions, but equally as important through your volunteerism. I hope that you will continue to empower us and that you will encourage others to join us so that together we can better tackle the challenges, not only in our specialization as judiciary interpreters, but in our industry as a whole. In exchange, you can rest assured that we will continue to work to empower each and every individual practitioner to better and more credibly advocate for him- or herself. I hope you enjoy this issue and don't forget to look for us on Twitter and Facebook.

Sincerely,
Rob

Rob Cruz
Chairman
Twitter: @najitchair

Meet the Board of Directors



Rob Cruz, Chair of the Board of Directors, is a Tennessee certified court interpreter of Spanish, and the owner of RCIT, a single operator interpreting, translation and consulting company. He is a former director of Tennessee Association of the Interpreters and Translators (TAPIT) and currently serves as Chair of its Advocacy Committee. Additionally, he serves on advisory committees regarding interpreter issues for the Tennessee Supreme Court and for the American Bar Association. He lives in TN with his wife Angela and their four-legged "boys" Spenser and Kojak.



Peter P. Lindquist holds a doctorate in translation and interpretation from the University of Alicante, Spain. He has taught T&I at the University of Alicante, the University of Arizona and San Diego State University. He has served as president of SSTI and has been a NAJIT board member since 2008. He is currently board treasurer.



Kathleen Shelly, current board secretary, is a Delaware translator and interpreter certified by the Consortium for Language Access in the Courts. She has a master's degree plus doctoral work in Latin American literature from the Ohio State University, and was a college professor for 12 years. A member of NAJIT since 2005, she welcomes the chance to contribute to an organization that does so much to promote the interpreting profession. She is also a member of ATA and Delaware Valley Translators Association. A trained mezzo-soprano, she participates in various choral groups. Her three founding cats like to sing along during practice sessions.



Rosemary W. Dann, Esq. holds a BA and MA in Spanish. She is Chair Emerita of NAJIT, Co-Editor of *Proteus* and Co-Chair of the 2012 Conference Committee, and serves on the Bench and Bar Committee. She is a Massachusetts certified court interpreter and a member of ATA. She recently relocated from New Hampshire to Florida, where she had a close brush with Hurricane Irene. Apart from interpreting, her passion is the theatre, and she is currently performing at St. Augustine's Limelight Theatre in "A Funny Thing Happened on the Way to the Forum".



María Cristina de la Vega is a Cuban-American Spanish interpreter certified federally, by the State of Florida and by NAJIT. She is also a conference interpreter and member of AIIC. She holds an MBA and is the owner of an agency in Miami. She loves music and enjoys singing and playing Latin boleros on the guitar. She recently started a blog, which you can follow at <http://mariacristinadelavegamusings.wordpress.com>.

Meet the Co-Editor



Julie Sellers is a federally certified court interpreter (English<>Spanish), and she is also certified in Pennsylvania and Colorado. A native of Kansas, Julie lives in Fairmont, WV with her husband, PJ, and teaches Spanish at Fairmont State University. In her free time, she enjoys walks, good books and merengue and bachata music. Her first book, *Merengue and Dominican Identity: Music as National Unifier* was published in 2004.

Goodbye, Red Pen

Nancy Festinger

I became an editor by accident. Well, maybe not entirely. Anyone who loves words and works with them for long enough will develop an editor's eye for detail. Words have to be clean to look their best. Sweat, stray thread, mismatched outfits, even lint can get in the way. (For example, examine the difference between "Maybe that's not entirely true" and "Well, maybe not entirely" as I've edited the second sentence above, after several tries.)

One learns a lot about good writing by reading widely, and one learns the most by translating. Right out of college, all I knew was that I loved languages and wanted to keep learning them, surrounding myself with words. If I translate books, I thought, I will get to scratch under the surface of ideas, learn how words produce their magic effects, become an apprentice to the written word. Poetry, fiction and non-fiction were of interest to me, and I was lucky to find projects every once in a while, translating from either French or Spanish. It was seeing how copy editors went line by line through my translations that taught me everything I needed to know about editing. (Copy editing is a dying art, but that is a topic for another article.)

