

APPENDIX

APPENDIX TO THE
FINAL REPORT OF THE
PENNSYLVANIA SUPREME
COURT COMMITTEE ON
RACIAL AND GENDER BIAS
IN THE JUSTICE SYSTEM

VOLUME I



CHAPTER 1

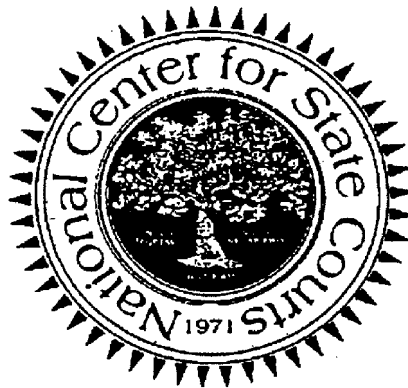
LITIGANTS WITH LIMITED ENGLISH PROFICIENCY

**PHILADELPHIA
COURT INTERPRETER
SERVICES STUDY**

Philadelphia Court Interpreter Services Study

Study Report and Final Recommendations

February 15, 1995

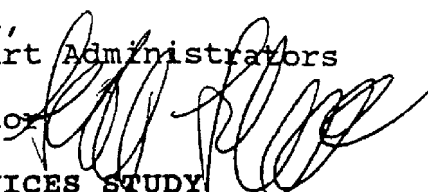




MEMORANDUM

August 9, 1995

To: President and Administrative Judges,
Court Administrators and Deputy Court Administrators

From: Geoff Gallas, Executive Administrator 

Subject: PHILADELPHIA COURT INTERPRETER SERVICES STUDY

Please find attached the final National Center for State Courts report on interpreter services. I ask that each of you take time to review this report so that we can discuss implementation of the recommendations. This project, as detailed in the report, was overseen by an Advisory Committee of the First Judicial District. The committee members included: Honorable C. Darnell Jones, Honorable Nitza I. Quinones Alejandro, Honorable Stephen E. Levin, Honorable Francis P. Cosgrove, Geoff Gallas, Bernard A. Scally, Matthew M. Tierney, Alfred Carlone, Rita Crumlish, and Frank Rivera. This committee was ably assisted by Kathy Rapone, Senior Staff Advisor with the Office of the Executive Administrator who is now the Acting Deputy Court Administrator for Municipal Court. A good number of the committee members met to discuss the report, and basically agree with the recommendations with some qualifications. Again, my hope is that we can move toward agreement on implementation of the recommendations or alternative approaches some time before the end of this year. As pointed out in the report, some significant savings and improvements in quality are easily within our reach.

I look forward to your comments and any questions you may have concerning the substance of the report and the study process.

Thank you.

GG/bh

cc: NCSC Court Interpreter Advisory Committee

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Office Of
Court Administration
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Philadelphia Court Interpreter Services Study

Study Report and Final Recommendations

February 15, 1995

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I.

STUDY BACKGROUND AND OBJECTIVES

This study was commissioned in response to a memorandum submitted to the Executive Administrator of Pennsylvania's First Judicial District by the court's staff interpreters. The memorandum outlined the professional responsibilities and qualifications required of court interpreters, suggested "grave concern" regarding quality of services being provided to the court by contract and free-lance interpreters (generally languages other than Spanish), and requested an upgrade of the classification and salary of interpreters.¹

After initial review of the memorandum, exploratory inquiry within the court and consultations with staff of the National Center for State Courts, Dr. Gallas identified following issues as the focus for this study:

1. *Do the court's staff interpreters actually possess the qualifications required of professional interpreters?* The professional standards for court interpreters outlined in the interpreters' brief appear to warrant consideration of a reclassification. However, the crux of the matter is whether the staff interpreters *do possess* those qualifications. The written and oral testing procedures used by the court to determine eligibility and preference for employment may not be adequate to make this determination.
2. *What are the qualifications of the contract interpreters used by the court? Are they adequately screened and trained prior to assignment in the court? If not, what can be done about it?*
3. *Is the program effectively managed?* There is no management unit within the court that is responsible for oversight of all interpreter program elements, personnel, and factors related to program cost. Does this cause any problems? If so, what changes might be made?
4. *Would the court benefit from a review of its rules and practices related to the use of interpreters?* There are currently no programs of education for judges and members of the bar regarding interpreter services. Would these be beneficial?

