



WINDS OF CHANGE IN CALIFORNIA

Holly Mikkelson

TABLE OF CONTENTS

FEATURE ARTICLES

Winds of Change
Front page

Swiss Federal Courts
Page 3

The 1978 Act:
A Retrospective
Page 8

HOUSTON CONFERENCE

Page 12

NAJIT NEWS

Message from the Chair
Page 2

Honors
Page 12

Administrative Office
of the Courts
Page 16

Committee News
Page 19

Honorary Members
Page 21

Yousry Case
Page 22

CALENDAR

Page 21

STATE ROUND-UP

Page 24

ITEMS OF INTEREST

Page 24

Two new developments of interest to judiciary interpreters have unfolded in California. One is the release of revised criminal jury instructions, and the other is a report issued by the California Bar Association's Commission on Access to Justice, which recommends that state-funded interpreters be provided in civil cases just as they are in criminal matters.

Simplified Criminal Jury Instructions

Complaints about unintelligible legalese in the courts have not fallen on deaf ears. The Judicial Council of California has approved a new set of criminal jury instructions that substitutes plain English for many of the archaic terms and convoluted phrases that had been frozen in legal usage for centuries. The reform is part of a general effort to enhance communication between courts and the public, particularly for jurors who must follow the judge's instructions in reaching verdicts. In the past two decades, the "Plain English" movement has taken hold throughout the country, its aim to make the law more transparent and accessible to ordinary people. Many states have been tinkering with their jury instructions in an effort to improve comprehensibility, but California is the first state to carry out a wholesale revision from scratch. The simplified civil jury instructions were released in 2004 after six years of arduous work. The Judicial Council's work was recognized by the Burton Award for Outstanding Reform, a national award for clear legal writing. Improvements were hailed by critics of the court system, while some lawyers grumbled that the new civil jury instructions were "dumbed down" and too wordy. The criminal instructions, which came out this summer, are likely to provoke a similar response.

The new instructions have eliminated double negatives and semicolons. The sentences are shorter, affirmative and in the active voice. For example, the old version of an instruction about witness testimony read, "Failure of recollection is common. Innocent misrecollection is not uncommon;" the new version

reads: "People often forget things or make mistakes in what they remember." The definition of circumstantial evidence used to read, "Circumstantial evidence is evidence that, if found to be true, proves a fact from which an inference of the existence of another fact may be drawn. A factual inference is a deduction that may logically and reasonably be drawn from one or more facts established by the evidence." Now the instructions state, "Some evidence proves a fact directly, such as testimony of a witness who saw a jet plane flying across the sky. Some evidence proves a fact indirectly, such as testimony of a witness who saw only the white trail that jet planes often leave. This indirect evidence is sometimes referred to as 'circumstantial evidence.' In either instance, the witness's testimony is evidence that a jet plane flew across the sky." Admittedly, the revised definition is wordier, but there is no doubt that it is clearer.

The committees that drafted the revised instructions drew on the expertise of linguists specializing in comprehensibility. Chief Justice Ronald M. George of the California Supreme Court stated, "The new plain English jury instructions are a major contribution to the Judicial Council's historic efforts to reform the California jury system."

> continued on page 6

2006
بل اطل ا م اع
L'année de l'étudiant
Year of the Student
El año del estudiante
Год студента
学生之年
National Association of
Judiciary Interpreters
& Translators

THE NAJIT BOARD OF DIRECTORS

Alexander Rainof, Chair
Santa Monica, California
rainof@najit.org

Judith Kenigson Kristy, Treasurer
Nashville, Tennessee
kenigsonkristy@najit.org

Lois M. Feuerle, Secretary
Portland, Oregon
feuerle@najit.org

Janet Bonet
Omaha, Nebraska
bonet@najit.org

Isabel Framer
Copley, Ohio
framer@najit.org

Executive Director
Ann G. Macfarlane
Seattle, Washington
Telephone 206-267-2300
headquarters@najit.org

Proteus

Proteus, published quarterly, is the official newsletter of the National Association of Judiciary Interpreters and Translators, Inc., 603 Stewart Street, Suite 610 Seattle, Washington, 98101-1275

Editor: Nancy Festinger
Address submissions to proteus@najit.org with attached file. Submissions preferred in Microsoft Word. All submissions subject to editorial review.

Deadlines for copy : spring issue December 15; summer issue April 1; fall issue July 1; winter issue October 1.

Annual subscription rate: \$20.00, included in membership dues. Online articles and archive available at: www.najit.org/proteus

The opinions expressed in articles herein are those of the authors and not necessarily those of the association or the editor. Postmaster: Send address changes to 603 Stewart Street, Suite 610 Seattle, Washington, 98101-1275

Copyright 2005 by the National Association of Judiciary Interpreters and Translators, Inc. Graphic design by Chuck Eng Design Printed by Consolidated Press 600 South Spokane Street Seattle, WA 98134 Address requests for reprint permission to proteus@najit.org

MESSAGE FROM THE CHAIR

The Community and Court Interpreters of the Ohio Valley (CCIO) held their first-ever regional conference on October 28-30, 2006. It is a rare pleasure to be really, unequivocally pleased about a conference. This maiden flight turned out to be a masterpiece.

The organization, from transportation to accommodations, to scheduling of presentations, reproduction of support materials and timely supplying of electronic equipment, welcoming participants and special functions involving presenters, was impeccable. CCIO President Natasha Curtis, Vice-President Natalya Mytareva, Treasurer Nelly Chaoui, and Secretary Laura Lenardon had everything running smoothly, which bespeaks countless hours of preparation, planning, and plain hard work. This eclectic group: Natasha and Laura (Spanish), Natalya (Russian) and Nelly (French and Arabic), were highly visible, marshalling a group of dedicated CCIO members who were as welcoming as they were helpful. Congratulations to all.

The NAJIT Board of Directors was well represented, with three Board members in attendance: Director Isabel Framer, Director Judith Kenigson Kristy, and your chair Alexander Rainof. Your chair gave two presentations, one on "The Translator/Interpreters as Expert Witness" and the other on "Dialectal Variations in Spanish: Insults." Director Isabel Framer, also the CCIO Board Advisor, was the person mainly responsible for assembling a list of distinguished speakers that reads like a Who Is Who in forensic and medical interpretation and translation. It is a tribute to our Indispensable Isa that all invited attended. Just to mention a few names

among the speakers: Ms. Risa Shaw, Ms. Holly Mikkelson and Ms. Alea Alger-Robbins, Drs. Claudia Angelelli, Virginia Benmaman, and Peter Lindquist, Ms. Christine Stoneman, the Deputy Chief of the Coordination and Review Section (COR) of the Civil Rights Division of the U.S. Department of Justice, and Ms. Karin Ruschke, a member of the Board of Directors of the National Council on Interpreting in Health Care (NCIHC) and Co-Chair of the Standards, Training and Certification Committee of the NCIHC.

Ms. Ruschke discussed the historical document that had been posted just two days earlier on the NCIHC web site, the eagerly-awaited National Standards of Practice for Interpreters in Health Care. The thirty-two standards outlined in this publication are tied to the nine ethical principles presented in the 2004 NCIHC publication *National Code of Ethics for Interpreters in Health Care*. Both documents are models of conciseness and clarity and can be downloaded from the NCIHC web site (www.ncihc.org).

Of particular relevance to the two NCIHC publications just mentioned was the March 2005 publication authored by Ms. Marjory Bancroft for the NCIHC: *The Interpreter's World Tour. An Environmental Scan of Standards of Practice for Interpreters*. This worldwide survey was made available to the participants at the CCIO conference, where Ms. Bancroft was also one of the presenters.

Ms. Cynthia Roat gave a spirited and very well-informed presentation on health care interpreting in the United States. Her contagious enthusiasm was equaled only by her thorough knowledge of her subject matter.

The bench and law enforcement were

> continued on page 4

CORRECTION: The conference report on "Financial Crimes," *Proteus* Fall 2005, Vol. XIV, No. 3, p. 5, failed to give proper credit to NAJIT member Lorena Martin. The review erroneously described Ms. Lorena Martin as the "moderator." Ms. Martin initially proposed the idea of the session, researched it extensively, prepared the materials, and recruited Mr. Roth as her co-presenter. She also obtained the very useful copies of an extensive glossary from the Financial Crimes Enforcement Network and shipped them to the conference venue for all participants in the conference at her own expense. NAJIT very much regrets that Ms. Martin was not accorded the full credit due her for creativity, research, and professional generosity in preparing and presenting this extraordinary session, which received the highest possible marks from attendees.

By copyright of the authors the NAJIT Financial Crimes Presentation may be reproduced in whole or part for non-commercial purposes with the scholarly citation: Martin, Lorena P. and Roth, John. "Financial Crimes." National Association of Judiciary Interpreters and Translators, Hotel Washington, Washington D.C., May 14, 2005.

COMPARATIVE LEGAL SYSTEMS

SWITZERLAND'S FEDERAL COURTS

Cheryl A. Fain

This article will present a brief overview of Swiss federal courts, represented by the country's highest court, the Federal Supreme Court (*Bundesgericht, Tribunal fédéral*) in Lausanne and the Federal Insurance Court (*Eidgenössische Versicherungsgericht, Tribunal fédéral des assurances*) in Lucerne.

In April 2004 the federal court system expanded and a new Federal Criminal Court (*Bundesstrafgericht, Tribunal pénal fédéral*) opened in Bellinzona.

The Federal Supreme Court

The Federal Supreme Court is comprised of five court divisions:

- First Public Law Division
- Second Public Law Division
- First Civil Division
- Second Civil Division
- Court of Criminal Cassation (also referred to as the Criminal Court of Appeals)

In German, the divisions are known as: *Erste öffentlichrechtliche Abteilung, Zweite öffentlichrechtliche Abteilung, Erste Zivilabteilung, Zweite Zivilabteilung, and Kassationshof in Strafsachen.*

In French, they are called: *Première Cour de droit public, Deuxième Cour de droit public, Première Cour civile, Deuxième Cour civile, and Cour de cassation pénale.*

The First Public Law Division is devoted to federal constitutional rights, that is, fundamental rights such as appeals for violations of procedural guarantees, personal freedom, political rights, the right to property, and the freedom of speech. Other cases handled by the division concern construction law, zoning law, environmental law and land law, expropriation procedures, as well as international mutual assistance in criminal matters.

The Second Public Law Division deals with fundamental rights cases mainly related to economic freedom, for example, the freedom to choose and practice a profession. The division also handles appeals in the areas of economic administrative law, tax law, immigration law, education law, and civil service law.

The First Civil Division is assigned all cases arising from the Swiss Code of Obligations (*Obligationenrecht, droit des obligations*), which covers contract law and company law. In addition, the division handles cases involving intellectual property and competition law. It performs constitutional review duties in its areas of law as well.

The Second Civil Division focuses on the law of persons, family law, law of inheritance, and law of property, which are contained in the Swiss Civil Code (*Schweizerisches Zivilgesetzbuch, Code civil suisse*). The division also specializes in private insurance law, and it performs constitutional review in the areas of law for which it is competent. The Chamber for Debt Collection and Bankruptcy (*Schuldbetreibungs- und Konkurskammer, Chambre des poursuites*

et faillites) is under its jurisdiction as well.

The Court of Criminal Cassation (Criminal Court of Appeals) reviews judgments rendered by the cantons (equivalent to U.S. states) and the enforcement of sentences. It also performs constitutional review in those areas.

Responsibilities of the Federal Supreme Court

The Federal Supreme Court is entrusted with a variety of responsibilities such as providing legal protection to individuals seeking justice in specific cases, ensuring that the federal law is uniformly applied, and contributing toward the further development of the law through its decisions, which can be appealed to the European Court of Human Rights in Strasbourg.

In federal law cases which cannot be transferred to cantonal courts, for instance, cases involving certain crimes against the nation, the Federal Supreme Court is the only competent court.

On appeal, the Court reviews whether decisions of the highest cantonal courts as well as of the lower federal agencies are compatible with the applicable law. In addition, the Court ensures compliance with the rules for drafting and applying the law as well as for jurisprudence.

As a court of last resort, the Federal Supreme Court renders decisions on legal disputes arising from the following branches of law:

- civil law (disputes between persons)
- criminal law (criminal proceedings against individual persons)
- public law and administrative law (disputes between persons and the Swiss Confederation, between cantons, as well as between the Swiss Confederation and cantons)

Assisted by 218 staff members, the Federal Supreme Court's thirty full-time judges and thirty part-time judges (fifteen regular and fifteen special part-time judges) perform their duties in the Court's five divisions in Lausanne. Swiss Federal Supreme Court judges are elected for six-year terms of office by the Federal Assembly or Federal Parliament (*Bundesversammlung, Assemblée fédérale*), the two-chamber legislature, comparable to the U.S. Congress, according to the criteria of language, region, and political party affiliation. Although any Swiss citizen entitled to vote is eligible to become a member of the Federal Supreme Court and legal training is not a prerequisite for eligibility under constitutional law, all the judges of the Court have a legal background.

The court clerks (*Gerichtsschreiber, greffiers*) assist the judges in drafting proposed rulings, transcribe proceedings, draw up judgments, and formulate court decisions, circulars, as well as enactments, also called "legislative acts" (*Erlasse, actes législatifs*), such as federal laws, rules and regulations. They also process documents intended for publication. While the court clerks are entitled to par-

> continued on page 4

MESSAGE FROM THE CHAIR *continued from page 2*

represented by Judge Ronald B. Adrine, Chair of the Supreme Court of Ohio Advisory Committee on Interpreter Services and by Judge Donna J. Carr who spoke on “Extension of Privilege and Confidentiality to Interpreters.” Sheriff Drew Alexander discussed the Summit/Lorain Project and interpreting for law enforcement.

Two ASL speakers also made excellent presentations: Patricia Cangelosi-Williams and Lori Harris, who is certified in Legal Interpretation.

Last, but not least, was the keynote address by Mr. John Trasviña, a Harvard and Stanford Law School graduate serving currently as the Senior Vice President for Law and Policy at the Mexican American Legal Defense and Educational Fund (MALDEF). Mr. Trasviña served in a variety of high-ranking positions in the Clinton administration and his concern for the legal rights of immigrants and LEPs was evident throughout his excellent presentation.

What made the CCIO conference a historical event with national resonance was the truly stellar presentations on *both* the legal and medical sides, as well as the introduction of crucially important research and publications. It was a memorable event, both in terms of content and organization. NAJIT is proud to have cosponsored and supported this conference, for which The Five Musketeers of the Ohio Valley, Nelly Chaoui, Natasha Curtis, Isabel Framer, Laura Lenardon and Natalya Mytareva are to be congratulated. Bravo CCIO!

What immersed clearly in the course of the conference was the crucial role and importance in interpretation of two national associations, NCIHC and NAJIT, the close interrelation between the legal and the medical fields, and the need for the two associations to work together. Thus, it is not just coincidental that the May, 2006 NAJIT conference in Huston has legal and medical interpretation and their interdependence as a special focus.

