

ADVOCACY COMMITTEE REPORT *continued*

NAJIT members who reside in Texas have informed us that the State of Texas required court interpreters to be licensed in response to the miscarriages of justice that occurred when non-trained, non-professional interpreters were used. The effect of HB 1642 is that persons who have been victimized or who were a witness to an offense may again be victimized—they will not be afforded the means to have their story accurately and competently heard in court.

Judiciary interpretation is a complex skill requiring far more than the ability to speak two languages. An untrained interpreter is often woefully unprepared to provide adequate interpretation. He or she is also unaware of the requirements imposed by the Code of Conduct and Professional Responsibilities. The Civil Rights Division of the U.S. Department of Justice has published guidance regarding Title VI and Executive Order 13166 compliance for LEP populations. This guidance makes clear that a lack of professionally trained and qualified interpreters has "...severe drawbacks.... The impediments to effective communication and adequate service are formidable. The client's untrained 'interpreter' is often unable to understand the concepts or official terminology he or she is being asked to interpret or translate. Even if the interpreter possesses the necessary language and comprehension skills, his or her mere presence may obstruct the flow of confidential information to the provider. This is because the client would naturally be reluctant to disclose or discuss intimate details of personal and family life in front of the client's child [or relative] or a complete stranger who has no formal training or obligation to observe confidentiality."

As a professional association with over 1100 members, NAJIT strongly supports the use of qualified, trained and licensed interpreters as the necessary means to justice for those who do not speak or understand the language of the courtroom. HB 1642 would place many Texans for whom, through no fault of their own, English or Spanish is not a native language, in an unequal position when compared to other LEP Texans. It is for these reasons that we request that you veto HB 1642. Thank you for your consideration.

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

June 10, 2005

The Honorable Rea B. Boylan
Bucks County Court of Common Pleas
Doylestown, Pennsylvania

Dear Judge Boylan:

On behalf of the National Association of Judiciary Interpreters and Translators, a professional association with over 1100 members, I write to respectfully request that you reexamine the sentence imposed on Ryan Steel and consider imposing community service other than Spanish-English interpretation.

The Morning Call informs us that Mr. Steel, a construction worker 26 years of age who lived in Mexico a few years ago, has been sentenced to a work-release term requiring him to perform community service as a translator (apparently an authorial error for "interpreter," since a translator works with written texts and an interpreter with spoken language). The article further states that he will provide services for Bucks County Court and county housing and health agencies.

Court interpretation is a highly skilled profession requiring specialized training and experience. Even bilingual individuals who have mastered two

languages or speak them at a high degree of fluency are not qualified thereby to provide interpreting services in a courtroom. In a courtroom, language and the law combine to demand excellence and full command of technical language, nuance, register and vocabulary. In addition, there are strict and challenging ethical requirements for any court interpreter. Constitutional safeguards go hand in hand with qualified interpreters. We are aware of cases that have been reversed, dismissed, or resulted in much lesser charges due to the use of untrained and unqualified interpreters.

As a lesser point, we will also mention that even if the individual in question were highly educated and had undergone the rigorous training necessary to bring him to the requisite level of skill to provide satisfactory services—which seems unlikely—it would not be just and fitting for him, by donating community service, to displace a qualified worker in a Pennsylvania courtroom.

The state of Pennsylvania has recognized the necessity of high standards in court interpretation by joining the Consortium for State Court Interpreter Certification of the National Center for State Courts. More information about this issue can be obtained at the website www.ncsconline.org, or at www.najit.org.

With regard to health and housing agencies, the Civil Rights Division of the U.S. Department of Justice has published guidance regarding Title VI and Executive Order 13166 compliance for LEP (limited English proficient) populations. This guidance makes clear that a lack of professionally trained and qualified interpreters has "...severe drawbacks.... The impediments to effective communication and adequate service are formidable. The client's untrained 'interpreter' is often unable to understand the concepts or official terminology he or she is being asked to interpret or translate." If the county agencies receive any federal funding, they are obligated to provide competent services. Even if no federal funding were involved, the physical harm that could ensue from an unskilled interpreter at work is a potential wrong that must be avoided. We are familiar with many instances of errors in medical care due to poor interpretation that have had serious or even fatal consequences.

NAJIT members labor every day in courtrooms, jails, attorney's offices and county facilities to ensure that those who do not speak adequate English will have the same access to justice as all other residents of our nation. We strive to provide services of the highest quality and invest time, energy and money in improving our skills, because we know how difficult the work of court interpreting is. Please do not allow this assignment, which could result in a serious miscarriage of justice to Spanish-speaking individuals in the court system, or physical harm to those receiving medical services due to errors in interpretation, to stand.

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

June 14, 2005

Ms. Helen Wong
Asian Community Development Corporation
Boston, Massachusetts

Dear Ms. Wong:

The National Association of Judiciary Interpreters and Translators is a professional association with over 1100 members, one of whom forwarded to us your e-mail "Introducing Speakeasy," in which you state that you are recruiting bilingual individuals fluent in Chinese for a six-week pilot program to begin in early July.