I would have been content to keep translating books, but I embraced court interpreting as a way to avoid starvation. It turned out that interpreting was an excellent counter-balance, as it opens the spoken word to scrutiny in the same way that translating puts the written word under a microscope. How lucky I have been to spend my working life getting paid to read the dictionary!

For eighteen years I've served in one capacity or another as editor for *Proteus*, NAJIT's official news organ, gathering and preparing content four times a year for publication. My red pen has also lingered over position papers and official NAJIT pronouncements, as I've always wanted NAJIT to put its best foot forward in print. Over the past decades, our field has developed and expanded, a truly protean presence in an ever-shrinking world. When attending professional conferences in the U.S., France, Australia or Belgium, I met colleagues from everywhere, and was able to solicit articles on working conditions for court interpreters in other countries. This, together with NAJIT's increasing interest in cooperative ventures with other organizations, helped expand our international scope. In the midst of the Internet revolution, our list-serve became a near-immediate mode of communication among member practitioners and researchers worldwide, enriching our understanding by providing a platform for discussions of ethical, pragmatic or terminology concerns. The migration to an online edition holds new promise we can only hope to fulfill, and interactivity will surely take us in new directions. I look forward to following *Proteus* as it continues to evolve under the stewardship of Rosemary Dann and Julie Sellers.

I hope that like me you are proud of the publication, its authors and the face we show the world. It's been a great ride as editor, the hardest unpaid job I've ever had. In laying down my red pen I'll be glad to contribute to our readership in other ways. I also hope that you will enjoy the article on Pecha Kucha and the history of *Proteus* which appear elsewhere in this issue.

History of Proteus

Since its founding in 1979, NAJIT (formerly CITA) has had several versions of a newsletter. In the 1980s it was called *Citations*, edited by Janis Palma. Then came *NAJIT News*, edited by Mary Ellen Pruess.

Proteus began publication in the winter of 1992, with Dagoberto Orrantia as editor-in-chief and Nancy Festinger as associate editor. David Mintz and Mirta Vidal assisted in editing and laying out many issues in the early 1990s. All layout was done by the editors in columns using Wordperfect, and the printing process was coordinated by the executive director.

As first editor, Dagoberto Orrantia established the quarterly's name, editorial policy and standards of accuracy. He pledged that the publication would uphold the same high standards of impartiality, accuracy and completeness as that required of judiciary interpreters. The contents of the newsletter aimed to mirror the diversity of the membership. The publication promised to take pro-active stances in the promotion of adequate compensation and fair, uniform working conditions for court interpreters throughout the United States.

The name of the publication was chosen to reflect the protean nature of the court interpreter. For a full description of Proteus in Greek mythology, see <http://www.gods-heros-myth.com/godpages/proteus.html>

In 2000 Nancy Festinger became editor-in-chief. The masthead and format of the publication were re-designed and color printing was introduced by James Mowrey Visual Design Works. In 2002 Chuck Eng Design took over as layout and graphic designer. From that point forward, editing and layout were done by computer, and each issue went through four or five drafts until reaching final form. In 2007 Virginia Oakes de Acosta joined as assistant editor and proofreader. In 2010, Julie A. Sellers took her place as associate editor.

In February 2011, with volume XX, no.1, *Proteus* ceased to publish its paper edition and became an online publication.

In May 2011, Nancy Festinger stepped down as editor and Rosemary W. Dann replaced her, with Julie A. Sellers as co-editor.

No Increase in Federal Interpreting Rates for FY11 or FY12

Daniel Sherr

I had the opportunity to speak for about twenty minutes with William Moran, Deputy Chief of the District Court Administration Division of the Administrative Office for the US Courts at NAJIT's annual conference in Long Beach, California. That conversation provided much useful information for colleagues working in the federal courts in all languages.