In the area of national defense, NAJIT has also been quoted. In an article in *The New Republic* by Michael Erard entitled “A National Language Czar: Tongue Tied,” your chair was quoted (regarding the introduction in May 2004 of the National Foreign Language Coordination Act by Hawaii Senator Daniel Akaka) as stating that this legislation “is an absolute necessity for our survival as a nation.” NAJIT and the historical B.A. in Translation and Interpretation at California State University in Long Beach were also mentioned (*TNR*, October 24, 2005, pp. 14 and 15). CSULB also has published an interview with your chair in its online newsletter, *Inside CSULB*, which mentions NAJIT. It can be accessed at www.csulb.edu/insidecsulb.

The many events taking place this year in the area of language communication and language barriers reflect a growing awareness at national level of the vital importance of translation and interpretation in our country, of training in this field, and of the crucial role associations such as NAJIT, NCIHC and ATA are called to play in days and years to come. I invite all colleagues in NAJIT to renew their membership for 2006 and join us as we participate in shaping these significant developments.

Alexander Rainof, Ph.D.
Chair, Board of Directors

SWITZERLAND’S FEDERAL COURTS *continued from page 3*

ticipate in deliberations, they may do so only on a consultative basis.

Federal Supreme Court Procedure

Generally a party files a complaint indicating the grounds for appeal, and then the adversary is invited to express an opinion. After that, the Court may order a further exchange of written documents before handing down a decision.

The Federal Supreme Court performs constitutional review and has jurisdiction over civil, criminal, and administrative matters.

In the area of constitutional review, the Federal Supreme Court weighs constitutional complaints against cantonal decisions and enactments to determine whether the constitutional rights of Swiss citizens have been violated. Cases most frequently heard involve failure to comply with procedural guarantees — comparable to due process protections under U.S. law — such as the right to a fair hearing and so forth, or a violation of the prohibition against arbitrariness, for instance, in considering evidence.

It should be noted that the Federal Supreme Court may not review the constitutionality of federal legislation. However, exceptions may be provided for by statute under the Swiss Constitution.

In civil matters, the Federal Supreme Court hands down decisions on appeals of cantonal court judgments. In property law disputes, the amount in controversy must be at least 8,000 Swiss francs.

A plea of nullity (*Nichtigkeitsbeschwerde, recours en nullité*) is admissible in all civil matters not subject to a right of appeal, especially when the jurisdiction of cantonal courts is in dispute.

In direct proceedings (*Direktprozess, procès direct*), the Federal Supreme Court is the only court authorized to render decisions on disputes between a canton and the Confederation, or among cantons.

In criminal matters, the Federal Supreme Court mainly hands down rulings on pleas of nullity of cantonal judgments. However, the Court is limited to reviewing whether cantonal judgments violate federal law. If the appeal is granted, the case goes back to the lower court in order for a new decision to be rendered in accordance with federal law.

The Court in Lausanne renders judgment on appeals from most areas of federal and cantonal administrative law. The Federal Insurance Court in Lucerne, however, deals exclusively with appeals of judgments in the area of social insurance law.

Administrative law appeals are permissible for violations of federal law, for incorrect or incomplete conclusion of facts in a case, and in cases where judgment is considered unreasonable.

Contact for specific inquiries and further information:

Federal Supreme Court, Attn: Jacques Bühler, CH-1000 Lausanne 14, Switzerland, tel. 021 318 91 02, fax 021 323 37 00, website: <http://www.bger.ch>

The Federal Insurance Court

The Federal Insurance Court, located in Lucerne, is an independent division of the Federal Supreme Court with eleven judges and eleven substitute judges responsible for social insurance law as part of administrative law.

As a court of last resort, the Federal Insurance Court renders

judgment on appeals of decisions by cantonal insurance courts and by other authorities in federal social insurance cases. Swiss federal social insurance includes old-age and survivors insurance (OASI), disability insurance (DI), OASI/DI supplementary insurance, occupational pension plans, health insurance, work-injury insurance, military insurance, unemployment insurance, as well as earnings compensation coverage and family allowances for agricultural employees and self-employed small-farm owners.

The Court mainly deals with appeals involving compulsory contributions by the insured or by the employer and with appeals related to claims for benefits such as pensions, daily allowances and benefits in kind.

Contact for specific inquiries and further information:

The Federal Insurance Court, General Secretariat, Schweizerhofquai 6, CH-6004 Lucerne, Switzerland, tel. 041 419 35 55, website: <http://www.bger.ch>

Federal Supreme Court and Federal Insurance Court Cooperation

The Lausanne-based Federal Supreme Court and the Lucerne-based Federal Insurance Court coordinate their jurisprudence by exchanging opinions and convening an annual conference. In addition, the two courts work together by sharing an information technology system and by publishing important decisions in German, French and Italian in the *Official Digest (Amtliche Sammlung, Recueil officiel des arrêts du Tribunal fédéral)* at <http://www.bger.ch> under the heading *Rechtsprechung* in German or *Jurisprudence* in French.

The New Federal Courts of First Instance

The March 2000 popular vote on court reform paved the way for the creation of two new Swiss federal courts of first instance, the Federal Criminal Court (*Bundesstrafgericht, Tribunal pénal fédéral*) and the Federal Administrative Court (*Verwaltungsgericht, Tribunal administratif fédéral*).

The Federal Criminal Court

The Federal Criminal Court, based in Bellinzona in the Italian-speaking Canton of Ticino, opened its doors on April 1, 2004. It is a court of first instance with eleven judges who render decisions on criminal matters of federal jurisdiction, such as major cases involving organized crime, white-collar crime, money laundering, and corruption.

The Criminal Chamber (*Strafkammer, Cour des affaires pénales*) of the new Federal Criminal Court in Bellinzona replaced the former Federal Criminal Court of the Federal Supreme Court in Lausanne. The Appeals Chamber (*Beschwerdekammer, Cour des plaintes*) assumed the responsibilities of the Federal Supreme Court's Prosecution Chamber (*Anklagekammer, Chambre d'accusation*), such as delivering decisions on appeals of official acts or failures to act by the Attorney General of Switzerland (*Bundesanwalt, procureur général de la Confédération*) and by the federal examining judges (*eidgenössische Untersuchungsrichter, juges d'instruction fédéraux*).

Contact for specific inquiries and further information:

Tribunale penale federale, Casella postale 2720, CH-6501,

Bellinzona, Switzerland, tel. 091 822 62 62, fax 091 822 62 42.

The Future Federal Administrative Court

The Federal Administrative Court, expected to assume its duties in 2007, first in the capital of Bern and ultimately in St. Gall, will judge appeals of decisions by the Swiss federal administration (*Bundesverwaltung, administration fédérale*).

The Court will centralize the approximately 35 Federal Appeals Commissions (*eidgenössische Rekurskommissionen, commissions fédérales de recours*) and appeals offices of the seven federal departments, which currently serve as lower courts of the Federal Supreme Court or render decisions as courts of last resort such as the Swiss Asylum Appeals Commission (*Asylrekurskommission, Commission suisse de recours en matière d'asile*).

In addition, the new Court will make up for the lack of lower courts in areas where there have not been any up to now. For example, each year the federal administration issues an average of about 3,000 decisions which are not appealable to a Federal Appeals Commission.

In areas where final decisions are now made by the Federal Council, by the executive branch of government (called the *Bundesrat* in German and *Conseil fédéral* in French), or by one of the federal departments, the future Federal Administrative Court will enable Swiss citizens to exercise their fundamental right to have all legal disputes heard by an impartial and independent court.

Additional Websites of Interest on the Swiss Legal System:

<http://www.bstger.ch> (Federal Criminal Court website in German, French and Italian)
<http://www.parlament.ch> (Federal Assembly)
<http://www.admin.ch/ch/e/cf/index.html> (Federal Council)
<http://www.admin.ch/ch/index.en.html> (Federal Administration)
<http://informationjuridique.admin.ch> (Directory of publications containing legal information such as Swiss legislation and jurisprudence in German, French and Italian)
<http://www.admin.ch/ch/d/sr/sr.html> (Federal legislation in German, French and Italian)
<http://www.admin.ch/ch/d/ff/index.html> (Federal Gazette in German, French and Italian)
<http://www.ofj.admin.ch> (Federal Office of Justice)
http://www.eda.admin.ch/washington_emb/e/home/legaff/agree.html (Agreements between the U.S. and Switzerland)
<http://www.isdc.ch> (Swiss Institute of Comparative Law)
<http://www.llrx.com/features/swiss2.htm> (Update to *Introduction to the Swiss Legal System: A Guide for Foreign Researchers* by Fridolin M.R. Walther, Attorney-at-law with the law firm Gubler Walther Leuch in Bern, Switzerland)
<http://www.law-links.ch/schweiz.html> (Law links connected with Switzerland compiled by Fridolin Walther primarily in German)

[The author is in-house translator and editor for the Embassy of Switzerland in Washington and has over twenty years of professional experience. Her translations have appeared in newspapers and trade journals. ATA-certified for translation from German and French into English, she graduated from the Monterey Institute of International Studies with an M.A. in German-English translation.] ▲

WINDS OF CHANGE IN CALIFORNIA *continued from page 1*

Court interpreters will surely welcome any effort to clean up the sometimes impenetrable verbiage of the jury instructions, though the fact remains that much of what goes on in the courtroom will remain a mystery to laypeople.

The complete text of the criminal jury instructions can be downloaded at <http://www.courtinfo.ca.gov/jury/criminaljury-instructions/> and the civil jury instructions are at <http://www.courtinfo.ca.gov/jury/civiljuryinstructions/>.

The instructions also provide guidance for considering interpreted testimony, as follows:

121. Duty to Abide by Translation Provided in Court

Some testimony may be given in <insert name or description of language other than English>. An interpreter will provide a translation for you at the time that the testimony is given. You must rely on the translation provided by the interpreter, even if you understand the language spoken by the witness. Do not retranslate any testimony for other jurors. If you believe the court interpreter translated testimony incorrectly, let me know immediately by writing a note and giving it to the (clerk/bailiff).

BENCH NOTES*Instructional Duty*

The committee recommends that this instruction be given whenever testimony will be received with the assistance of an interpreter, though no case has held that the court has a sua sponte duty to give the instruction. The instruction may be given at the beginning of the case, when the person requiring translation testifies, or both, at the court's discretion. If a transcript of a tape in a foreign language will be used, the court may modify this instruction. (See Ninth Circuit Manual of Model Jury Instructions, Criminal Cases, Instruction No. 2.8 (2003).) If the court chooses, the instruction may also be modified and given again at the end of the case, with all other instructions. (See Ninth Circuit Manual of Model Jury Instructions, Criminal Cases, Instruction No. 3.20 (2003).)

It is misconduct for a juror to retranslate for other jurors testimony that has been translated by the court-appointed interpreter. (*People v. Cabrera* (1991) 230 Cal.App.3d 300, 303 [281 Cal.Rptr. 238].) "If [the juror] believed the court interpreter was translating incorrectly, the proper action would have been to call the matter to the trial court's attention, not take it upon herself to provide her fellow jurors with the 'correct' translation." (*Id.* at p. 304.)

AUTHORITY

c Juror May Not Retranslate. *People v. Cabrera* (1991) 230 Cal. App.3d 300, 303-304 [281 Cal.Rptr. 238].

These are the only instructions regarding interpreted testimony. However, in California many judges follow a practice of introducing the court interpreters at the beginning of the proceedings and explaining their role as officers of the court.

Report on Access to Justice

In September 2005 the California Bar Association's Commission on Access to Justice released a report titled *Language Barriers to Justice in California*. Citing a "dire and unmet need for language assistance" in the courts for litigants who are not proficient in English, the commission recommends that the standards for providing interpreters at public expense in criminal cases be extended to civil cases as well. It warns that "the starkest consequence of linguistic barriers to the courts is simply that justice is unavailable."

"Limited court resources, a lack of qualified interpreters, and the absence of funding for payment of interpreters for low-income litigants make it impossible to provide interpreters for the vast majority of civil proceedings," the executive summary of the report states. It goes on to point out that "court interpretation is extremely difficult and takes a rare combination of skills, experience, and training." The report cites a 1994 survey of the public, attorneys and court personnel in asserting that 85% of Californians believe that the courts must ensure that adequate numbers of interpreters are available to assist non-English speakers. Yet the evidence is clear that more than 7 million litigants are struggling to understand and make themselves understood in civil proceedings, and that many more may be discouraged from even bringing cases to court because of the language barrier.

One reason individuals with limited English proficiency are intimidated by the courts is the unavailability of court documents in other languages. "Most forms and pleadings provided by California courts, while critical to many basic court proceedings, are provided only in English," the report says. "Even where forms are available in other languages, all documents completed and submitted in any judicial proceeding must be, by law, in English. For people with limited English proficiency, the very basic process of filling out paperwork becomes a daunting task."

The Commission on Access to Justice was established by the California State Bar in 1997 and is made up of lawyers and citizens appointed by the bar, the state Judicial Council, the governor, the California attorney general and civic groups such as the League of Women Voters. To address the problems outlined in their report, the Commission makes a number of recommendations:

- The state should adopt a comprehensive language access policy for the courts;
- The Judicial Council should provide training packages and model protocols for court staff and judicial officers to:
 - (i) address language access issues, including cultural sensitivity training;
 - (ii) prioritize the goal of full language access;
 - (iii) establish evaluation processes for language access measures; and
 - (iv) encourage local courts to work with community-based organizations to address language access issues;
- The system for training and certifying interpreters should be reevaluated;
- The role of lawyers and bar associations, legal services programs, law schools and law libraries should be evaluated to ensure that lawyers are better prepared to assist parties and witnesses with limited English proficiency;

- Existing data should be compiled and additional research should be conducted.

Each of the recommendations is fleshed out in the body of the report. With respect to the recommendation on training and certifying interpreters, the commission notes that “rigorous standards for interpreter certification and registration are essential,” even as it recognizes that the existing pool of interpreters is insufficient to meet the overwhelming needs. Therefore, it maintains,

Existing test approaches should be analyzed to determine whether fine-tuning could further improve them, and whether qualifications at levels below full certification can be identified for specific types of interpreting assignments. Different models of training, possibly including the concept of interim or apprentice interpreter status, should be evaluated and considered. Ongoing efforts to recruit, train and retain interpreters should be expanded. Adequate funding should be sought so that compensation can be set at levels that encourage people to pursue careers in court interpretation. The goal must be to have the highest quality of interpretation possible in every situation.

The commission indicates that while the demand for interpreting services has grown dramatically over the last few decades, the number of certified interpreters has actually declined by more than 35%. As a result, many cases are unduly delayed, and non-certified interpreters are frequently used. One section of the report addresses the importance of using qualified interpreters and points out the dangers of relying on less skilled individuals. “Untrained interpreters are manifestly not an adequate substitute for trained professionals,” it emphasizes. The report does not speculate on the reason for the dwindling number of certified interpreters, though it notes that a relatively high number of interpreters passed certification exams when they were first given in the late 1970’s, whereas since then the pass rate has fallen significantly. A reasonable assumption is that many veteran interpreters are reaching retirement age and are not being replaced fast enough to maintain a stable pool, let alone to keep up with rising demands.