¹ Memorandum to Dr. Geoff Gallas, Executive Administrator of the First Judicial District of Pennsylvania, February 22, 1993, by Frank A. Rivera, Supervisor of Interpreters.

The National Center for State Courts sought to answer these questions by pursuing the following lines of inquiry:

1. Testing interpreters, using a valid and reliable test of required interpreting skills;
2. Review of the testing procedures the court used to screen the current staff interpreters, prior to their employment;
3. Review of existing position classifications and salary schedules of interpreters, comparison of salaries of interpreters with other job classes, and review of all Philadelphia interpreters resumes;
4. Interviews with all court personnel involved in the scheduling, assignment, payment and supervision of staff interpreters and contract interpreters, including interpreters themselves;
5. Interviews with directors and interpreters of the private interpreting agencies with whom the court contracts for interpreting services;
6. Collection and analysis of all payment vouchers and records for contract interpreting services for the 13-month period immediately preceding the study;
7. Preparation of an inventory and report on outcomes of all contract interpreter services scheduled over a three-day period; and
8. Observations of interpreters during evidentiary proceedings.

At Dr. Gallas' request, the work of the project also included actions to improve interpreter service quality based on preliminary findings of the study. These included reviews of test performance (strengths and weaknesses) with staff interpreters; seminars for staff and contract interpreters covering the code of professional responsibility for interpreters; and intensive skills training for Spanish interpreters.

II. QUALIFICATIONS OF THE COURT'S SALARIED SPANISH LANGUAGE INTERPRETERS

Findings

The centerpiece of this portion of the study is New Jersey's Screening Test for interpreting proficiency. The test was made available to the court free of charge by the Administrative Office of the New Jersey Courts. New Jersey's test is generally similar to state certification tests used in California and Washington, and to the federal court certification test. It measures the interpreter's proficiency in the three modes of interpreting (simultaneous, consecutive and sight translation). Simultaneous interpreting is from English to Spanish; consecutive interpreting and sight translation includes English to Spanish and Spanish to English. All scoring is objective, based on predetermined scoring units, and candidates must correctly interpret 70% of the scoring units to achieve a passing score. Scores of 60% to 69% place a candidate in the "critical range" -- eligible for continued employment, but not fully qualified. The validity and reliability of the New Jersey test is well-documented, both as to content and procedures for administration and rating.²

Are Philadelphia's interpreters appropriately qualified for their jobs?

Yes. Table 1, below, shows how Philadelphia's interpreters scored on the exam. Special notice should be taken of the relative performance of Philadelphia's interpreters when compared with 556 other interpreter candidates who have taken the New Jersey test.

- **All of the interpreters scored high enough on the exam to meet New Jersey's minimum requirements for continued employment.**

² See, for example, Gonzalez, Vasquez and Mikkelson, *Fundamentals of Court Interpretation*, Carolina Academic Press, 1991, pp 549-551; Hewitt, William *Court Interpretation: Model Guides to Policy and Practice in the State Courts*, National Center for State Courts, 1995, pp. 90-114.

Two of the interpreters scored at levels that are considered below adequate (65%), but which (in the state of New Jersey) qualify the interpreter for continued employment, subject to improvement in skills.