First, as most of you probably surmised, there will be no rate increase in FY 2011. The Administrative Office (AO), under the authority provided by statute in 28 U.S.C. § 1827, had undertaken to provide yearly increases equivalent to the variations in the rate of inflation because about ten years ago, freelance interpreters went for a period of eight years without any increase in pay; afterwards, the federal courts had to make a large adjustment all at once to bring the rates into line with the cost of living. Its effort to approve yearly increments in the rate schedule was partly due to a desire to avoid having to play catch-up later and approve a big increase all at once, as well as to fairly compensate contractors. Nevertheless, staff interpreters and other judiciary and federal employees will not receive any cost of living increase, according to Mr. Moran. Courts know that hard times are coming, and they may have to start cutting back on staffing starting next year. He also suggested that the country's 98 staff interpreters might not be immune from all cost-cutting measures and that no rate increases will be granted in FY 2011 (October 1, 2010 - September 30, 2011) or FY 2012 (October 1, 2011 - September 30, 2012). "We don't know when we are going to get out of this," he said, referring to the economic situation. "And it's likely going to get worse before it gets better."

With respect to the suggestion that differential rates be introduced to reflect the differences in the cost of living between major urban areas and more rural areas, Mr. Moran commented that the AO was aware of this concern. However, this same issue affects many other positions and functions in a national system. The establishment of locally based rates for contract interpreters should not be expected any time soon.

Mr. Moran indicated that the court interpreter contract has been beneficial to both courts and interpreters. Before the contract, some courts failed to negotiate compensation for travel time with interpreters before a job, and later sought guidance from the Administrative Office on payment of the travel expenses. Now, the conditions for reimbursement for travel expenses and times are clearly delineated. Mr. Moran mentioned that the AO is aware that there are districts that do not require interpreters to sign the contract and that some districts hire non-certified interpreters. Ultimately, the determination of whether an interpreter is qualified is made by the judge under 28 U.S.C. § 1827, and the courts may have good and valid reasons for selecting the interpreters who are used. The AO has organized seminars in Washington, D.C. for court interpreter coordinators in federal courts where there are no staff interpreters to ensure the courts make good decisions, and to educate staff on the proper use of interpreters. These seminars also provide guidance and policy on a range of administrative and legal requirements, including how freelance interpreters are to be hired. According to Mr. Moran, "While the Administrative Office does not oversee or supervise the selection of interpreters, Administrative Office staff are available to assist and guide court staff and to address concerns of contract interpreters related to the selection and use of contract court interpreters."

Recently the AO held a continuing education seminar in Washington for staff interpreters. Mr. Moran said that the AO is considering making the next such seminar open to freelance contract interpreters, who would have to cover their own expenses. Although no such seminar is being contemplated currently, due to the budget situation and cost, Mr. Moran did say that the AO is considering the creation of inexpensive educational webinars.

Mr. Moran commented that non-Spanish interpreters are often paid more than their Spanish counterparts, due to supply and demand. When the AO presents the Advisory Group with a request for a pay increase for interpreters, the response is, "Is there difficulty obtaining interpreter services?" Nationwide, approximately 800 active federally certified Spanish interpreters are successfully covering federal court needs. There have been problems nationwide in finding qualified interpreters for other languages, but the principal difficulty in Spanish has revolved around obtaining locally based federally certified interpreters for proceedings in the mid-West and in rural areas, where there are few cases requiring Spanish-language interpreters.

Until 2000, the Administrative Office distributed a yearly printed list of certified Spanish interpreters to those interpreters having certification. The practice ceased in 2000. Some districts, of course, include a list of federally certified interpreters in the district on their web site. However, only court personnel have access to the well-known "J-Net," the Judiciary's intranet that provides access to the National Court Interpreter Database. Mr. Moran pointed out that in the past, agencies had taken the publicly available list of certified interpreters and used it to offer interpreters to courts at rates in excess of the federally stipulated fee. "Our goal is to provide interpreting services for the courts in as economically efficient a way as possible," he noted "while ensuring the qualifications of those who provide services." Even though the database is not available for consultation by the general public, the AO and the federal courts routinely provide assistance to agencies and attorneys seeking help in locating court interpreting services.