The report also hints at another reason for the interpreter shortage: the fact that the Judicial Council’s efforts to improve compensation have been hindered by a lack of funding. The commission asserts that “the courts should not be forced to tackle these problems alone,” implying that funding might come from other sources as well.

This document makes a valuable contribution to the debate on access to justice, and its implications go far beyond the realm of civil litigation. Let’s hope its recommendations are heeded.

The full text is available at: www.calbar.ca.gov/calbar/pdfs/reports/2005_Language-Barriers_Report.pdf.

► *Editor’s note: NAJIT invited the two court interpreter associations in California to provide statements on the significance of Language Barriers to Justice. The following was received in response.*

Statement by the California Court Interpreters Association

Language Barriers to Justice (September 2005), a report by the Access to Justice Commission is of monumental importance to the interpreting profession in California and the linguistic minorities we serve. Their findings highlight what CCIA has been saying for some time now; qualified court interpreters are exiting the state courts in alarming numbers.

While the commission lists a variety of factors for the interpreter shortage, emphasis is laid squarely on compensation levels which have been stagnant since July of 2000. CCIA concurs with their assessment and has been working diligently to rectify the situation for some time now. Our association has made formal requests to Chief Justice Ronald George, the Judicial Council of California, and to key legislative leaders in an effort to halt this professional exodus and to attract new candidates to our field.

CCIA has proposed increasing independent contractor court interpreter compensation to \$350/full day, \$193/half day by no later than the beginning of the 06/07 fiscal year. Additionally, we have requested that the *Trial Court Interpreters Employment and Labor Relations Act* (SB 371) be immediately amended, particularly the highly restrictive features which mandate limiting the use of independent contractors.

In spite of a strong effort by labor to ensure the primary providers of interpreting services to state courts are employees, the fact remains that more than half of California’s qualified court interpreters have elected to remain independent contractors. Unfortunately, the *TCIELRA’s* (SB 371) inflexible approach results in the elimination of the services of many of these highly skilled professionals. This is contrary to the needs of California’s state courts and the linguistic minorities it is constitutionally mandated to serve.

The Commission’s report lends immeasurable support to CCIA’s ongoing efforts to ensure all court interpreters are utilized without regard to their chosen employment status.

Arturo Cásarez, president
California Court Interpreters Association

Late-breaking addition: On November 4, 2005, CCIA president Arturo Cásarez made a presentation to the Judicial Council of California in San Francisco. Mr. Cásarez stressed the importance of increasing the compensation levels of the state’s independent contractor interpreters to \$350/full day, \$193/half day. He pointed out the immediate necessity of doing so in order to stave off the current exodus of interpreters from the state courts, as well as to demonstrate the Council’s commitment to recruitment and retention efforts.

The CCIA leader emphasized the findings and recommendations in the Access to Justice Commission’s report *Language Barriers to Justice in California*. Of special interest to the Council was news of the increase in the Federal rate to \$355/full day and \$192/half day, effective January 1, 2006. Following his address, Mr. Cásarez fielded questions from the chair of the council, Chief Justice Ronald George.

This important meeting between CCIA and the Judicial Council concluded with a renewed agreement to work together in an effort to increase California’s pool of court interpreters. ▲

THE COURT INTERPRETERS ACT OF 1978: A 25-YEAR RETROSPECTIVE: PART I

By Nancy Schweda Nicholson

This article first appeared in the August 2005 ATA Chronicle.

Statistics show that the requirements for interpreters in the American judicial system continue to grow. (See, for example, *Annual Reports*, 1980-2004.) Over the past 25 years, new issues have arisen for interpreters, including collective bargaining, telephone interpreting, and team interpreting. As a result, many states have formed investigative bodies (i.e., The Indiana Supreme Court Task Force on Race and Gender Fairness) to study interpreter use and to suggest ways to meet the burgeoning need. More and more state and local bar associations are offering continuing legal education seminars to their members in order to educate them about the interpreting process and to facilitate their work with interpreters, both in court and during out-of-court hearings, as well as in meetings with clients.

The following offers a general overview of the developments at the federal and state levels within the legal interpreting field since the passage of the Court Interpreters Act of 1978. This segment offers background information on Constitutional provisions and the rules that were in effect

before the 1978 law was enacted. In addition, many new initiatives for judiciary interpreters are discussed, including the Administrative Office of the United States Courts' Federal Court Interpreter Program, the National Center for State Courts'

Consortium for State Court Interpreter Certification Program, and the National Association of Judiciary Interpreters and Translators' National Judiciary Interpreter and Translator Certification.

Constitutional Provisions

The basis for the appointment of an interpreter lies in the U.S. Constitution, the most fundamental guarantor of individual liberties and protections. More specifically, the Sixth Amendment states:

In all criminal prosecutions, the accused shall enjoy *the right to a speedy and public trial* by an impartial jury...and *to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have assistance of counsel for his defense* (italics mine).

The Fourteenth Amendment is also relevant, as it cites "due process" and "equal protection of the laws." In essence, these elemental due process rights guarantee that the defendant will be able to participate in his or her own defense and be "present" (both physically and cognitively) in the courtroom.

Pre-1978 Conditions in the Courts

A. Provisions for the Appointment of an Interpreter: Federal and State Rules

Prior to 1978, the U.S. District Courts (as well as most states) relied on two very short federal rules that addressed interpreter use in both the criminal and civil arenas: Rule 28(b) of the Federal Rules of Criminal Procedure, and Rule 43(f) of the Federal Rules of Civil Procedure. States frequently used these two rules as a model when drafting their own regulations. Rule 28(b) states: "The Court may appoint an interpreter *of its own selection...*" (italics mine). The use of the word "may" leaves the appointment of an interpreter to the presiding judicial officer's discretion. The phrase "of its own selection" is frequently maligned, since many American judges tend to be monolingual English-speakers who are not qualified to select a competent interpreter. The aforementioned wording is also the basis for Federal Rule 43(f). Also relevant here is Rule 604 of the Federal Rules of Evidence, which qualifies the interpreter as an expert witness. (See Schweda Nicholson, 1986, for additional discussion of these federal rules.)

B. Ad hoc Interpreter Use

Before the U.S. Congress decided to pass a more complete and detailed law related to interpreter usage, the court-

room reality for interpreters was a frightening one. There are numerous documented cases in which friends, relatives, police officers, bailiffs, court clerks, defense attorneys, co-defendants, courtroom spectators, volunteers, and other witnesses were used as interpreters (Schweda Nicholson, 1989; Sherr, 2000).

C. Interpreter Appeals

In a Delaware Supreme Court appeal that was decided approximately 35 years ago, *Green v. State* 260 A.2nd 706 (Del. 1969), the official interpreter for the victim's testimony was also called as a witness for the prosecution! The appellate court affirmed the lower court's decision. Judge Hermann, however, wrote an eloquent dissenting opinion stating that it was "...prejudicial error to permit the interpreter...to testify...as to the facts of the case. [The interpreter is]...part of the Court's 'team'...and is cloaked with officialdom in the eyes of the jury..."

Although some cases have been overturned on appeal (Schweda Nicholson, 2004), the majority of lower court decisions still stand. In many instances, the appellate courts have acknowledged that an uncertified interpreter was used or that a summary was some-

“...Viewed as a milestone federal statute, the Court Interpreters Act of 1978 continues to exert a strong influence on every aspect of court interpretation...”

times provided instead of a running, complete simultaneous interpretation (SI) for a non-English-speaking (NES) or a limited-English-proficient (LEP) defendant. Even when there have been, in my opinion, seemingly compelling reasons supporting reversal and remand for a new trial, the appellate courts often admit that mistakes were made, but that these mistakes neither constituted “reversible error” nor rendered the trial “fundamentally unfair.” Moreover, the opinions rendered frequently state that there was “no abuse of discretion” by the trial judge. (See Benmaman, 2000, for an excellent summary article on appeals related to interpreters.)

1978 and Beyond

A. The Court Interpreters Act of 1978

In the 1970s, it was clear that courts at all levels were struggling with a burgeoning NES/LEP population due to both legal and illegal immigration. The largest group came from Mexico and Central America. The tide of Spanish-speakers became increasingly visible in numerous societal institutions, and the judicial system was no exception. As a result, the Court Interpreters Act [Public Law 95-539; 28 USCS § 1827] was passed in 1978. (It celebrated its 25th anniversary in 2003.) Viewed as a milestone federal statute, it continues to exert a strong influence on every aspect of court interpretation at the federal level (Schweda Nicholson, 1986). It has also been used as a model for states that have enacted interpreter statutes and/or related rules/directives. The 1978 Act provides for the establishment of a certification program for interpreters who work in “bilingual proceedings” [§ 1827(b)]. It includes the appointment of interpreters for NES and LEP individuals as well as for deaf or hard-of-hearing persons who communicate via signed languages. The Act also states that the Director of the Administrative Office of the U.S. Courts is responsible for setting interpreters’ fees. Public Law 95-539 also provides for the creation of a program to furnish “special interpretation services,” including “capacity for simultaneous interpretation services in multi-defendant criminal...and civil actions” [§ 1828(a)].

The 1978 Act serves as the primary federal law with respect to legal interpreters, although it is not flawless in its construction. To wit, I refer to the much-discussed wording “The presiding judicial officer...shall utilize the services of the most available certified interpreter, or when no certified interpreter is *reasonably available*, ...*the services of an otherwise competent interpreter*” [§ 1827(d)]. Many have questioned what “reasonably available” really means. (Down the hall? On another floor of the courthouse? In the same city? In the same county? In the same state?) The Act leaves the interpretation of this wording up to the presiding judicial officer. “Otherwise competent interpreter” is also a stickler. Can someone be considered “otherwise competent” if he or she is not certified? How is someone’s competence, then, to be determined if success on the Federal Court Interpreter Certification Examination and/or another recognized certification instrument is not involved? The word “competent” was actually stricken in the Court Interpreter Amendments Act of 1988. In its place, “qualified” was substituted [§ 710(a)(1)]. Nevertheless, this issue has been the subject of much analysis and argument over the years.

B. The Federal Court Interpreters Advisory Board

In order to address some of the shortcomings of the 1978 Act

and deal with ongoing challenges, the Federal Court Interpreters Advisory Board (FCIAB) was appointed in 1986 by the Chief Justice of the United States and the Director of the Administrative Office of the U.S. Courts (AOUSC) (Schweda Nicholson, 1992; 1987). The AOUSC gave the FCIAB five charges: 1) develop pay scales for federally certified interpreters; 2) offer suggestions about the content of training and/or orientation sessions for newly certified interpreters; 3) create guidelines and criteria for “otherwise qualified interpreters” in the areas of classification and compensation purposes (These categories ultimately became “certified,” “professionally qualified” [PQ], and “language-skilled” [LS]); 4) draft a code of ethics; and 5) provide recommendations regarding the triggering criteria to be used in selecting additional languages for certification exam development.

C. The Court Interpreter Amendments Act of 1988

The Court Interpreter Amendments Act of 1988 follows up on the 1978 Act and addresses some of the issues raised by the FCIAB. These matters include, for example: 1) the courts’ use of AOUSC-provided guidelines for choosing “otherwise qualified” interpreters (for languages in which there are certification exams and for those in which there are not) [§ 703(2)]; 2) the AOUSC Director’s authority to certify interpreters for any language based on need for the entire federal system or for just one “circuit” [§ 703(b)(1)]; 3) the specification that a “criterion-referenced” examination be used for certification purposes [§ 703(b)(1)]; 4) the possibility of granting an attorney’s motion to make an “electronic sound recording” of the proceedings for which an interpreter is required (to be at the discretion of the presiding judge) [§ 705(2)]; and 5) the delineation of the situations in which simultaneous interpretation (SI) and consecutive interpretation (CI) are normally used [§ 709(k)]. With respect to Point 5, however, the presiding judicial officer has the power to decide on the mode of interpretation to be used at any stage of the trial in order to “aid in the efficient administration of justice” [§ 709(k)]. Also relevant is that the option for the use of “summary” interpretation, which was mentioned in the Act in § 1827(k), no longer appears.

The Federal Court Interpreter Certification Examination

Shortly after passage of the 1978 Act, the personnel office of the AOUSC (with the assistance of highly qualified consultants) developed the first Federal Court Interpreter Certification Examination (FCICE) for Spanish/English. The AOUSC also gathered information from more than 70 leaders in the field prior to the creation of the test.

The FCICE consists of written and oral parts. The first Spanish FCICE appeared in 1979-1980. In 1985, the University of Arizona was awarded a contract for exam development. Federal certification exams were also created for Haitian Creole and Navajo. The first round of tests for these two languages was held in the summer of 1990 (Schweda Nicholson, 1992). In the late 1990s, the AOUSC decided to have an open competitive bidding process for ongoing Spanish FCICE development and refinement. After reviewing all of the proposals, the AOUSC awarded the contract to a partnership of three entities: the National Center for State Courts (NCSC);

> continued on next page

COURT INTERPRETERS ACT *continued*

Cooperative Personnel Services (CPS); and Second Language Testing, Inc. (SLTI).

This NCSC-led group moved ahead to revise the Spanish FCICE, introducing new written exam sections and increasing the amount of Spanish-to-English scoring units on the consecutive portion (Hewitt et al, 2003a). To be more specific, the written exam includes exercises on reading comprehension, grammar, idiomatic expressions, and general as well as specialized legal vocabulary. The new federal written exam (as of 2001) differs from prior exams in that "... at least 60% of the exam reflects the language of the courtroom" (Hewitt et al, 2003a). Much of the language of prior exams focused on very academic subject matter like engineering, natural science, economics, and philosophy (Hewitt et al, 2003b). Currently, in addition to legal terminology, various registers (including colloquial language and typical expert witness jargon) are also represented. A new section on "error detection" replaces one on "antonyms," which appeared in prior tests (Hewitt et al, 2003b). In order to make the exam as realistic as possible, actual federal case transcripts have been consulted. A failing score (less than 75%) on the written part eliminates the candidate from the testing process (van der Heide, 2004). The oral section is a performance examination that accurately represents the type of work a court interpreter is called to do. Unlike the written test, the components of the new oral exam have not changed since its inception. It is comprised of consecutive interpreting (CI), simultaneous interpreting (SI), and sight translation (ST). The passing score is 80%.