Table 1
Philadelphia Court Interpretation
Performance of Philadelphia Interpreters on New Jersey's Proficiency Test

Employee	Score	Percent Correct	Rank (n=556)	Ranks in top what percent of all test takers?
7337	182	83	4	1%
7908	182	83	6	1%
7903	180	82	8	1%
7905	176	80	9	2%
7901	173	79	12	2%
7907	164	75	29	5%
7902	156	71	52	9%
7904	144	65	93	17%
7906	144	65	94	17%

Recommendations

Recommendation 1

Candidates for vacant positions in the future should be required to take and pass a test similar to the New Jersey test of interpreting proficiency.³ Position descriptions should be revised to reflect this requirement.

Comment: Historically, staff interpreters in Philadelphia have been screened before hiring. Screening consists of a multiple-choice format written test of vocabulary, speed

³ Under current policy in New Jersey, Philadelphia interpreters are able to take examinations offered in that state. By the end of 1995, it is anticipated that standardized tests will be available to subscribing jurisdictions through the State Court Language Interpreters Certification Consortium. The position description should specify that qualifications for employment include: 1) taking and passing a proficiency test established by the court that meets standards similar to the certification standards of the states of California, New Jersey, Washington, or the State Court Language Interpreter Certification Consortium, or 2) evidence of certification as a qualified interpreter by the federal courts, California, New Jersey, Washington or any state or local jurisdiction that offers certification tests which meet the guidelines and standards established by the State Court Language Interpreter Certification Consortium.

of comprehension, and level of comprehension in both English and Spanish. Candidates who pass the test are eligible for an oral examination, which they must also pass before hiring.⁴ This screening procedure reflects sound policy and no doubt explains the relatively high performance of Philadelphia's interpreters on the New Jersey test, when compared to all test-takers. On the other hand, tests and testing procedures that are well-documented and that have proven both valid and reliable are now available and should be used in the future.⁵

Recommendation 2

Interpreters who scored in the "critical range" (60-69%) should continue to improve their skills and be retested in twelve months.

Recommendation 3

The court should implement a differential salary structure to distinguish between interpreters who have achieved the recommended minimum proficiency score on the proficiency test and those who have not.

Comment: There needs to be formal recognition of the relationship between the required performance skills and compensation. On the other hand, any test-taker may have a bad day (or a lucky day) when taking a formal test. If the court accepts these recommendations, the interpreters should be formally notified of the approximate date of the retest, and the court's policy regarding salary increases and performance on the test. The "bottom line" expectation for the retest should be *measurable improvement*.

Recommendation 4

The court should periodically tape record interpreters during court proceedings, including both simultaneous and consecutive interpreting.

⁴ The written test was developed by Guidance Testing Associates of St. Mary's University, San Antonio, Texas. The oral examination consists of selections from "English-Spanish and Spanish-English translations of colloquy questions, crime definitions, and a trial transcript". Raters for the examination (the "Oral Board") consist of "professional individuals from (sic) the Spanish-Community as recommended by [one of the court's Hispanic surnamed judges.]" No information is available regarding the detailed procedures followed for administering or rating candidate's performance during the examination, although the test results for the oral examination are reported as numeric values on a 100 point scale. A weight of 60% is assigned to oral scores, 40% to written scores. Sources: Memos from Joseph Teti to Mathew F. Lewandowski, 7-10-90: "Spanish Interpreter Written Examination" and "Spanish Interpreter -Oral Board Expenses".

⁵ A detailed investigation and discussion of the limitations of the testing approach used in the past in Philadelphia is beyond the scope of this study.

These tapes should be reviewed by the supervising interpreter and the staff interpreter as part of a performance monitoring program. Peer review and discussion of taped sessions is also recommended. (See recommendation 4, below.)

Comment: This recommendation merely reflects the principle that testing is used to determine *minimum* qualifications for employment. Continued attention to maintaining and improving skills is important. In this regard, the court should be clear about what the base "passing score" (70%) implies: it implies that minimally qualified interpreters may be distorting up to 30% of the message being conveyed every time they interpret.

Recommendation 5

Interpreters should conduct periodic study and practice sessions during the late afternoon (e.g., weekly, bi-weekly or at least monthly).