The change in the contract's provision for a cancellation fee, so that interpreters hired for a period of five days or more will now receive a two-day cancellation fee was, Mr. Moran noted, the direct result of a suggestion from interpreters at the 2009 NAJIT conference.

In comparison, on July 1, 2011, the State of New Jersey, in the midst of a terrible budget crisis, raised the rates paid interpreters by amounts varying between 1 and 1.5%. At the time, Brenda Carrasquillo, Manager of the Language Services Section of the Administrative Office of the Courts, justified the increase, remarking that interpreters "were a small group of persons performing a very valuable service." The New Jersey rate for Master interpreters now stands at \$199.86 9 (half-day / 3.5 hours) and \$343.20 (full day / 7 hours). While still lower in absolute terms than the federal rates (\$210 for a 4-hour half-day and \$388 for an 8-hour full day), the New Jersey rate is already higher than the federal rate on a per-hour basis. The rate is particularly advantageous for half-day jobs (\$199.86), where interpreters are paid at an hourly rate of \$57.10, as opposed to the federal half-day rate, which amounts to a prorated hourly rate of \$52.50.

Next year's NAJIT conference will be held in Boston. The Administrative Office of the U.S. Courts will be invited, and we anticipate its representatives will attend. Hopefully, so will you.

This text, excluding the comparison of New Jersey and federal rates, has been published and distributed after consultation with the Administrative Office of the U.S. Courts in order to ensure accuracy.

If you have a federal interpretation concern you would like to bring to the attention of the Administrative Office, feel free to contact any of the individuals listed below:

Javier Soler (a federally certified interpreter, himself)

202-502-3261

Javier_Soler@ao.uscourts.gov

Dr. Carolyn Kinney

202-502-1674

Carolyn_Kinney@ao.uscourts.gov

William Moran

202-502-1570

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[The author is a federally certified and NAJIT certified Spanish interpreter.]

Reflections on the NAJIT Conference



*Danielle South, NAJIT Scholar, receives certificate from
Rosemary W. Dann, Chair, at the 2011 Conference in Long Beach, CA*

Danielle South, NAJIT Scholar

The NAJIT Conference this past May was somewhat surreal to me. Ever since I can remember, I have loved languages and wanted to interpret in the court system. Being involved in an American Sign Language Interpretation Program, as well as the Spanish language program at Fairmont State University (Fairmont, WV), I am constantly asked about the ways in which I will apply the languages I love. After meeting my Spanish professor, Dr. Julie Sellers, a federally certified court interpreter, my dream had been reaffirmed and put into attainable sight.

Attending the NAJIT Conference sessions both for Spanish and non-Spanish speakers gave me an all-over view of the way interpreting differs in the court system from that of other settings. From the session *Cuando el Cadáver Habla* (When the Cadaver Speaks) that I attended, to the conversations about getting all interpreters accustomed to American Sign Language court interpreters and interpreters for the deaf and hard of hearing, I felt like I was meant to be at the conference, there amongst some of the best interpreters that I will have the pleasure of knowing. The interpreters I met were welcoming and supportive and encouraged me to practice the languages, no matter how much work must be devoted. I loved every minute of the conference this past year and I cannot wait to attend this coming year. I want to thank you all for giving me the opportunity to open myself up to my passion, proving to me that I am capable of this profession. I truly do love what lies ahead.

Highlights of 2011 FIT Conference on Interpreting

María Cristina de la Vega



Panel at the FIT Conference

L to R: Rob Cruz, Chair, NAJIT; Izabel Arocha, Executive Director, IMIA; Patricia Lessard, ASL Interpreter; Lola Bendana, President, IMIA.

[FIT (the Fédération Internationale des Traducteurs/International Federation of Translators) is an international grouping of associations of translators, interpreters and terminologists. More than 100 professional associations are affiliated, representing over 80,000 translators in 55 countries. Every three years, FIT holds a conference. In August, the conference took place in San Francisco. -Ed.]