Overall, the combined pass rate from 1980 to 1999 (written exam 17.5%; oral exam = 20%) was 4.5% (van der Heide, 2004). The revised written exam was first pilot-tested in December 2001 (pass rate: 21%). The new version of the oral test was administered in April 2002 (pass rate: 22%). There are a number of reasons that would lead one to expect that the pass rate would be higher by this point in time. First, there are currently many more training opportunities available than there were 20-25 years ago, including university courses, intensive workshops, and widely marketed self-study tapes and books. Second, most potential testtakers are also aware that the

FCICE is a very challenging exam. As a result, one could hypothesize that fewer unqualified people (who have a remote chance of success) are taking the test. Also related to the second point is the cost of the exam. The fee for the written portion is \$125, and the oral exam costs \$175 (Hewitt et al, 2003b). It seems logical that those without the requisite competence would hesitate to commit funds to take an exam they have little chance of passing. Finally, another reason to expect improved scores is the availability of a preparation manual, the *Examinee Handbook*, produced by the test developers themselves, which includes sample written test items (along with the correct answers) and a CD-ROM with representative oral passages. This mock exam is a very welcome addition to the federal testing scene (van der Heide, 2003). Go to www.cps.ca.gov/fcice-spanish for more information. For additional information on the FCICE and the Federal Court Interpreter Program in general, see Hewitt et al (2003a) and van der Heide (2003).

To give the reader an idea of the overwhelming need for Spanish interpreters at the federal level, let's look at some statistics. For the 1992 Fiscal Year, 87% of the federal cases that required interpreters used the Spanish language. In 2002, AOUSC data showed that 93.6% of cases needed Spanish (*Annual Reports* 1992, 2002). Although this represents only a 6.6% increase over a 10-year period, this figure demonstrates the strong and continuing dominance of Spanish, with growth even where there is little room for it. For example, if we look at interpreter usage at the federal level for the year 2003 (see Table 1), there were 189,044 court interpreting events, and 177,704 of those required Spanish interpreters. However, in 2004, there were 223,996 total events, 212,223 of which required Spanish interpreters (95% of all events). These statistics show an overall increase in 2004 of approximately 18.5% compared to 2003, and an increase of about 19.5% in cases requiring Spanish interpretation during this same period (*Annual Report* 2004; van der Heide, 2004).

The National Center for State Courts Testing Consortium

The NCSC Testing Consortium ("the Consortium") was created in 1995. The founding member states were Minnesota, New Jersey,

Table 1: Court Interpreting Events (Federal District Courts)

Total Fiscal Year 2002		Total Fiscal Year 2003		Total Fiscal Year 2004	
174,405		189,044		223,996	
Spanish	163,344	Spanish	177,704	Spanish	212,223
Arabic	1,692	Arabic	1,349	Mandarin	1,114
Mandarin	1,266	Mandarin	1,306	Arabic	1,028
Russian	732	Russian	913	Russian	893
Vietnamese	643	Vietnamese	842	Vietnamese	839
Korean	636	Haitian Creole	765	Portuguese	676
Cantonese	628	Korean	600	Cantonese	676
Haitian Creole	551	Cantonese	588	Korean	641
French	403	Portuguese	496	French	501
Punjabi	309	Punjabi	481	Haitian Creole	378

Court Interpreting Events: Federal District Courts, Fiscal Years 2002-2004. (Source: *Annual Report of the Director of the Administrative Office of the United States Courts* — 2002, 2003, 2004)

Oregon, and Washington. These states had already been deeply involved in a variety of efforts to improve court interpreting services in their own jurisdictions. For example, New Jersey began its work in the early 1980s. Robert Joe Lee, the architect of the New Jersey program, has toiled tirelessly to continuously strengthen court interpreter standards in the Garden State. In February 2004, New Jersey's Judicial Council approved the Standards for Delivering Interpreting Services in the New Jersey Judiciary (Standards, 2004). This document offers guidance on the use of interpreters for both LEP and hard-of-hearing persons. Other topics include: 1) who may act as an interpreter; 2) payment procedures; 3) telephone interpreting; 4) how to report interpreter policy violations; and 5) team interpreting.

When the aforementioned four states banded together to form the Consortium, its primary goals were: 1) to obviate the need for every state court to "reinvent the wheel" in terms of test development and administration; and 2) to establish high proficiency standards for court interpreters through an NCSC-coordinated testing program (Herman and Hewitt, 2001). The proposal was for states (which pay a fee to join) to share the expenses of test creation, and then to use the exams to credential interpreters in their own venues. Test development is a costly venture, especially when multiple languages are involved. This plan was a logical solution from a financial and a "let's take steps to improve the quality of our interpreters" perspective. As of January 2005, there are 32 member states. The most recent additions are Pennsylvania and Alaska, which both joined in 2004 (www.ncsconline.org). Membership has reached over 60% in just under 10 years. In light of the fact that judicial change is frequently effected at tortoise-like speed, this level of participation is to be commended.

Each member state has much discretion regarding its level of participation in the Consortium. For example, states are free to decide: 1) in which languages they wish to test; 2) how often to test; 3) whether they require the written test or not; 4) the length of the orientation program prior to test administration; 5) the order in which the oral exam components are offered; 6) whether they charge participants to take the orientation and/or the written and oral tests; and 7) the passing scores (to a certain extent). Related to point 7, Delaware has a "Delaware-certified" category (a passing score of 60%). The Consortium passing score is set at 70%.

The Consortium has made much progress during the past decade since its founding. As of this writing, there are tests in 12 languages: Arabic, Cantonese, Haitian Creole (two versions), Hmong, Korean, Laotian, Mandarin, Polish, Russian (two versions), Somali, Spanish (four versions), and Vietnamese (two versions). Portuguese and Serbian tests are currently in development (see www.ncsconline.org for additional information).

The National Judiciary Interpreter and Translator Certification

The Society for the Study of Translation and Interpretation (SSTI) and the National Association of Judiciary Interpreters and Translators (NAJIT) have recently developed their own Spanish/English court interpreter certification exam, the National Judiciary Interpreter and Translator Certification (NJITC). One notable difference between this new exam and both the FCICE and the Consortium tests is that the NJITC includes a section on written translation (Frequently Asked Questions, 2001; Orrantia, 2002).

Look for Part II of this series in the next issue of *Proteus*. It examines new and (sometimes) controversial developments in court interpreting, such as telephone interpreting, continuing legal education (CLE) seminars for legal personnel, team interpreting, and collective bargaining.

REFERENCES

1. *Annual Report of the Director of the Administrative Office of the United States Courts*. 1980-2004.
2. Benmaman, Virginia. 2000. "Interpreter Issues on Appeal." *Proteus*, VIII/4:1, pages 3-9.
3. Carr, Silvana E., Roda Roberts, Aideen Dufour, and Dini Steyn (eds.). 1997. *The Critical Link: Interpreters in the Community*. Amsterdam/Philadelphia: John Benjamins.
4. Court Interpreter Amendments Act of 1988. Title VII US Code, §701- 712.
5. Court Interpreters Act of 1978 (Public Law 95-139). Title 28 US Code, § 1827-1828.
6. Crooker, Constance Emerson. 1996. *The Art of Legal Interpretation*. Portland, Oregon: Portland State University Continuing Education Press.
7. de Jongh, Elena M. 1992. *An Introduction to Court Interpreting*. Lanham, Maryland: University Press of America.
8. Edwards, Alicia Betsy. 1995. *The Practice of Court Interpreting*. Amsterdam/Philadelphia: John Benjamins.
9. "Frequently Asked Questions about NAJIT Certification." *Proteus*, X/4: pages 1, 6.
10. Gill, Catherine, and William E. Hewitt. 1996. "Improving Court Interpreting Services: What the States are Doing." *State Court Journal*, 20/1: pages 34-41.
11. González, Roseann Dueñas, Victoria F. Vásquez, and Holly Mikkelsen. 1991. *Fundamentals of Court Interpretation*. Durham, North Carolina: Carolina Academic Press.
12. Herman, Madelynn, and William E. Hewitt. 2001. "The National Center for State Courts and the Consortium for State Court Interpreter Certification Program." *ATA Chronicle*, October, pages 20-25, 27.
13. Hewitt, William E., Wanda Romberger, Charles W. Stansfield, and Marijke van der Heide. 2003a. "The Federal Court Interpreter Certification Examination." *ATA Chronicle*, November/December, pages 29-34.
14. Hewitt, William E., Wanda Romberger, Charles W. Stansfield, and Marijke van der Heide. The Federal Court Interpreter Certification Examination: A Fresh Look. Presentation at ATA Annual Conference, Phoenix, Arizona, November 5-8, 2003b.
15. Moore, Joanne I. (ed.). 1999. *Immigrants in Courts*. Seattle: University of Washington Press.
16. Orrantia, Dagoberto. 2002. "The SSTI/NAJIT Translation and Interpretation National Certification Examination." *ATA Chronicle*, June, pages 19-22.
17. Raïnof, Alexander. 2004. "California's Senate Bill 371." *Proteus*, XIII/1:1, pages 5-6.
18. Schweda Nicholson, Nancy. *Díaz v. State of Delaware: An Appeal Based on Language and Interpreter Issues*. Presentation at ATA Annual Conference, October, Toronto, Canada, October 13-16, 2004.
19. Schweda Nicholson, Nancy, and Roda Roberts. 2003. "Translation and Interpretation." *International Encyclopedia of Linguistics* (Second Edition). William J. Frawley (ed.). Oxford: Oxford University Press, pages 281-285.
20. Schweda Nicholson, Nancy. 2002. "Interpretation." *The Oxford Handbook of Applied Linguistics*. Robert B. Kaplan (ed.). Oxford: Oxford University Press, pages 443-456.
21. Schweda Nicholson, Nancy. 1995. "Translation and Interpretation." *Annual Review of Applied Linguistics*, 15: pages 42-62.
22. Schweda Nicholson, Nancy. 1992. "The Provision of Interpretation Services for Lesser-used Languages in the United States Courts: A Language Planning Perspective." *Language Problems and Language Planning*, 16/1: pages 38-52.
23. Schweda Nicholson, Nancy. 1989. "Ad hoc Court Interpreters in the United States: Equality, Inequality, Quality?" *Meta*, XXXIV/4: pages 711-723.
24. Schweda Nicholson, Nancy. 1987. "Beyond the Court Interpreters Act of 1978: The Federal Court Interpreters Advisory Board." *Proceedings of the 1987 ATA Annual Conference*. Karl Kummer (ed.). Medford, NJ: Learned Information, Inc., pages 281- 286.

> continued on next page

Honors

MVOITI

The Board of Directors of the Society for the Study of Translation and Interpretation commends the Mirta Vidal Orrantia Interpreting and Translating Institute for the extraordinary achievements of the past year. The MVOITI has displayed energy, creativity and enterprise in the task of advancing our professional educational activities. The "Report for 2005" gives an outstanding picture of the whole. The board is impressed with the intensity of the activity conducted, and with the variety of levels on which it was carried out. The SSTI board is very grateful to Executive Director Janis Palma and Academic Director Dagoberto Orrantia for their efforts as chronicled in this report.

— September 30, 2005

DR. ETILVIA ARJONA

Dr. Etilvia Arjona of Panama was awarded the Pierre-François Caillé Medal at the 17th World Congress of FIT, the International Federation of Translators, held August 4-7, 2005 in Tampere, Finland. This award was given in recognition of Dr. Arjona's outstanding work in promoting the status of translators and interpreters worldwide over the past 35 years. This was the first time that the award, the highest honor bestowed by FIT, had been presented to a Latin American. Dr. Arjona represented the Asociación Panameña de Traductores y Intérpretes at the FIT conference. Her many accomplishments include serving as the first dean of the T&I Division of the Monterey Institute of International Studies; serving as director of the Center of Interpretation and Translation Studies of the University of Hawaii; and consulting with the Administrative Office of the U.S. Courts in developing its first certification tests. The Mid-America Chapter of the American Translators Association, with whom NAJIT has long enjoyed close relations, publicized this award and a special letter of congratulations from the MICATA board of directors in the September/October issue 2005 of the *MICATA Monitor*. ▲

COURT INTERPRETERS ACT *continued*

25. Schweda Nicholson, Nancy. 1986. "Language Planning and Policy Development for Court Interpretation Services in the United States." *Language Problems and Language Planning*, 10/2: pages 140-157.
26. Sherr, Daniel. 2000. "Anyone Here Speak Russian?" *Proteus*, VIII/3, page 17.
27. Standards for Delivering Interpreting Services in the New Jersey Judiciary (Directive #3-04). New Jersey Judicial Council, February 26, 2004.
28. van der Heide, Marijke. Federal Court Interpreting Program: Administrative Office of the United States Courts. Presentation at the National Association of Judiciary Interpreters and Translators Silver Anniversary Conference, Denver, Colorado, May 21-23, 2004.
29. van der Heide, Marijke. 2003. "Administrative Office of the United States Courts Federal Court Interpreter Program." *ATA Chronicle*, October, pages 26-28.

HOT TICKET FOR 2006: HOUSTON

Odile Legeay, Conference Committee Co-Chair

NAJIT'S 27th Annual Conference will take place in May, 2006 in Houston. In recent months, Houstonians have opened our arms to tens of thousands of neighbors displaced by hurricanes, so just imagine what friends and dear colleagues can expect!

Our conference will be held at the J.W. Marriott Hotel, a newly renovated hotel with some 500 rooms. The mezzanine features eighteen meeting rooms around an open foyer accented by two-story high windows, through which the southern light streams in. Nearby is the Galleria, the city's main shopping district.

Before I introduce you to Houston, you should know that I am a native of Paris and have also lived in New York, Miami and Washington, D.C. I love living here! Houston is the fourth largest city in the U.S., a vibrant place for business and yet it ranks with the lowest cost of living and best quality of life of all major U.S. cities. It's very cosmopolitan, with many cultures mixing in a friendly atmosphere. Of course, summers are hot but in May, you'll enjoy beautiful weather in the 70's and 80's, so why not plan some additional time and discover what the city and the region have to offer?

To tour the city, I recommend hopping on our brand-new MetroRail, which goes from downtown through the museum district to the medical center. With its historic buildings and gleaming skyscrapers, downtown Houston is bustling with activity during business hours, though you wouldn't know it to look at the streets—because a lot happens down below in Houston's best-kept secret, the Tunnel: seven miles of air-conditioned underground passageways and above-ground skywalks that link office towers, banks and government offices with all types of retail stores, restaurants and services. At night, downtown is a fun and pedestrian-friendly entertainment district with cafés, restaurants, clubs, as well as venues for symphony, opera, musicals and live theater.

Next stop is the museum district, with 16 museums, from the Museum of Fine Arts, one of the premier art museums in the country, to the Museum of Natural Science, and some fabulous free venues like the Contemporary Arts Museum and The Menil Collection. Then tour the Texas Medical Center, a "med-tropolis" of over 40 health institutions, including two medical schools, four schools of nursing and some 15 hospitals.

I hope you can spend an additional day or two in Houston. All within an hour's drive of the city, visit NASA's Johnson Space Center, discover Houston's bay at Kemah, or enjoy Galveston with its beaches on the Gulf of Mexico and the Strand area with its impressive historic architecture... And what's a trip to Houston without taking pictures of the alligators roaming freely in the swamps of Brazos Bend Park!

If you can spare a few more days, tour Austin and the Hill Country, San Antonio and its Hispanic heritage, or Lafayette, LA and its French Cajun culture, all within a 3-hour drive from here.