Comment: Workload for interpreters is generally light in the afternoon, which provides an opportunity for study. Working together provides an opportunity to share skills and reinforce a sense of professional community.

III.

CLASSIFICATION AND COMPENSATION OF SALARIED INTERPRETERS

Findings

Are Philadelphia's interpreters appropriately classified within the court's overall personnel system, and is their compensation level appropriate given their current responsibilities and the recommended minimum standards for competency in the future?

No. The First Judicial District's compensation and classification system should be revised to meet contemporary standards, as suggested by the following findings and recommendations. Table 2, below, illustrates the central basis for this finding, which is further supplemented by commentary on the recommendations offered below. Note in Table 2 the discrepancy between compensation of court reporters and interpreters in

the Philadelphia courts, and the discrepancy in compensation between interpreters in Philadelphia and New Jersey.

Table 2
Comparison of Salary Levels
Court Interpreters and Reporters in Philadelphia⁶, and Court Interpreters in New Jersey⁷

Position	Salary Range	Dollar Amount
Court reporter – Municipal court	G27:	\$40,327 -- \$44,802
Court Interpreter I	G13:	\$25,497 -- \$27,892
Court Interpreter II	G14:	\$26,145 -- \$28,654
New Jersey interpreter- (lowest level)		\$28, 599 -- \$40,034
New Jersey interpreter- (mid-level)		\$31,531 -- \$44, 153
New Jersey interpreter- (highest level)		\$34,764 -- 48,675

Recommendation 6

Revised position descriptions should be prepared for the court's salaried interpreters.⁸

Comment: It is apparent that in Philadelphia, as in most courts, the work of court interpreters and the knowledge, skills and abilities of the position have been poorly understood. The existing position descriptions are incomplete and misleading in several important respects.

1. The interpreter position descriptions make no mention of the specific skills an interpreter must have in the three modes of interpreting.
2. The descriptions make no mention of the standards of completeness and accuracy that must be maintained while interpreting. The court reporter's position description, by contrast, includes the following language: "*Work requires extreme accuracy...*" Interpreters must be just as accurate in their interpretations, under the same working conditions. Moreover, they are not merely recording the speech in shorthand, they are understanding and *converting* meaning from one language to another.

⁶ Based on salary schedule provided by the court with an effective date 1/1/94. A new personnel classification and compensation plan, unapproved and unpublished during the study, does little to rectify the inappropriate disparity in compensation of interpreters and court reporters. It is our understanding that the proposed plan places starting salary for interpreters at approximately \$25,000 and starting reporters at approximately \$35,000.

⁷ Based on salaries effective 7/1/94.

⁸ When this study was undertaken, a draft of an unpublished and unapproved new classification and compensation study was made available to the consultants for information only, with the understanding that it could not be cited in the report. In the consultant's opinion, the new draft position descriptions were generally subject to the same problems as are noted in the discussion below.

3. The statement in the interpreter's position description "Employees are able to question the speaker on any point that is not understood" is *misleading and tends to devalue the skill level that is expected*. While the code of professional conduct for interpreters requires them to interrupt a proceeding and secure clarification when they do not recognize the meaning of a word or phrase, this should occur very infrequently if they are qualified for the position.
4. The interpreter's position description describes desirable experience in terms of "conversation" between two or more individuals. This is hardly what is occurring in a courtroom.
5. There is no mention in the description of any of the following requirements: 1) to understand courtroom procedures, practices and policies; 2) have a thorough understanding of legal terminology and concepts, or 3) be thoroughly familiar with a code of professional responsibility.
6. There is no mention in the position description of a testing requirement.
7. Lastly, nowhere in the position description does the phrase "This is skilled work" appear, as it does in the description for court reporters.⁹

Recommendation 7

A plan to increase the salaries of court interpreters to levels at least equivalent to salaries of court reporters should be implemented as soon as possible.