As a first-time attendee at a FIT conference, I did not know what to expect from the sessions, and like a kid in a candy shop, I found myself hard-pressed to choose. The following are highlights of some of the sessions I attended.

Olga Cosmidou, the Director General for Interpretation and Conference in the European Parliament (EP), discussed the demanding, crucial work done in the EP; to view a video about this work, [click here](#). The European Parliament is experiencing a serious shortage of interpreters, as there are not enough young interpreters joining the ranks to fill the shoes of the baby boomers who will be retiring. But, despite a shortage of high quality interpreters, at a recent meeting in Strasbourg there were 1,000 interpreters present, more than all of the Ministers of the European Parliament (MEPs) assembled there.

Franz Poehchacker, an associate professor of international studies in the Center for Translation Studies at the University of Vienna, gave a dynamic talk on "Quality Criteria for Conference Interpreters." Drawing on the pre-internet work of his colleague Ingrid Kurz, Mr. Poehchacker and a graduate assistant recently replicated the original Kurz survey using a professional Internet survey platform. This measure was sent to all then-registered AIIC interpreters. In spite of using a statistically more robust mechanism now, the researchers found that were consistent with previous research. Sense consistency (source compared to target language), logical cohesion, reliability, preparation and terminology (i.e., behavioral aspects) were the top criteria used to measure quality. Further, audiences/users tend to be less demanding than colleagues. AIIC has based quality on peer assessment since the 1950's.

Terena Bell, owner of the language services company In Every Language, holds an M.A. in French and has published articles on translating and interpreting in *Multilingual* and *The ATA's Chronicle*. Her engaging presentation touched on problems in interpretation and how translation theory is a good framework for improving interpretation.

Carolin Adam, a graduate of the University of Heidelberg, is an assistant professor of interpreting and translation at the University of Concepción, Chile. In her presentation on the topic of interpreter gestures during simultaneous interpreting, she indicated that gesticulation in the booth aids in word retrieval, while tapping on the table allows access to more words. She found that bilinguals use more gestures than monolinguals, and interpreters use more metaphorical than iconic gestures while working.

In a more pragmatic vein, I also sat in on a panel discussion entitled "Bridging Cultures Within the Interpreting Field". It was moderated by Lola Bendana, president and board member of the International Medical Interpreters Association, and vice-chair of the Language Industry Association of Canada. Other participants were Rob Cruz, the chair of the National Association of Judiciary Interpreters and Translators, Izabel Arocha, the executive director of the International Medical Interpreters Association, and Patricia Lessard, an ASL interpreter.

The conversation highlighted the fact that we need to work co-operatively to succeed and learn from one another. Rob Cruz pointed out how NAJIT has been able to improve working conditions and recognition for legal interpreters and that the organization can put together a blueprint on how to achieve that for other specialties, citing the work of the Advocacy Committee and the position papers that have been written to create and enforce standards in legal interpreting. Izabel spoke about the push for training that has manifested itself in the form of workshops. Lola mentioned that it takes time and diligent effort to get results, as was the case in the standardization of interpreting criteria in Canada. All agreed that recent talk about creating a new generalist interpreting association, in view of the obvious desire to work together among existing associations, is just that, talk. It is something that not only is not needed, but is also difficult to do because of the financial implications of creating a new group, not to mention the time commitment when we are all so overstretched.

One of the closing speeches was delivered by Benoît Kremer, the president of AIC, who vigorously exhorted us to adapt to the changing world, diversifying our skills. He stated that the profession is under siege from the standpoint of costs and noted that in the EU, interpreters who do not speak 4-5 languages are limited, and it will be necessary for interpreters to learn new languages. Although he acknowledged that translators, terminologists and interpreters of all types have a lot in common, he stressed that there is “no place in the world, nor justification, for a mediocre interpreter.” His clear message was that we have to go beyond basic training, strive to be as professional as we can to survive, and come together to defend good working conditions. He prophesized that our sector is bound to prosper if we focus on professionalism and quality.

The next FIT Congress will be held in Berlin, three years from now.