Our city motto is: "*Houston, a space of infinite possibilities.*" I personally invite you to sample some of them and experience our warm hospitality. ▲



NAJIT 27TH ANNUAL CONFERENCE

May 19-21, 2006

J.W. Marriott Houston on Westheimer by the Galleria • Houston, Texas



SpaceCity. A space of infinite possibilities.

Join us for great educational sessions, networking, sociability and the latest news of our profession. This conference will have a special focus on medical interpreting and translating as related to judiciary interpreting and translating. Your Houston colleagues and the Conference Committee welcome you!

HOUSTON CONFERENCE SCHEDULE

Your conference registration fee will include all meals and breaks— except Saturday dinner—from Friday evening until Sunday afternoon. Plan now to stay for the closing raffle Sunday from 2:30 to 3:30 pm!

<p>■ Thursday, May 18 AFTERNOON NJITCE: Spanish Written</p> <p>■ Thurs-Friday, May 18-19 THROUGHOUT DAY NJITCE: Spanish Oral</p> <p>■ Friday, May 19 MORNING Court tours 9:00 AM – Noon Preconference workshops and 2:00 - 5:00 PM AFTERNOON NAJIT Scholars orientation 6:30 PM – 10:30 PM Opening dinner dance</p> <p>■ Saturday May 20 8:00 – 9:00 AM First-timers introduction 9:15 – 10:30 AM Educational sessions A 10:45 – 11:45 AM Opening ceremony</p>	<p>■ Saturday May 20 <i>(continued)</i> NOON - 2:00 PM Lunch & annual meeting 2:30 - 3:45 PM Educational sessions B 4:00 - 4:45 PM Open committee briefings 5:00 - 6:15 PM Educational sessions C EVENING <i>on your own</i></p> <p>■ Sunday, May 21 9:00 – 10:15 AM Educational sessions D 10:30 – 11:45 AM Educational sessions E NOON - 1:00 PM Box lunch NOON - 1:00 PM Working committee meetings 1:15 - 2:30 PM Educational sessions F 2:30 - 3:30 PM Closing Raffle</p> <p style="text-align: right;"><i>The schedule is subject to change.</i></p>
--	--

HOTEL INFORMATION

The elegant J.W. Marriott on Westheimer by the Galleria offers access to over 350 restaurants and nightclubs in the Uptown business and shopping district. We have a limited number of rooms reserved at the very special rate of \$119 single/double plus tax (currently 17%), available until Wednesday, April 19, 2006.

Address: 5150 Westheimer, Houston, TX 77056

Hotel reservations: 800-228-9290

Direct telephone: 713-961-1500

Fax: 713-961-5045

Website: www.Marriott.com/property/propertypage/houjw

National Association of Judiciary Interpreters & Translators

SCHOLARS PROGRAM

APPLY TO BECOME A 2006 NAJIT SCHOLAR!

12 selected scholars will attend the NAJIT 2006 National Conference!

NAJIT 27th Annual Conference will be held May 19-21, 2006

at the JW Marriott Houston on Westheimer by the Galleria, Houston, Texas

- Meet other students & professional interpreters
- Tour Houston courts Friday morning
- Attend professional development sessions
- Scholars will have some volunteer duties during the conference.
- Scholars will receive free registration for the conference, plus a \$100 stipend to apply toward lodging or transportation costs.
- Students and 2005 graduates of any signed or spoken language interpreting or translating program are welcome to apply.

Please note: Applications must be postmarked by January 10, 2006 to be considered. No exceptions.

SCHEDULE:

■ **Thursday, May 18** | Evening: Arrive Houston

■ **Friday, May 19**

9:00 AM – 12 NOON Court tour (*optional*)

1:00 PM – 5:00 PM: Orientation & welcome reception hosted by NAJIT Chair

6:30 PM – 10:30 PM: Opening dinner dance

■ **Saturday May 20**

8:00 AM – 6:30 PM: Educational sessions, opening ceremony, lunch and annual meeting

■ **Sunday, May 21**

9:00 AM – 3:30 PM: Educational sessions, closing raffle. The conference closes at 3:30 PM on Sunday May 21.

All meals from Friday breakfast through Sunday lunch – except Saturday dinner – will be provided. Students will need to cover their own transportation costs and 2-3 nights in the conference hotel. NAJIT will assist students to make roommate arrangements if possible.

Questions about the application process should be directed to studentoutreach@najit.org. This is a volunteer-run program and we regret that telephone inquiries about the NAJIT Scholars Program cannot be accepted. All email inquiries will be promptly answered. Thank you for your understanding.

The National Association of Judiciary Interpreters and Translators is a professional association promoting quality interpreting and translation services in the judicial system. NAJIT now has over 1100 members, including practicing interpreters and translators as well as educators, researchers, students and administrators. Anyone who has an interest in court and legal interpreting is welcome to join.

Application forms and further information available on NAJIT website: www.najit.org



National Association of Judiciary
Interpreters & Translators

603 Stewart St., Suite 610

Seattle, WA 98101-1275

tel: 206-267-2300 • fax: 206-626-0392

YEAR OF THE STUDENT

How should NAJIT celebrate the Year of the Student?

We are searching for creative and unusual ways to celebrate students, the future of our profession.

Send your ideas now to studentoutreach@najit.org.



Prizes will be awarded to the best suggestions!

Encourage all students you know to apply for NAJIT Scholarships!

Win a free registration to the ATA or NAJIT conference! Join the ATA school outreach movement today.

- **It's easy**
- **It's fun**
- **It's free**

...and it could win you free registration to the ATA conference in New Orleans or to the NAJIT conference in Portland.

■ Here's how:

1. Visit the ATA website at www.atanet.org.
2. Click on School Outreach.
3. Pick the age level you like the best and click on it.
4. Download a presentation and deliver it at your local school or university.
5. Get someone to take a picture of you in the classroom.
6. Send it to the ATA Public Relations Committee with your name, whether you are a NAJIT or ATA member, the date, the school's name and location, a brief description of the class, and a "memorable moment" as a caption for the photo.

- The deadline for submissions is July 17, 2006. The best photograph from an ATA member wins free registration to the ATA conference in New Orleans, and the best photograph from a NAJIT member wins free registration to the NAJIT conference in Portland. The winner will be contacted by August 17, 2006.

■ Any questions? Contact:

Amanda Ennis
germantoenglish@earthlink.net
 Lillian Clementi
lillian@lingualegal.com



NAJIT NEWS

A REPORT ON NAJIT'S PARTICIPATION IN MEETINGS WITH THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Judith Kenigson Kristy

I was asked to be NAJIT's representative at two meetings last summer dealing with contract interpreters in the federal courts.

First, some history. As many of you will recall, Mr. Robert Lowney, Chief of the District Court Administration Division of the AOUSC, gave a presentation at the NAJIT Annual Conference in Washington, D.C., in May of this year, assisted by Deputy Chief William Moran and Interpreting Specialist Dr. Carolyn Kinney. (A report on Mr. Lowney's presentation, written by Patricia González and Kathleen O'Hanlon, can be found in the Fall 2005 *Proteus*, while the full text can be accessed in the same issue of *Proteus* as well as the NAJIT website.) The AOUSC has been making presentations at NAJIT's Annual Conferences for a number of years, usually dealing with current developments in the federal exam and other matters of interest to interpreters working in the federal justice system. But unlike other years, last May's Q & A session was dominated by concerns expressed by freelance interpreters regarding a contract issued by the AOUSC in the spring of 2005 to U.S. District Courts across the country, which interpreters were expected to sign as a condition for further work in those courts. This "Terms and Conditions Contract", coming as a surprise to everyone, contained a number of stipulations that interpreter contractors found unacceptable, with the result that many freelancers refused to sign it and even more sent their comments and critiques to the NAJIT listserv for airing. It came as no surprise, then, that a large number of freelance interpreters jumped at the chance to use the AOUSC's presentation time to shower Mr. Lowney and his colleagues with a veritable storm of questions, complaints and suggestions about that contract. Given the often slow-reacting, bureaucratic nature of governmental entities, it was equally unsurprising that, having expressed their frustration, many freelancers left the session with the feeling that little had been resolved, and they would have to find solutions (or perhaps jobs) elsewhere, given the apparent impasse.

What followed was, however, unexpected and a tribute both to the contract interpreters' perseverance and the AOUSC's unusual alacrity in responding to the deluge of comments received before and during that conference session. In July of 2005, in a remarkable display of concern and interest in freelancers' input, Robert Lowney sent NAJIT an invitation to send a representative to Washington, D.C. to attend meetings with the Court Interpreter Advisory Group and a specially convened "Focus Group" dedicated to ironing out details of the Terms and Conditions Contract. As Mr. Lowney commented in his letter to the NAJIT representative: "it is unprecedented within the AOUSC to have a contractor attend an advisory group, and especially a focus group determining modifications to the contract, but we feel it is important to get

the NAJIT perspective, and look forward to having you participate in both."

When NAJIT's Executive Director Ann Macfarlane called and asked me to represent NAJIT in the Court Interpreter Advisory Group (CIAG) and Contract Focus Group discussions, I was delighted to be so honored and accepted immediately. Despite time pressure, I managed to put together all of the comments made by NAJIT members on the listserv along with reactions from court administrators whom I had "polled" about their experiences with the contract. Armed with these materials, I set out for Washington D.C. with a daunting sense of the need to faithfully and forcefully represent my colleagues' point of view and the importance of the meetings in which I would be their voice.

Let me say from the outset that I was very impressed with the cordiality, respect and receptivity accorded me, as NAJIT's representative, by all of the members of the meetings and especially by AOUSC personnel. Bob Lowney, Bill Moran and Carrie Kinney were present at both of the meetings I attended, as were members of the AOUSC's legal and procurement staff, and at all times they went out of their way to make me feel welcome and, most of all, "well heard." I have nothing but praise for all the work they put into making these meetings a truly collaborative effort.

In the CIAG meeting, I was afforded a thirty-minute prime-time slot (the first presentation of the morning) for reporting on conditions "in the trenches" for freelance interpreters across the nation. During this presentation I was able to cover all of the points that so many of you were kind enough to email me in the weeks and days prior to the meetings. Everyone present listened attentively, many heads nodded, and in response Mr. Lowney repeated what he had told us at the NAJIT meeting, that is, that the AOUSC is dedicated to supporting interpreters who work in the federal courts and, in particular, to furthering the exclusive use of certified and highly qualified interpreters in federal court settings. He emphasized that his office is continually engaged in trying to educate court personnel regarding this and other important interpreter concerns.

We then had a full day of discussions regarding a number of administrative matters. Many of these topics are beyond the scope of my report, especially since we do not yet know what actions will be taken in their regard. However, I can report to you that among the items I and some other interpreters urged the CIAG to consider was the lack of ethics training and clearly stated ethical standards for interpreters in the federal courts. This is a serious deficiency that is becoming ever more problematical — and dangerous, as can be seen in the details of the "Yousry case." The advisory group discussed this problem at length and recommended action in the

form of an Ethics Subcommittee created within the CIAG. The ethics subcommittee is charged with exploring and recommending ethics training to be carried out at courts in different areas to ensure that both interpreters and court personnel are made aware of the canons and protocols that must be followed. I volunteered to be a member of the ethics subcommittee and was accepted, so I'm looking forward to working with the other members in developing ideas and recommendations for this project.

Another matter the CIAG discussed was one that various members have brought up recently on the listserv — that is, the advisability of using some method of “prioritizing” non-certified and LOTS (languages other than Spanish) interpreters being used in federal courts. This was a very popular idea (especially among the interpreter coordinators) and the AOUSC has pledged to explore the possibility of redefining the categories of “otherwise qualified” and “language skilled” interpreters to take into account interpreters who have earned Consortium, State Court and other verifiable interpreting credentials. Changes in this respect are not likely to be forthcoming in the near future but the idea has been planted and hopefully will bear fruit at a later date.

The Contract Focus Group met bright and early on Friday morning. This group was made up of a sampling of staff interpreters, court administrators, AOUSC procurement and legal staff members, interpreter coordinators and, again, Bob Lowney, Bill Moran and Carrie Kinney. I was impressed to see that Carrie had assembled a huge, well-organized binder filled with all the complaints and comments sent by concerned interpreters through the NAJIT listserv, all numbered and arranged by page and type, along with the splendid analysis compiled by our colleagues in Chicago. This list, along with other background information, had been placed in large, indexed binders provided to all of the participants and formed the backbone of our extensive, and very animated, discussions about every aspect of the contract's contents.

The focus group worked long and hard on this task. At the end of our labors, it was gratifying to see that most of the time we all managed to get on the same page, and that the AOUSC staff were very receptive to all the suggestions made by focus group members. Some of the matters discussed in the meeting have been addressed in Carrie Kinney's article, “Update on the AOUSC's Contract Court Interpreter Services Terms and Conditions Document” article (*Proteus*, Fall 2005). Although, as I have said, the specific terms and conditions of the new contract cannot be revealed before the contract is formally issued, there are several general areas of discussion that I can report to you.

As Dr. Kinney mentioned in her article, because of the negative reaction to any mention in the contract regarding translating or transcription/translation work and its “flawless” completion and/or acceptance, it is probable that all instances of such references will be eliminated from the new contract. Likewise, all mention of “other work” that could be requested of independent contractors will have the words “other interpreting work” substituted, to make it perfectly clear that interpreter contractors will be expected to perform only as interpreters during their assignment time.

It was likewise clarified that a general schedule of events or time periods in which interpreter contractors are expected to perform during duty hours should be outlined beforehand, whether

by discussion with the hiring officer or through a specific purchase order. Although in many “high-traffic” courts, specific purchase orders or event lists for each assignment may not be practical, the time period in which the interpreter is to be present should be made clear. It is obvious that courts may need to request additional interpreting tasks to be performed during the agreed-upon time period, since changes and new events tend to come up frequently in courts; but generally speaking, interpreters should have a clear idea of the time periods for which they are making a commitment and thus be able to plan their day's activities more easily. In this respect, many of the interpreter coordinators emphasized that the interpreters themselves have a responsibility to enquire, clarify and make some kind of a written record about what their assignments will include at the time they accept a job, so that later uncertainties and disputes may be avoided. This record need not be a formal document but should include a complete list of tasks and times agreed upon at the time of hiring.

In regard to disputes, I tried to clear up some confusion as to how and by whom they would be reviewed and resolved, since the contract specified that the “contracting officer” has the final word in dispute resolution. Some interpreters (myself included) had expressed concern that the person in charge of hiring the interpreter for a given assignment should be the same person charged with resolving any dispute about the assignment or the interpreter's performance. As I found out, this concern stemmed from an incorrect understanding of who the “contracting officer” actually is. I learned that the “contracting officer” is not, in most instances, the “hiring officer.” According to the explanation I received, the “contracting officer” is a staff member of the local U.S.D.C. (often in the procurement department) who has received special training in conflict resolution and can be expected to assume an impartial stance in relation to disputes arising with independent contractors. It was recommended that this distinction should be made clearer by having the name and contact information of the local Contracting Officer placed prominently on the cover page of the contract, so that interpreters could immediately see who that person is. (*See point #6 of Dr. Kinney's article for a more extensive discussion of this issue.*)

With regard to the oft-lamented conundrum about just how much discretion local officials have for negotiating certain terms, in the new, re-structured contract, all matters that can be decided at the local District Court level will now be placed on a separate cover page. These would be items such as performance fees, cancellation fees, distances that constitute “travel” for purposes of reimbursement, and so on. Such discretionary items, while subject to the limitations imposed by the Court Interpreters Act and the Director's fee schedule, are negotiable within the discretion of local USDC authorities and according to local conditions, while the content of the remaining pages of the contract is not.