Comment: In Table 2, above on page 7, the substantial discrepancy that exists between the compensation levels for court reporters and interpreters in Philadelphia's courts is clearly apparent.¹⁰ Moreover, the table also shows a distinct difference with salaries for the neighboring state of New Jersey.¹¹ In making this recommendation we

⁹ This is not intended to be a systematic nor exhaustive critique of the position description. See *Model Guides* (note 2, above), Chapter 3 for more detailed information.

¹⁰ Reasonable observers equally familiar with the responsibilities and knowledge, skills and abilities of the court reporters and interpreter (as the author is) might disagree about whether the position of interpreter is more skilled and more demanding than that of a court stenographer. However, there is little room to disagree that they are at least equivalent.

¹¹ Salary comparison with New Jersey is apt because of geographical proximity and presumed similarity in cost of living in the region. Moreover, it is apparent from our proficiency test results that Philadelphia's interpreters are equivalent in competency to New Jersey's interpreters. Other informative comparisons can be made with two metropolitan regions which require proficiency testing and certification prior to employment: Seattle, where the low range salary is approximately \$36,000; and San Diego, where the low range is \$28,000, increasing to \$33,000. Phoenix, which also requires rigorous testing as a prerequisite to employment, has an entry level salary of approximately \$25,000, increasing at the high range to \$38,000

appreciate the administrative issues and challenges associated with making such adjustments. Nevertheless, a clear plan for correcting the inequity needs to be developed, even if it must be implemented in stages.

IV. ASSESSING / IMPROVING THE QUALITY OF PER DIEM INTERPRETER SERVICES

Findings

For languages other than Spanish, the court acquires interpreters through four primary for-profit contractors. Three of the contractors are agencies that provide foreign language interpreters; one is an individual who does most of the court's interpreting in sign language. None of the contract agency interpreters are formally tested for court interpreting proficiency prior to their employment. One of the agencies sponsors short training programs in legal and court interpreting. Managers of these agencies generally recognize the special qualifications required for court interpreters and appear receptive to cooperating with programs to improve training and screening of interpreters. On the other hand, there is no doubt that some of the interpreters provided to the court by these agencies do not meet minimum standards of knowledge and proficiency. Recommendations provided below are offered for correcting this over time, and for mitigating the potential for substantive injustice meanwhile, when the court has no other option but to use interpreters who have not been formally screened and trained. Recommendations are offered with an eye on budgetary constraints and other issues of feasibility, as well as on achieving optimum standards of interpreting proficiency.

Did the study find reasons to suggest that the court should reevaluate it's current contract policies?

No, at least not with respect to fundamentals. Over time, court contracts should begin to include requirements for training and, in some languages, for certification of

(source: Shew, Sarah "Program Evaluation: Office of the Court Interpreter, Superior Court of Arizona in Maricopa County", Institute for Court Management of the National Center for State Courts, Phase III

interpreters. But the court must first develop internal standards and rules, improve the program management capacity, and work with the agencies to develop improved training and testing.

The court spends approximately \$220,000 annually on contract interpreting services. Table 3 and Table 4, below, show that the typical hours and amounts charged by all of the agencies are quite similar.¹² The tendency of the data in Table 4 to show that the firm of Inlingua charges more for a typical case than do the other agencies might be the result of a few unusually long proceedings. While the mean and median amounts charged per case, and the mean number of hours charged per case are the highest for Inlingua, the median number of hours charged by all of the agencies (Table 3) are identical.

Table 3
Hours Charged for Services, by Agency

Agency (no. of cases)	Mean	Median	Min	Max
Quantum (600)	2.3	2.0	1.0	8.0
Inlingua (447)	2.6	2.0	1.0	11.0
Roh (437)	2.2	2.0	1.0	8.0
Lang (106)	2.5	2.0	1.5	5.0

Table 4
Amount Charged for Services, by Agency

Agency (no. of cases)	Mean	Median	Min	Max
Quantum (600)	\$120	\$104	\$52	\$416
Inlingua (447)	\$134	\$120	\$50	\$550
Roh (437)	\$115	\$104	\$52	\$416
Lang (106)	\$123	\$100	\$100	\$250

Research Report, April 30, 1993.)