We fully agree that there is a great need for linguistic services for non-English and limited English proficient individuals, and applaud your efforts to help alleviate this problem by utilizing the human resources in the community and offering them some training. In many circumstances, Speakeasy will provide these services in an efficient manner. We request, however, that you be certain that the "Guides" are used only for those tasks which they are qualified to fulfill. In particular, it is essential that bilingual individuals who have undergone such minimal training not be assigned to interpret in legal or medical settings. These fields require the services of a qualified and trained interpreter. Failure to ensure a high level of competence in such settings can create very serious problems for all concerned.

Legal interpreting is a highly skilled profession requiring specialized training and experience. Even bilingual individuals who have mastered two languages or speak them at a high degree of fluency are not qualified thereby to provide interpreting services in a legal setting, which demands a full command of technical language, nuance, register and vocabulary. Additionally, there are strict and challenging ethical requirements for legal interpreters. The use of untrained and unqualified individuals in legal settings ranging from police interviews to trials has resulted in miscarriages of justice.

With regard to health and other agencies, the Civil Rights Division of the U.S. Department of Justice has published guidance regarding Title VI and Executive Order 13166 compliance for LEP (limited English proficient) populations. This guidance makes it clear that a lack of professionally trained and qualified interpreters has "...severe drawbacks... The impediments to effective communication and adequate service are formidable." If an agency receives any federal funding, even indirectly, it is obligated to provide competent services. Even if no federal funding were involved, the physical harm that could ensue from the use of an unskilled interpreter is a potential wrong that must be avoided. We are familiar with many instances of errors in medical care due to poor interpretation that have had serious or even fatal consequences.

We are also concerned about your offer to provide documentation for community service hours and college credit. We believe that it is essential that any such documentation clearly indicate the level of training that the individual holds; that the individual served as a volunteer; and that the services provided did not meet current acceptable standards—i.e. through accreditation or certification—for professional legal or medical interpretation (unless, of course, you are fortunate enough to obtain the services of qualified professional individuals for free.)

Thank you for your consideration of this request. I look forward to your response.

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

NAJIT'S Response to COR Request for Input on Law Enforcement Plans and Strategies

July 27, 2005

Merrily A. Friedlander, Chief
Attn: Law Enforcement Language Access
U.S. Department of Justice
Civil Rights Division
Coordination and Review Section-NYA
950 Pennsylvania Avenue, NW
Washington, DC 20530

The National Association of Judiciary Interpreters and Translators (hereinafter referred to as NAJIT) thanks the Coordination and Review Section of the Civil Rights Division for its continued commitment to Title VI, Executive Order 13166 and the LEP Guidance Policy. The following comments are offered in response to the June 2005 call for input on law enforcement plans and strategies with regard to non-English speakers or limited English proficient persons. Our aim is to provide practical input so that DOJ and law enforcement work can be carried out effectively where languages other than English are involved.

NAJIT believes that competent language service is a crucial component of 21st century law enforcement. We are most interested in ensuring competence and effective service to local and national law enforcement agencies. It is our firm belief that to protect officer and public safety, language services should be fortified and brought to a professional level whenever possible. Indeed, incompetent language service can put more people in harm's way. Every effort should be made to identify appropriate language providers and to compensate them fairly. After qualified personnel have been identified, law enforcement should make every effort to use them.

Our research shows that in the absence of guidance, knowledge or resources, law enforcement agencies may administer language services in a haphazard or nonprofessional way. Where agencies see no need to develop qualification procedures for language service providers, they rely on a slipshod, scattershot approach, or outsource the administration of such procedure to others, with unsatisfactory results. As a result, language intermediaries may lack linguistic competence, be unaware of their role, or have no training or preparation for the tasks they are asked to perform. When this happens, everyone loses.

In an effort to produce a much-needed model policy for law enforcement, a committee was created by a Sheriff's Office in Ohio, assisted by an advisory board. The Committee's aim was to suggest workable policies and standards for law enforcement. Police officers, sheriffs, officers of public safety, attorneys, language administrators and linguists worked together from 2002-2004. The result was a groundbreaking model LEP policy for law enforcement, hereinafter referred to as the **Summit/Lorain Project**. Final results can be found at: www.co.summit.oh.us/sheriff/LEP.pdf

NAJIT strongly recommends that the **Summit/Lorain Project** now be formally endorsed by the DOJ as a model policy for law enforcement. We recommend that the link to the document be distributed and made easily accessible to all law enforcement agencies at the federal, state or municipal levels. This document can assist law enforcement agencies as a benchmark for creating their own policy and procedures. Each jurisdiction, depending on its LEP population and resources available, will differ on the nature of steps to be taken, but of utmost importance is that language proficiency be reliably tested for police standards.

NAJIT believes that each agency should be strongly advised to develop a testing and training program in language services to suit its own needs. (Alternatively, the DOJ and law enforcement may rely on existing professional credentials in the fields of translation & interpretation such as NAJIT interpreter certification, ATA translation accreditation,

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