In her article, Ms. Kinney detailed a few examples of discretionary areas: “[c]ourts have some discretion in negotiating this [cancellation] fee with appropriate AO approval when the court has difficulty in obtaining the services otherwise. The compensation for time served and the cancellation fee cannot exceed the total time originally scheduled”, “[e]ach court has discretion to

> continued on page 19

Message from the Administrative Office of the U.S. Courts

for the information of NAJIT members and other concerned parties

Background Checks/Investigations

■ Policy Statement:

The Judicial Conference, in September 2002, adopted a recommendation of the Judicial Resources Committee on the use of background investigations and checks in the courts. The new policy, which was effective May 16, 2005, creates two categories of positions based on the nature of the work and the position's potential to impact the judiciary adversely. For "sensitive" positions, a Federal Bureau of Investigation (FBI) fingerprint check is required, and a credit check is optional depending on the duties of the position. For "high-sensitive" positions, an Office of Personnel Management (OPM) ten-year single-scope background investigation is required, as well as five-year updates. Five-year updates are also required for all employees in high-sensitive positions who had FBI background investigations prior to this policy being implemented. The policy applies to all newly hired employees, and newly hired contractors and volunteers with duties that would otherwise be performed by judiciary employees, in courts and federal public defender organizations. In addition, current employees who are appointed, promoted, or have a personnel action change to a position designated as high-sensitive must undergo a background investigation. If you have any questions or concerns, please contact the Personnel Security Group at 202-502-3396.

■ Procedures:

The Judicial Conference of the United States developed a Background Check policy in September 2002, to assure that individuals working in the judiciary meet the appropriate standards of trust and confidence due to (a) their level of access to judges, chambers, and sensitive areas of the courthouse; (b) the maintenance of integrity of federal court proceedings; (c) their level of access to sensitive information; and (d) their responsibility for managing government funds, contracts, and information technology resources.

As a condition of employment, fingerprint checks or full background investigations are now mandatory for all new employees. In addition, fingerprint checks are mandatory for contractors with duties that would otherwise be performed by judiciary employees, regardless of whether the court or federal public defender organization actually has employees working in such similar positions. Since some courts have staff interpreters and these positions have been designated as sensitive (thus requiring an FBI fingerprint check), all contract interpreters must also be fingerprinted. A complete background investigation is not required for contract court interpreters.

Recognizing the unique nature of contract court interpreters, rather than requiring a fingerprint check each time an interpreter is hired by a court, interpreters who perform contract work for the courts will be required to be fingerprinted every two years. Interpreters will be fingerprinted by the federal court; the finger-

print check will be processed by the FBI, with the results available for review by the appointing official, usually the clerk of court. Access to the results will be strictly limited based on a need to know, and maintained confidentially.

Courts have received the processing procedures for background checks, which became effective May 16, and are working toward implementing the procedures locally. Some courts have decided to ask all interpreters and other contractors to come to the court during a certain time period to be fingerprinted; others are fingerprinting the interpreter the first time the interpreter provides interpreter services at the court. Once you have been fingerprinted at one court, you will not need to be fingerprinted at any other court for two years. During the 4-6 weeks it may take for successful completion of the fingerprint check process, you may continue to provide interpreter service for the courts. This process will not affect or slow down a court's current process for payment of contract work. There is no charge to the contract interpreter for this process if the fingerprinting is done at the court; however, if an individual chooses to have the fingerprinting done elsewhere, any charges will not be reimbursed by the court. ▲

The University of Arizona

is seeking a distinguished practitioner in **Translation and Interpretation** to teach core courses for the **newly developed concentration** in Translation and Interpretation (**Spanish/English**).

This non-tenure track position, with a multi-year **appointment of 3 years**, will be renewable upon review; **9-month academic appointment**.

Salary is commensurate with experience; benefits eligible.

Requirements:

- Substantial Experience in the Practice of Interpretation and Translation
- Legal and Medical Certification and/or Credentials in Interpretation and/or Translation
- Evidence of Teaching Excellence (Legal/Medical)

Review of candidates will begin on January 16, 2006.
Position open until filled.

Dr Roseann Dueñas González
Search Committee Chair
Director,
National Center for Interpretation
P.O. Box 210432
University of Arizona
Tucson, Arizona 85721

submit on-line application at
<http://www.uacareertrack.com>
after November 15, 2005*
*Be prepared to attach
a letter of interest and resume
upon submission of application*

*Position will be available after November 15, 2005
call at (520) 621-3615 or email at rgonzale@u.arizona.edu

NAJIT'S PARTICIPATION - U.S. COURTS *continued from page 17*

determine inclusion of meal breaks in the calculation of the number of hours served" and "[a]lthough FPD and CJA panel attorneys are not required to follow the Director's fee schedule, the Office of Defender Services at the AO has determined that the Court Interpreters Act rates are a guidepost to reasonableness and there should be a justification for paying a higher rate." It seems clear that it behooves individual interpreters to make the necessary arguments to justify expansion of, or exceptions to, the norm, and that such arguments have at least a possibility of success. The contract's principle objective was to standardize terms and eliminate abuses and irregularities in interpreter conditions and payments; but exceptions to "rules" are always necessary to make those rules congruent with specific realities. Interpreters should continue to provide information about local conditions to their District Court Administrators and the AOUSC. A brief consultation with Carrie Kinney about particular situations may prove helpful. She can be reached at carolyn_kinney@ao.uscourts.gov.

Finally, contract interpreters will be pleased to know that included among the attachments to the new "Terms and Conditions" document, there will now be an addendum called "Standards for Performance and Professional Responsibility for Contract Court Interpreters in the Federal Courts." This is the long-awaited code of professional ethics and protocols that many have felt should be a required element in any contract intended for federal court interpreters. It is similar to the code of ethics proposed by the CIAG as part of the draft Interim Regulations. This is a welcome addition which hopefully will help to correct inappropriate practices (of both interpreters and courts) while reinforcing proper working conditions and conduct. Other documents, such as official travel regulations and other pertinent information, will be attached to the contract in the form of a reference page containing website URLs so that interpreters may access and study that material.

The focus group discussed many other changes: additions, deletions and, above all, simplifications; but we will have to wait for

the unveiling of the new contract to see them in detail. For now, I can state that I believe the language employed in the new contract will be far more accessible than that of the previous document. I encourage freelancers to keep in mind that although many statements in the contract may seem annoyingly self-evident to trained, qualified court interpreters, they are intended to spell out terms and conditions for language providers who are less experienced or knowledgeable than them about court interpreting situations. Those of our colleagues who work in languages for which there is no certification and little training will find that this contract, and particularly the appended "Standards" document, present clearer guidelines about conditions and conduct for interpreting performance in federal court settings. This should go a long way to improving performance and the maintenance of high standards in the legal domain as a whole.

After the meetings were over I realized that, in spite of a certain initial apprehension about the weighty responsibilities tied to this assignment, being the "voice of the freelancers" as NAJIT's chosen representative was not so daunting after all. The AOUSC staff and other group members were consistently open-minded, informative, attentive and friendly in this first "official" interaction with a representative from NAJIT, and I felt uplifted by the progress we were able to achieve in such a short time. The results may not be perfect but I believe they represent positive steps in the right direction. I appreciate the trust placed in me by the NAJIT Board, the Executive Director and the members in allowing me to attend these meetings in your name. It is my hope that this collaboration has laid the groundwork for continued positive dialogue between the AOUSC, the Court Interpreter Advisory Group and NAJIT for years to come. We are all the better for it.

[NAJIT Director Judith Kenigson Kristy is happy to answer questions about the T&C contract discussions and may be reached at kenigsonkristy@najit.org.]

ANNOUNCEMENTS

Notice of Annual Meeting and Call For Nominations

The Board of Directors hereby announces that the Annual Meeting of the Association will be held on Saturday, May 20, 2006, at the J.W. Marriott Houston on Westheimer by the Galleria, Houston, Texas, from 12 noon to 2 p.m. The business before the meeting will be the election of three members to the board of directors, each for a two-year term. The terms of directors Janet Bonet, Lois M. Feuerle, and Alexander Rainof are expiring. Each of these directors is eligible to run for reelection.

Members are invited to recommend potential candidates to the Nominations Committee by email to nominations@najit.org or by mail or email directly to any Nominations Committee member, as follows:

Rosemary Dann, Chair	Susana Stettri Sawrey
Jeck-Jenard G. Navarrete	Nancy Zarenda

The NAJIT bylaws, Article IV, Section II – Eligibility, read as follows:

"Any Active Member who attains two years of continuous membership as an Active Member in good standing as of the return date specified on the 'Call for Nominations' shall be eligible for nomination to the Board of Directors." **Wednesday, February 1, 2006** has been established as the return date for all nominations.

Members may nominate themselves or may be nominated by fellow members. Please note, however, that the Nominating Committee has the responsibility of proposing the names of candidates for the election to the members, taking into account the need to ensure, to the extent possible, a balanced slate as far as language, geographical location and professional activity are concerned. Only Active Members who meet the criteria above—who have been Active Members continuously in good standing **since February 1, 2004**—may be nominated

> continued on page 20

ANNOUNCEMENTS

continued from page 19

to the Board of Directors. Members uncertain as to their status may verify the facts with headquarters.

Who Is Eligible To Vote In Najit Elections?

All active members and life members with the rights of active membership may vote in NAJIT elections. Associate, corporate, honorary and organizational members do not have the right to vote. Since NAJIT's membership year runs by the calendar year, members must renew each year and pay their dues if they are to vote in that year's election. If members do not renew by February 28, they are considered to be in arrears. NAJIT will send a written notice at that time. If the member does not pay dues by March 31, he or she is then suspended from membership. Suspended members may regain their right to vote by paying their dues for the current year.

The mail ballots will be sent out in early April to everyone who is a voting member in good standing. Members may vote for directors by mail or in person in Washington, D.C.

This information can be found in Article Three, section 3 and Article Six of the NAJIT bylaws on the website — or contact headquarters for a paper copy.

The Board of Directors welcomes the interest and participation of all members in the governance of the Association.

Motions and Resolutions to be Considered at the Annual Meeting

Motions or resolutions will be considered by the members at the Annual Meeting in accord with the Standing Rules adopted last year, as follows:

Standing Rule 1

All motions and resolutions should be provided in writing to NAJIT Headquarters at least 60 days before the date of the Annual Meeting. The proposed motions and/or resolutions shall then be referred to the Bylaws and Governance Committee for review and recommendations to the NAJIT Board.

Standing Rule 2

If the 60-day requirement has not been met, motions and resolutions may be brought before the Annual Meeting in the following manner:

- a. The motion and/or resolution shall be provided to the Chair of the Annual Meeting in writing.
- b. The mover may then request permission of the assembly to suspend Standing Rule 1 and present the matter from the floor. This request must be approved by two-thirds of the voting members present at the meeting.

Standing Rule 3

All motions and resolutions that are presented to the assembly during an Annual Meeting shall be subject to the following:

- a. Debate is limited to 10 minutes in favor, 10 minutes opposed.

- b. No speaker shall speak for more than 2 continuous minutes.
- c. Whenever possible, speakers shall alternate: one for, one against.
- d. A request to suspend Standing Rule 3 must be approved by two-thirds of the voting members present at the meeting.

For next year's election, the 60-day date is **Tuesday, March 21, 2006.**

D. Hal Sillers, Chair
Bylaws and Governance Committee

Publications Committee

The Publications Committee is happy to announce that the Position Papers Subcommittee has published two new position papers. "Preparing Interpreters in Rare Languages" and "Summary Interpreting in Legal Settings" may be downloaded without charge from the NAJIT home page, or send a stamped, self-addressed envelope to NAJIT headquarters to receive a printed copy. NAJIT grants permission to reprint these publications in any quantity without charge, provided that the content is kept unchanged and NAJIT is credited as the source.

Outreach To Other Organizations

Six NAJIT members made presentations during the ATA's annual conference in Seattle, Washington from November 9-12. There was particular interest in the session entitled "Legal Translation and Interpretation: Ethics Everyone Should Know" which discussed specifics of the Mohammed Yousry transcripts. Chair Alexander Raïnof, Directors Lois M. Feuerle and Judith Kenigson Kristy, SSTI President Peter P. Lindquist, NAJIT members Susana Stettri Sawrey and Nancy Schweda Nicholsolson, and Executive Director Ann G. Macfarlane led the discussions for this event. See page 22 for more information.

Executive Director Ann G. Macfarlane offered an educational session at the recent conference of the American Council of Teachers of Foreign Languages in Baltimore, Maryland. Together with Lillian Clementi of the American Translators Association, she presented a 75-minute session on the topic "Translating and Interpreting: Vibrant Career Options for Students" on Saturday, November 19.

NAJIT members Shelley Blumberg-Lorenzana and Teresa M. Salazar displayed information about NAJIT and answered questions about our profession at the Pentagon during the Department of Defense's first-ever Language Fair on Tuesday, November 22.

NAJIT members who become aware of conferences or educational events where our voice should be heard are encouraged to contact any director or headquarters and give details as to how NAJIT can be a participant. We will gladly supply complimentary copies of *Proteus* and other publications for your conference or event. ▲

NAJIT'S HONORARY MEMBERS

RICARDO M. URBINA sits on the United States District Court for the District of Columbia. Born in New York of an Honduran father and Puerto Rican mother, he attended Georgetown University and Georgetown Law Center. He was a staff attorney with the D.C. Federal Public Defender Service and after a period of private practice with an emphasis on commercial litigation, joined the faculty of Howard University School of Law. While at Howard he maintained a private practice, directed the university's criminal justice clinic and taught criminal law, criminal procedure and torts. In 1978 he was voted Professor of the Year by the Howard Law School students. In 1980 he was nominated to the D.C. Superior Court by President Carter, then became President Reagan's first presidential judicial appointment and the first Hispanic judge in the District of Columbia, in 1981.

During his thirteen years on the Superior Court, Judge Urbina served as Chief Presiding Judge of the Family Division for three years and chaired the committee that drafted the Child Support Guidelines, later adopted as the District of Columbia's child support law. In addition to a criminal caseload he was designated by the Chief Judge to handle a special calendar of complex civil litigation. Twice recognized by the United States Department of Health and Human Services for his work with children and families, Judge Urbina was one selected as one of the Washingtonians of the Year by *Washington Magazine* in 1986.