¹² The contract for the Lang agency (sign language interpreting) specifies a minimum charge of two hours per assignment.

When similar tables are constructed for the major *languages* (Tables 5 and 6, below), results are generally similar. It is noteworthy, however, that sign language expenses overall are more expensive than other languages. Moreover, when the costs of the services provided by the Lang agency under contract (Table 4) are compared with all sign languages (Table 6), it is clear that the Lang agency provides services at lower costs than do other providers of sign language services despite the Lang contract provision specifying a two-hour minimum. The mean amount charged by the Lang agency per case is \$123, while the mean amount for all sign interpreters is \$142 per case.¹³

Table 5
Hours Charged for Services, by Major Language

Language	Mean	Median	Min	Max
Korean (366)	2.3	2.0	1.0	8.0
Vietnamese(289)	2.4	2.0	1.0	8.0
Sign (163)	2.7	2.0	1.0	6.5
Cambodian (157)	2.4	2.0	1.0	8.0
Cantonese (81)	2.0	1.5	1.0	7.5

Table 6
Amount Charged for Services, by Major Language

Language	Mean	Median	Min	Max
Korean (366)	\$118	\$104	\$52	\$416
Vietnamese (289)	\$123	\$104	\$52	\$416
Sign (163)	\$142	\$120	\$60	\$390
Cambodian (157)	\$121	\$104	\$50	\$390
Cantonese (81)	\$103	\$78	\$50	\$390

What languages other than Spanish are in greatest demand?

The foregoing Tables 5 and 6 show the languages the court uses most often, after Spanish. Table 7, on page 12, provides more detail.

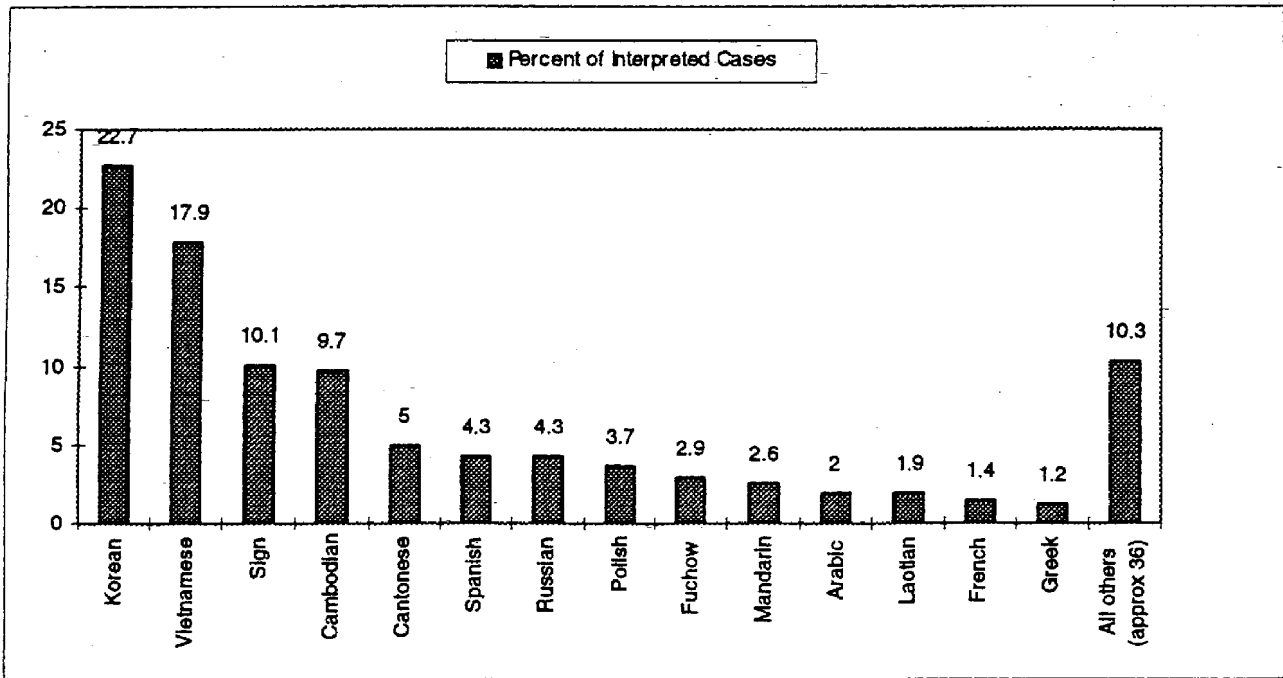
¹³ This study did not include any evaluation of sign language interpreter proficiency, so there is no way to compare cost and quality between the Lang agency and other providers.