To learn more about FIT, go to

<http://fit-ift.org>

[The author is a director of NAJIT. This article is a condensation of her blog, which can be found at:

<http://mariacristinadelavegamusings.wordpress.com/>

Items of Interest

Website of Interest

The **World Digital Library** available free on-line, is a collection of maps, texts, photos, recordings and videos gleaned from libraries around the world, offering golden nuggets of cultural and historical interest which can be navigated in seven languages: Arabic, Chinese, English, French, Portuguese, Russian and Spanish.

Terminology Sources

- Genetics and DNA Terms: <http://fuente.uan.edu.mx/publicaciones/01-04/4.pdf>; <http://www.cej.justicia.es/pdf/publicaciones/fiscales/FISCAL35.pdf> ; <http://www.genome.gov/glossary/index.cfm>.
- Drug Terms: <http://espanol.narconon.org/informaciondrogas/adiccin-al-xanax>.

[thanks to Laura Cahue]

Career Paths

Are you an attorney/interpreter? Want to live abroad? Consider working as an English-language lawyer linguist at the Court of Justice of the European Union in Luxembourg.

http://curia.europa.eu/jcms/upload/docs/application/pdf/2009-03/brochure_en.pdf

Notable Quotables

The words of a living language are like creatures: they are alive. Each word has a physical character, a look and a personality, an ancestry, an expectation of life and death, a hope of posterity. Some words strike us as beautiful, some ugly, some evil. The word *glory* seems to shine; the common word for excrement seems to smell. There are holy words, like the proper name of God, pronounced only once a year in the innermost court of Jerusalem's Temple. There are magic words, spells to open gates and safes, summon spirits, put an end to the world. What are magic spells but magic spellings? Words sing to us, frighten us, impel us to self-immolation and murder. They belong to us: they couple at our order, to make what have well been called the aureate words of poets and the inkworn words of pedants. We can keep our words alive, or at our caprice we can kill them—though some escape and prosper in our despite.

[Morris Bishop, "Good Usage, Bad Usage and Usage", in *The American Heritage Dictionary of the English Language*. New York, American Heritage Publishing, 1969.]

Interpreter Blogs

- <http://mariacristinadelavegamusings.wordpress.com>

Have you started a blog? Let us know!

Terminology

Mexicanismos Pícaros

[This list of Mexican slang expressions found its way to my inbox in 2005. The original author is unknown. - RWD, Ed.]

El mexicano	no se emborracha:	¡se pone pedo!
	no saluda, te dice:	¿Qué onda, güey?
	no tiene amigos:	tiene carnales
	no se cae:	se da un chingadazo
	no se burla:	se caga de risa
	no convence:	tira chorro
	no se lanza:	se avienta
	no besuquea:	faja
	no molesta:	chinga
	no hace un error:	caga el palo
	no se baña:	se da un regaderazo
	no se molesta:	se encabrona
	no te golpea:	te da un putazo
	no te ordena:	te manda a huevo
	no sufre de diarrea:	sufre de chorrillo
	no fracasa:	la caga
	no sale corriendo:	sale en chinga
	no toma siestas:	se echa una jeta
	no ríe hasta más no poder:	se caga de la risa
	no piensa que es difícil:	está cabrón
	no va rápido:	va hecho la madre
	no toma:	se pone como cola de perro (o sea, "hasta atrás")
	no entra en acción:	se agarra a madrazos
	no es listo:	es una pistola
	no pide que lo lleven:	pide un aventón
	no es un tipo alegre:	es poca madre
	no es un tipo tremendo:	es un chingón
	no hace algo muy bien:	se raya
	no es cualquier cosa:	¡¡es MEXICANO, CABRONES!!

Getting Down to Business

Second North American Summit on Interpreting

María Cristina de la Vega

InterpretAmerica succeeded in sustaining its momentum at its second summit in Washington, D.C. The conference was well attended by almost 200 active, well-known interpreters from many fields: medical, ASL, conference and legal. NAJIT had a strong showing with Rob Cruz, Chair, Robin Lanier, Executive Director, and me representing the board, as well as many NAJIT colleagues. Moreover, there were many OTS (Other Than Spanish) interpreters in attendance whose language combinations included Turkish, Mandarin Chinese, Romanian, Ukranian, Korean, Farsi, Portuguese, among others.