Among honors received are the D.C. Hispanic Bar Association's High Johnson Memorial Award, for contributions to the creation of harmony among diverse elements of the community; the Hispanic National Bar Association's 1993 award for demonstrated commitment to the preservation of civil and constitutional rights of all Americans; and the 1995 NBC-Hispanic Magazine National VIDA Award in recognition of lifetime community service. The Latino Civil Rights Center presented him with the Justice Award in 1999; George Washington University Law School conferred its Distinguished Adjunct Teacher Award in 2001 and endowed Judge Urbina with the David Seidelson Chair for Trial Advocacy in 2005.

Judge Urbina has been adjunct professor at the George Washington University Law School since 1993. In 1994 President Clinton appointed him to the U.S. District Court for the District of Columbia, making him the first Latino on the federal bench in Washington, D.C.

C. SEBASTIAN ALOOT joined the Department of Justice's Civil Rights Division in 1975, specializing in Title VI of the Civil Rights Act of 1964 and similar civil rights provisions. During this period, he authored the Division's "Title VI Legal Manual," which remains the standard Division resource book on that civil rights statute. Beginning in 1980 he worked for ten years with the U.S. Nuclear Regulatory Commission, ultimately becoming Chief Counsel to its Atomic Safety and Licensing Board Panel. Later he held various positions at the state and international levels, including Chairman of the Marshall Islands Nuclear Claims Tribunal, Acting Attorney General for the Commonwealth of the Northern Mariana Islands, and Director of the Hawaiian Rights Division for the state of Hawaii's Office of Hawaiian Affairs.

Returning to the Civil Rights Division in 2000, Mr. Aloom worked with Coordination and Review Section, where his principal responsibilities included coordinating the federal enforcement of Title VI of the Civil Rights Act of 1964 and assisting federal agencies in their implementation of Executive Order 13166. In this role he was instrumental in helping to ensure meaningful access by limited English proficient individuals to federally conducted and federally assisted programs or activities. In 2005, Mr. Aloom joined the Office of Special Counsel for Immigration-Related Unfair Employment Practices, Civil Rights Division, as a trial attorney.

Mr. Aloom received both his undergraduate (1972) and law degrees (1975) from the University of San Francisco. He is a member of the California and Northern Mariana Islands bars, and is admitted to practice before the United States Supreme Court; the Federal Courts of Appeals for the District of Columbia, Third and Ninth Circuits; and the District Court for the Northern Mariana Islands. ▲

CALENDAR

February 22-24, 2006. Frankfurt, Germany. Language and the Law Workshop, Deutschen Gesellschaft für Sprachwissenschaft annual meeting

March 23-25, 2006. San Diego, CA. Third American Translation and Interpretation Studies Association Conference

April 28-30, 2006. Overland Park, KS. MICATA: Business of Translating & Interpreting

May 8-12, 2006. Atlanta, GA. Iron Sharpens Iron Conference.

May 19-21, 2006. Houston, TX. NAJIT 27th Annual Conference.

October 18-21, 2006. Bellevue, WA. American Literary Translators Association 29th Annual Conference.

November 2-5, 2006. New Orleans, LA. ATA 47th Annual Conference.

November 17-19, 2006. Nashville, TN. American Council of Teachers of Foreign Languages Annual Conference.

April 11-15, 2007. Sydney, Australia. Critical Link V: Community Interpreting

May 18-20, 2007. Portland, OR. NAJIT 28th Annual Conference

August 3-8, 2007. San Francisco, CA. Registry of Interpreters for the Deaf Biennial Conference

October 31-November 3, 2007. San Francisco, CA. ATA 48th Annual Conference

August 2008. Shanghai, China. XVIII World Congress of the International Federation of Translators

NAJIT offers this calendar as a service to its members. No endorsement of courses or events offered by other organizations is implied.

MOHAMMED YOUSRY CASE

In response to two articles published in the October 2006 issue of the newsletter of the New York Circle of Translators, a chapter of the American Translators Association, NAJIT Director Judith Kenigson Kristy prepared these comments to explain our views. ATA President Marian S. Greenfield submitted them to the editor of *The Gotham Translator* with this introduction—

Dear colleagues:

In response to the articles published in the October 2005 issue of The Gotham Translator, Judith Kenigson Kristy has prepared the following remarks, which are a faithful reflection of the views of both NAJIT and ATA. We appreciate the opportunity to provide a detailed explanation of the rationale behind our stance.

*Marian S. Greenfield
President, American Translators Association*

LETTER TO THE EDITOR

In the wake of the conviction of Mohammed Yousry for defrauding the U.S. Government and concealing material support to terrorist activity, a number of letters have been written supporting Mr. Yousry. Now two articles with a similar theme have appeared in the October 2006 issue of *The Gotham Translator*, the newsletter of the New York Circle of Translators, a chapter of the American Translators Association: “Occupational Hazards” by Marguerite Shore, and “Perils of Translation in Post 9/11 America: The Case of Mohammed Yousry” by Alison Dundy. These letters and articles decry Mr. Yousry’s conviction as “wrongful” (Dundy), and take the ATA and NAJIT to task for maintaining a neutral stance on guilt or innocence while underlining the need for education and vigilance in upholding the strict standards for ethics and protocols demanded of interpreters in the legal domain.

In the light of anticipated appeals, our associations have preferred not to publish statements containing concrete examples of some of the ethics issues in question. However, the rhetoric has reached a level where the *Gotham* articles have characterized our response as “cowardly and evasive” (Shore, quoting Hess), and representing mere “legalistic bombast about protocols and neutrality” (Dundy). We beg to differ. While respecting the right of every individual to have and express his or her opinion, we would be doing the interpreting community a disservice if we did not continue to stress that the frequently mentioned “risks of doing one’s job well” (Shore) are greatly reduced, if not completely eliminated, by strict adherence to proper interpreting standards of performance.

In the specific case of Mr. Yousry, it is regrettable that instruction about these important standards does not seem to have been provided, or if it was, it was not sufficiently absorbed and/or reinforced to allow Mr. Yousry to withstand pressures to perform tasks and take positions that are patently contrary to the most basic canons observed by legal interpreters.

The defense strategy used by Mr. Yousry’s legal representatives emphasized that he was “just doing his job” and the majority of articles in support of Mr. Yousry underline this idea—that

Mr. Yousry was merely “carrying out his duties as an interpreter, following the instructions of Stewart, the lawyer” (Shore), suggesting that if he can be convicted for that, then interpreters and translators in the legal domain are in danger when interpreting for attorneys or their agents who may be carrying out suspect or even illegal activities themselves. But is this really the case? More to the point, was Mr. Yousry really just doing his job, performing as a “court-appointed interpreter,” or was he doing something else—taking on a role that allowed a jury to view his actions as independent and self-initiated? Is the “translator” defense really any more than a red herring?

In the reports of both Shore and Dundy, there are many references to the proper role of the interpreter. Shore reports on the presentation of Ellen Sowchek, stating that an interpreter is “required to speak in the same grammatical person as the individual for whom he/she is interpreting,” and must “convey not only the speaker’s meaning but also the style and register of speech, and to do so in a neutral fashion, without adding or subtracting from the original message.” This is quite correct and in accordance with the canon of ethics that requires accuracy and prohibits changing, adding to, or omitting the words of the speaker. Nevertheless, if one reads the actual transcripts used as evidence in the case, that is, the transcripts of the videotaped jail visits in which Mohammed Yousry acted as interpreter between client Sheik Rahman and attorney Lynne Stewart, there are so few instances of accurate interpreting and so many continuous examples of paraphrasing, information added, information omitted, and personal commentary offered, that it is hard to see how this performance can be classed as “interpreting.”

Likewise, Dundy states: “It is the job of the translator to facilitate communication. A translator’s own views and voice are essentially invisible and silent.” Yet the jail interview transcripts are literally filled with Mr. Yousry’s opinions, clever strategies and personal comments. Is this the work of a “neutral” party, an “impartial” interpreter? If Mr. Yousry had limited himself to interpreting what the two parties said (acting exclusively as *their voices* instead of introducing his own voice, his own ideas) in strategy planning and personal exchanges with the Sheik and Stewart, would a jury have been able to consider him as part of a conspiracy or would they have seen a mere language conduit, detached and uninvolved in the process?

Shore speaks of the “impossibility of neutrality in charged situations,” yet every day, in hundreds of courts, depositions, attorney visits, proffers, and so on, interpreters are performing impartially, maintaining neutrality and keeping their ideas and opinions to themselves. This is one of the hallmarks of a professional interpreter in the legal domain. Those who do not maintain neutrality are, indeed, subjecting themselves to risks, ranging from burn-out to prosecution, but true professionals generally have sufficient trust in their own abilities, as well as in the fact that *they do not really know, nor do they need to know, who is guilty and who is innocent*. Neutrality, for court interpreters, is precisely that: it means not taking sides at all, under any circumstances; not helping, not harming, not participating—in short, not doing anything that can be construed as an activity that does not constitute completely impartial interpreting or translating.

There are so many examples of ethical errors to be seen in the 275 pages of the jail visit transcriptions, and so many defects in the entire role and performance of Mr. Yousry as an “interpreter” in this case, that it would be impossible to outline all of them here. Suffice it to say that if people continue to follow the red herring of the “just doing his job as a translator” defense, and if they neglect to read the jail interview transcriptions, they will never correctly understand the basis for the ATA/NAJIT joint statement, and will not know what it means to say that “we do not take a stand on guilt or innocence.” Mr. Yousry may be guilty or innocent of the criminal charges brought against him. We do not know and probably will never know what his intentions may have been in this respect. His lack of professionalism, however, quite surely had a serious impact in increasing the dangers to which he exposed himself. As members of the interpreting and translating community, that is what ought to concern us most. ▲

Judith Kenigson Kristy
 Director, National Association of Judiciary
 Interpreters and Translators

The original statement on this case issued by NAJIT and the ATA on March 1, 2005 may be accessed on the ATA or NAJIT websites and was printed in the Summer 2005 issue of *Proteus*, vol. 14 No. 2, on p. 11.

THE UNIVERSITY OF ARIZONA
National Center for Interpretation

The nation’s finest interpreter training and assessment institution specializing in judicial/legal, medical, community and law enforcement interpreting.

Unmatched Instruction and Flexible Programs to Fit Your Needs, Build Your Skills!

- **3-Day FCICE Written Prep Seminars**
 Beginning April 2006
 10 Locations Nationwide!
- **Medical Interpreter Training Institute**
 3- or 6-Day Training Beginning March 2006
 Tucson, AZ; Miami, FL; and Sacramento, CA
- **Agnese Haury Institute for Interpretation**
 July 10-28, 2006, Tucson, AZ

“The best professional training I’ve ever attended”
 — 2005 Participant

More information?
 EMAIL: ncitrp@u.arizona.edu or <http://nci.arizona.edu>
 (520) 621-3615 or (520) 624-3153

Ms. Dundy states that “Mohammed Yousry was convicted for doing nothing other than his job.” In our view, a judiciary interpreter is not doing his job when he does the following:

- 1) fails to speak in the same voice, register or manner of the speaker.** This occurs throughout all 275 pages of the May 19 and 20, 2000, videotaped jail interview transcriptions. Starting on 19, v. 1, p. 6, l. 11* — Yousry: “She is saying, Sir, that her favorite person is Sheikh Omar Abdel Rahman.” This type of inaccurate, indirect speech continues throughout.
- 2) summarizes, adds to, and omits parts of the speakers’ communications.** This occurs throughout all of the transcriptions; in fact it is difficult to find many examples of actual, accurate interpreting in the entire corpus. Examples: 19, v. 1, pp. 12 - 15, 21 - 25, also 20, v. 1, pp. 1-3.
- 3) carries on lengthy personal conversations with the client in a foreign language, in spite of the fact that the attorney is not speaking of, or may not even have knowledge of, the matters they are discussing.** This occurs throughout; see 19, v. 1, pp. 16 - 18 — “I’m telling about Tuesday now”; 19, v. 2, pp. 2 - 8 — at the end of these seven pages Stewart says: “Yousry, stop and translate now,” since she has no idea what they are talking about; 20, v. 2, pp. 30-31.
- 4) offers political advice or suggests strategies.** 19, v. 1, pp. 24-25 — Yousry suggests that even if Farrakhan does not succeed in visiting the Sheikh, it will be good publicity for him if the newspapers say that he has not been allowed to visit the Sheikh. This is one of many suggestions made.
- 5) receives or has possession of faxes, letters and telephone calls on behalf of the client.** 19, v. 1, p. 7; 19, v. 1, p. 38; 20, v. 2, p. 25, l. 22.
- 6) deceives the authorities about his true intent in speaking to the attorney.** 19, v. 1, pp. 49 - 51 (starting on p. 49, l. 18); 19, v. 2, p. 29, ll. 4, 13, 15; p. 30, l. 9; 20, v. 2, p. 3 (“I am looking at you, [Lynn] so they get to think I am translating...”); 20, v. 1, p. 17, l. 5 to p. 18, l. 11; 20, v. 1, p. 24, l. 19, and so on...
- 7) is responsible for ancillary activities connected with the case, such as making calls, buying newspapers to read to the client, bringing him candy, handling money...** 20, v. 1, p. 3, ll. 22-26, and pp. 19-20; 20, v. 3, p. 2, l. 1-10. There are also frequent mentions of “we” (“we received a letter...”), indicating that he is considered part of the defense team, rather than just an interpreter.

*The references are taken from the transcripts of jail visits made on May 19 and 20, 2000, available at www.lynnestewart.org/transcripts.html. The date of the visit is indicated by 19 or 20, the specific videotape is indicated by v. 1, v. 2 or v. 3, pages are indicated by p. 1 and lines are indicated by l. 1 etc. For example, 19, v. 1, p. 1, l. 1, indicates: Jail visit May 19, 2000, videotape transcription 1, page 1, line 1.

STATE ROUND-UP

California Bill Requires Patient's Language on Medical Records

As of January 1, 2006, hospitals and clinics in California will be required by law to include a patient's principal spoken language on medical records. Assembly Bill 800, authored by Speaker pro tem Leland Yee (D-San Francisco/Daly City), received a unanimous 78-0 vote in the Assembly and was signed by Governor Schwarzenegger in September.

California Department of Education Multilingual Clearinghouse

The California Department of Education has developed and launched an innovative project call the Clearinghouse for Multilingual Documents (CMD). The CMD is a Web-based source of information about California's public elementary and secondary education documents translated into non-English languages by educational agencies. It is aimed at reducing redundant document translation work and increasing access to translated documents. The CMD provides free access to information about translated documents and secure access to local education agencies to manage the translated document information.

The need for CMD is critical to help schools comply with state and federal laws. The California Education Code requires schools in some cases to send translated documents to the homes of students. Also, the federal No Child Left Behind Act requires schools to provide parental notifications in a format and language that parents can understand. These requirements represent a significant workload for schools during a time of limited budget resources.

The public may view a presentation of the CMD and find more detailed information at the following website:

<http://www.cde.ca.gov/ls/pf/cm/>

University of Denver College of Law Interpreter Project

Municipal court judges from the Denver metro area will participate in an innovative experimental study being undertaken to evaluate practice before and after information has been provided about best practices regarding interpreting services in the courtroom. Students undertook a thorough study of Colorado case law, statutes, and law review. They researched the demographics of the Colorado populace and designed the project. The project will include a summative measurement to assess learning context and program goals. For information: www.law.du.edu/clinics/InterpreterProject/

New York State Hospitals

Puerto Rican-born New York State Health Commissioner Dr. Antonia Novello has proposed that New York state's health-care facilities pay more attention to their interpretation services. The proposal has the support of key hospital associations and advocacy groups and would require hospitals statewide to create and implement formal Language Assistance Programs (LAPs). The goal is to establish a consistent approach across the state to ensure accurate medical information while protecting patient privacy. The proposal does away with such practices as relying on patients' family members as interpreters. Discussion with the State Hospital

Review and Planning Council's Codes and Regulations Committee took place on September 22, 2005. The proposal is also submitted to the Governor's Office of Regulatory Reform for review and approval. Subsequently it is placed in the State Registry for public comment for 45 days. After the public comment period, the regulations go to the full State Hospital Review and Planning Council for approval. If approved, the regulations could take effect as early as June 2006.

Eriksen Awarded New York City Hospitals Contract

Eriksen Translations has been awarded a three-year contract by the New York City Health and Hospitals Corporation to provide translation services to its network of hospitals and health care centers. HHC consists of 11 hospitals, 6 diagnostic and treatment centers, 4 long-term care facilities, a home health care agency and more than 80 community health clinics. Census data has shown that almost one half of the population in the communities HHC serves may speak a primary language other than English. Eriksen Translations has been active in New York for almost twenty years and is a NAJIT Corporate Sponsor.

University of Arizona Leads Texas Trilingual Initiative

An ambitious program, the Texas Trilingual Initiative, was launched in November 2004. This project aims to develop, pilot and validate beginning and advanced level trilingual certification tests to assess interpreting capability from Spanish/English to American Sign Language (ASL) and ASL to Spanish/English. The three-year initiative has been funded by a grant from the National Institute of Disability and Rehabilitation Research (NIDRR) of the U.S. Department of Education. Dr. Roseann Dueñas Gonzalez, a distinguished NAJIT member and authority in the field of judiciary interpreting, and experts from the University of Arizona's National Center for Interpretation Testing, Research and Policy are leading this initiative in concert with NIDRR and the Texas Department of Assistive and Rehabilitative Services, Office for Deaf and Hard of Hearing Services. A detailed description of the project is included in the October 2005 *VIEWS*, the newsletter of the Registry of Interpreters for the Deaf. ▲

ITEMS OF INTEREST

Canada

The Ontario government is investing in a province-wide certificate program for interpreters. A new curriculum of 180 hours of study at community colleges will offer graduates a Certificate in Language Interpretation. Information Niagara is coordinating the project with The Colleges of Ontario Network for Education and Training – CON(*)NECT. For info: www.citizenship.gov.on.ca

ATA Compensation Survey Published

The American Translators Association has published its *Third Edition Translation and Interpreting Compensation Survey*. This survey was prepared by Industry Insights, an independent corpo-

KOREAN NUCLEAR DISARMAMENT

From the Interpreter's Point of View

Vania Haam

A recently retired senior Korean interpreter at the U. S. State Department, Tong Kim, wrote an excellent article in the *Washington Post* a week after the chief U. S. envoy to the six-party talks in Beijing announced that “North Korea has agreed to stop building nuclear weapons and allow international inspections in exchange for energy aid, economic cooperation and security assurances, in a first step toward disarmament after two years of six-nation talks.” — (MSNBC, 9/19/05)

In his article, the interpreter stressed that comprehending North Korea and its intentions is “not merely a matter of translating words, but of understanding gestures and symbols, because Americans and North Koreans live in different worlds, whose history, culture and values have been driven further apart by the 55 years of hostility since the Korean War.”

For example, without knowing the historical background, a North Korean official's question to U. S. delegates visiting Pyongyang (the North Korean capital) in 1991 would have appeared puzzling. He asked, “Do you see horns on my head?” It is only by knowing that North Korea's Communist regime was viewed as “devils” by South Koreans that one can grasp the implicit message: “You are wrong about us.”

As the State Department's senior Korean interpreter in 17 visits to North Korea and many meetings in the U. S. and other nations, Mr. Kim witnessed the countries' officials talking “past each other, attaching different meanings and significance to the same words.” Trying to reach an agreement on “the denuclearization of the Korean peninsula,” he says, is a “linguistic minefield” requiring experts who knew how to tiptoe through hidden meanings.

This linguistic minefield intensifies when the parties, each with a different perspective and agenda, are extremely sensitive to the issues at hand. Then there is the common practice of diplomats agreeing to “use ambiguity to disguise their differences” when they run into serious disagreements.

One of the examples Mr. Kim gives is the phrase used in an earlier round of talks: “complete, verifiable, and irreversible dis-

mantlement (CVID)” of the North Korea's “nuclear program.” The North Koreans strongly objected to that phrase because the term “irreversible” made them seem like a “defeated nation.” It was only after the South Korean press used seven different variations of the State Department interpreter's translation into Korean and the North came up with one of its own, that the situation softened. The Americans started saying “the dismantlement of all nuclear programs in a permanent, thorough and transparent manner subject to effective verification,” to refer to the same notion, without changing the substance of the phrase. This linguistic alteration made the North Koreans less “obstinate” because, somehow, “permanent” was easier for them to accept than “irreversible.”

Kim states that in contrast to the American media description of North Korea as a “Stalinist Communist state,” he has come to see North Korea as a “Confucian nationalist monarchy, based on traditional Korean values and reflecting the bitterness born of foreign invasions throughout Korean history.” In Confucian society, “loyalty to the ruler and respect for elders” are essential tenets. From this view, the iconic stature of the late “great leader” Kim Il Sung is not much different from the Confucian image of a divine ruler.

Kim's article struck a fine balance in discussing the difficult nature of interpreting without revealing confidential information. North Korea's insistence on simultaneous actions in the midst of mutual trust just might, as the article states, “provide a useful tool for meeting halfway in each step toward resolving the nuclear issue. If practiced well, it could also serve as an effective confidence building measure [as North Korea strives to achieve] a normal, friendly relationship of trust with the United States” and the U. S. works to resolve “nuclear dismantlement” in the Korean peninsula. It's “the sequence of measures” that is at issue.

In the interpreter's opinion, the more North Koreans learn about America, the easier it becomes for them to talk in the American way. At the same time, as U. S. officials learn more about North Korea, it will become easier to find a common vocabulary and language that means the same thing to both sides.

We will have to see how things iron out when the delegates “begin hashing out details” on how the implementation of the agreement will be carried out.

To view the original article from the *Washington Post*: <http://www.washingtonpost.com/wp-dyn/content/article/2005/09/24/AR2005092400004.html>

[The author is a Washington State Court-Certified Interpreter in Korean <> English, a member of NAJIT & ATA and the ATA Interpreters Division, and serves on the Board of Directors for Washington State Court Interpreters and Translators Society. She also serves as a Co-moderator of ATA Korean-language Special Interest Group Listserv. ▲

ITEMS OF INTEREST

continued

ration. 1509 survey forms were submitted by both ATA members and others for processing. The findings include the following:

Gender:	Male 33%	Female 67%
Born in US:	Yes 36%	No 67%
Education completed:	MA or higher 53%	BA or lower 47%
Type of employment:	In-house 14%	Independent contractor 79%
Average income:	Full-time in-house private sector \$58,147	
	Full-time independent contractor \$54,207	
	Part-time in-house private sector \$18,083	
	Part-time independent contractor \$20,513	

HOUSTON

SpaceCity. A space of infinite possibilities.

Allow some time in your schedule to explore the city of Houston. It's an international metropolis with fine dining, cultural attractions, top sporting events and entertainment, historical perspective and a modern flair—an ideal gathering place for our profession!

- Newest professional association of judiciary interpreters in the U.S.
- Courts concentrated in one downtown area for great tour options
- 82 consulates
- Many international companies
- Airport system offers non-stop service with 184 international destinations
- Ethnic variety with 39% Hispanic, Greek, Italian, Vietnamese, other populations
- Houses of worship include Hindu mandir, Buddhist temple, Islamic center
- 5000 restaurants
- Resident opera, theater, ballet and symphony
- 12,000 theatre seats—more than any city except New York
- Home to Worldfest, the largest international film & video competition in the world
- Largest medical center in the world with 42 non-profit institutions
- Over 70 museums with 17 concentrated in one district
- Houston Children's Museum ranks second in the country
- Home to Buffalo Soldiers National Museum
- Museum of National Science is the fourth most-visited museum in the U.S.
- All major-league sports—Astros, Comets, Rockets, Texans
- Galleria Mall opposite our hotel with 375 stores and an ice-skating rink
- Neiman Marcus, Nordstrom, Saks Fifth Avenue
- Downtown is being revitalized—parking lots being made into parks
- Houston has a southern feel, always green
- Arboretum, Memorial Park for jogging and exercise, canoe rides on the Bayou
- Only 50 miles from the Gulf of Mexico, Galveston and the beach
- Family-friendly activities: Space Center, Six Flags, SplashTown, George Ranch
- Many free activities including a boat trip to view action at the port

CERTIFICATION EXAM ANNOUNCEMENT

An examination leading to the credential of

NATIONALLY CERTIFIED JUDICIARY INTERPRETER AND TRANSLATOR: SPANISH

The National Association of Judiciary Interpreters and Translators, together with the Society for the Study of Translation and Interpretation, are pleased to offer members and non-members the opportunity to register for the written component of the National Judiciary Interpreter and Translator Certification Examination.

The examination is being administered in Houston, Texas before the 27th Annual NAJIT Conference.

DATES

Written Examination:
May 18, 2006

Oral Examination:
May 18-19, 2006

PLACE

J.W. Marriott
5150 Westheimer
Houston, Texas 77056

For complete details and to register contact:

Donna Merritt or Stephanie Richie
Measurement Incorporated

1-800-279-7647

or visit the NAJIT web site:

www.najit.org

NATIONAL JUDICIARY INTERPRETERS AND TRANSLATORS CERTIFICATION EXAM

MAY 18-19, 2006

J.W. Marriott Houston
5150 Westheimer (by the Galleria)
Houston, Texas 77056

REGISTRATION DEADLINE: MONDAY, APRIL 24, 2006

YOU MAY REGISTER BY:

1) MAIL: Measurement Incorporated /attn: Donna Merritt

423 Morris Street, Durham, North Carolina 27701

2) FAX: (credit card only) USING THIS FORM BELOW Fax to: 919-425-7717

3) PHONE: (credit card only) 1-800-279-7647

REGISTRATION FORM PLEASE PRINT CLEARLY

Last Name _____ First Name _____ M.I. _____

Address _____

City _____ State _____ ZIP _____

Home Ph. () _____ Business Ph. () _____ Fax () _____

Pager () _____ Cellular _____ E-Mail _____

FEE SCHEDULE

Written Examination	<u>Member</u> \$125.00*	<u>Non-Member</u> \$150.00*
---------------------	----------------------------	--------------------------------

**Cancellation Policy: A \$35.00 service charge will be deducted from any refund. In order to receive a refund, the cancellation request must be submitted in writing and received by Measurement Incorporated no later than 5:00 p.m. EDT on Monday, May 1, 2006. Postmarks will not be accepted. Refunds will not be issued to candidates who do not appear on the day and time of their scheduled examination.*

PAYMENT METHOD

____ Check or Money Order (payable to Measurement Incorporated) ____ VISA ____ MC

Card Number
Expiration Date ____/____ Amount \$ ____

Signature of cardholder _____
(REQUIRED FOR CREDIT CARD PAYMENT.)

A Special Note for the Disabled: NAJIT wishes to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently from other individuals because of the absence of auxiliary aids and services. If you need any of the aids or services identified in the American with Disabilities Act, please call Measurement Incorporated at 1-800-279-7647 by Monday, April 17, 2006.



APPLICATION FOR MEMBERSHIP

PLEASE RETURN COMPLETED APPLICATION AND PAYMENT TO:

NAJIT
 603 Stewart Street
 Suite 610
 Seattle, WA 98101-1275
 Tel.: 206-267-2300
 Fax: 206-626-0392
 headquarters@najit.org
 www.najit.org

Last Name _____ First Name _____ Middle Initial _____
 Title _____ Company Name _____
 Address _____
 City _____ State/Province _____ Zip code _____ Country _____
 Home tel: _____ Office tel: _____ Fax: _____
 Pager: _____ Cell: _____
 Email: _____ Website: _____

Languages (if passive, prefix with P-) _____
Credentials: NJITCE: Spanish Federal Court certification: Haitian Creole Navajo Spanish
 State Court Certification: From which state(s)? _____
 ATA: What language combinations? _____
 U.S. Department of State: Consecutive Seminar Conference

Academic Credentials: Instructor at _____

I am an interpreter translator freelance instructor
 I am applying for the following class of membership: Active Associate Student (NAJIT may validate applications for student membership)
 Corporate Sponsor Corporate Organizational (nonprofit)

(Corporate sponsors receive a longer descriptive listing on the website about their organization, one free quarter-page print ad in Proteus per year, and the grateful thanks of fellow members for their support of NAJIT and our profession.)

Check here if you have ever been a NAJIT member Check here if you do NOT wish to receive emails from NAJIT
 Check here if you do NOT wish to be listed in the NAJIT online directory (Student and associate members are not listed in the NAJIT online directory.)
 Check here if you do NOT wish to have your contact information made available to those offering information, products, or services of potential interest to members

I certify that the above information is correct and accurate to the best of my knowledge and belief. I agree to abide by the NAJIT Code of Ethics and Professional Responsibilities.

Applicant's signature _____ Date _____

PAYMENT SCHEDULE

MEMBERSHIP YEAR: JANUARY 1 THROUGH DECEMBER 31

	Active	Associate	Student	Corporate Sponsor	Corporate	Organizational (nonprofit)
Dues	\$105	\$85	\$40	\$300	\$160	\$115
Suggested voluntary contribution to SSTI	\$35	\$25	\$10	\$100	\$100	\$65
TOTAL	\$140	\$110	\$50	\$400	\$260	\$180

PAYMENT METHOD

Check or Money Order (payable to NAJIT) MC VISA Amex

_____/_____
 Card Number Expiration Date

Signature _____ \$ _____
 (REQUIRED FOR CREDIT CARD PAYMENT.) Amount

Contributions or gifts to NAJIT are not deductible as charitable contributions for federal income tax purposes. However, dues payments may be deductible by members as ordinary and necessary business expenses to the extent permitted under IRS Code. Contributions to the Society for the Study of Translation and Interpretation (SSTI), a 501c3 educational organization, are fully tax-deductible to the extent allowed by law.