A number of pertinent topics, such as technology and professional identity were discussed. Keynote speaker Nataly Kelly, Chief Research Officer at **Common Sense Advisory** spoke about how technology influences our work and as a result, we must embrace it or be left behind. In keeping with this timely topic, many attendees tweeted snippets from her address and other presentations throughout the conference (Twitter tag #InterpAmSummit.) Nataly pointed to speed, access and availability as the principle motors behind technology, followed by quality, though not by lower prices.

The other overarching topic that was debated was the interpreter's professional identity. After a moderated debate regarding independent contractor status vs. employee status in the Over the Phone Interpreting (OPI) industry, the forum was divided into several groups that discussed different aspects of interpreting: Legal Interpreting and Advocacy ; Education/Training; Professional Associations; Technology; and Certification/Credentialing. NAJIT's own Marjorie Bancroft will be writing a white paper based on the results of these discussions which will be posted on the InterpretAmerica site at the end of the summer. Some of the conclusions were made known following an ideas exchange session. One conclusion of particular interest is that interpreters from all fields want to have one organization to represent them and meet their needs. This topic has been at the forefront for the NAJIT board and we will be sharing suggestions to in the near future. As the premier organization for interpreters, we want to frame our mission to encompass that need. To best do so, we need the input and assistance from our members.

In addition to the presentations about technology, several vendors brought their wares to the Summit. It was a good opportunity for our colleagues who are not familiar with conference interpreting to test drive the experience of interpreting in a booth with all the latest technology. Of special interest was a revolutionary new product called the **Digi-Wave** (Williams) that delivers simultaneous interpreting without need of a booth. Similarly, we were able to see how OPI software and Video Remote Interpreting (VRI) works. We were gently reminded that technology is here to stay so we cannot postpone familiarizing ourselves with it so as to influence its development. Technology will not replace interpreters. The interpreters who embrace it will displace those who don't. As Barry Olsen remarked, Wayne Gretzky, the hockey star, says "a good hockey player plays where the puck is, a great hockey player plays where the puck is going to be".

Lastly we heard from Dr. Kayoko Takeda, an associate professor at the MIIS Graduate School, author and conference and legal interpreter. She talked about her research interests in interpretation and her own experience with the evolution of technology in the corporate workplace in contrast to its evolution in criminal court proceedings. She also discussed the paucity of research opportunities in our field due to the lack of doctoral programs in Translation and Interpretation. (On a positive note, Andrew Clifford stated that his institution, School of Translation at Glendon College, Toronto, is planning to offer an MA in T & I by 2013.) Dr. Takeda concluded by saying that when a profession is tied to degrees and research, its status grows.

Next year's **summit** will be held in Monterey CA, June 15-16, 2012.

To read more from keynote speaker Nataly Kelly, click [here](#).

To access the authors blog, go to <http://www.mariacristinadelavegamusings.wordpress.com>.

[This is a regular column for Proteus. The author is a federally certified Spanish interpreter, conference interpreter, and co-owner of **ProTranslation** in Miami. [Linkedin profile](#).]

The Last Laugh

The Interpreter Needs a Repetition

Hal Sillers

We interpret all, and we're not meek.
We say, "Your Honor, your voice is weak.
It sounds to us like you're speaking Greek.
Your words pour forth in a bright blue streak."
The judge leans back in a chair so sleek,
Behind a bench as dark as teak,
And somehow he can make it squeak
When reaching to the very peak
Of pronouncing sentence and a future bleak
For the accused that's going up the creek.
Yes, we interpret, and it takes great cheek,
To feel that one is not a freak
To do this job and attempt to eke
The meaning from the words they speak.
When we finish a few breaths we sneak
And then we think, "Man, that was Queek."*

*Poetic license.

[The author is a federally and MN state certified interpreter.]

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