Table 7
Frequency of Use Interpreters in Languages Provided by Contract Agencies

Language	Percent of Interpreted Cases	Frequency
Korean	22.7	366
Vietnamese	17.9	289
Sign	10.1	163
Cambodian	9.7	157
Cantonese	5	81
Spanish	4.3	70
Russian	4.3	69
Polish	3.7	59
Fuchow	2.9	46
Mandarin	2.6	42
Arabic	2	32
Laotian	1.9	31
French	1.4	23
Greek	1.2	20
vAll others (approx. 36)	10.3	166
Total	100	1614

Using the same data displayed graphically (following page), the relative importance of Korean and Vietnamese languages compared to other languages is plain.

Frequency of Use Interpreters in Languages Provided by Contract Agencies



Did the study find evidence of problems with the quality of services provided by contract agencies?

Yes, but some frequently used interpreters appeared to be qualified. Knowledge and proficiency testing is the only way to make a confident assessment of an interpreter's qualifications, when an observer does not speak the language fluently. However, careful observations of interpreters at work provide a basis for discerning whether there are *obvious* problems. During the study it was possible to make some observations which are described in Appendix 1 of this report. In summary, two interpreters who are frequently used appeared to be qualified (allowing for the observer's inability to get behind the language barrier.) One interpreter coped reasonably well overall, but engaged in some glaring violations of proper conduct. For example, the interpreter answered a lawyer's question in English without interpreting the question into Korean, and waiting for the witness to answer in Korean.¹⁴ Because the record in interpreted cases includes only what the interpreter says in English, the record in the case attributes to a witness an answer that she never gave.

A fourth contract interpreter was obviously unqualified. Although the record in the case would reflect the fact that an interpreter was provided to assist the defendant, the interpreter apparently lacked the skills to interpret in the simultaneous mode, or did not understand his responsibility. He spoke to the defendant only intermittently during the questioning and the testimony of an adverse witness.¹⁵ In addition, the defendant appeared to ask questions occasionally about what was going on, to which the interpreter made brief responses. Moreover, the interpreter made no effort to have these questions directed to counsel who was sitting next to the defendant at the table. In short, it was plain that the interpreter appeared to provide little if any useful service in making the defendant "present" during the proceeding.¹⁶

¹⁴ The interpreter was taxed sorely during the colloquy by repetitious and confusing questions by the attorney. This is not uncommon and is one of the reasons why court interpreting is a "highly skilled" professional occupation, requiring considerable training that goes beyond language fluency.

¹⁵ An example of similar "misconduct" by an interpreter is included in an educational videotape made for judges, entitled "Working With Interpreters," available through the National Center for State Courts.

¹⁶ Due to scheduling problems with the case, testimony for which was concluded for the day in about one hour, the court paid \$300 for this interpreter's time.

The following considerations are also relevant to the finding:

- **Per-diem interpreters are not tested using a valid performance test, nor are they subject to any screening or evaluation by qualified *court* personnel.**
- **The court has no records related to the experience and qualifications of the per diem interpreters used by the agencies, regardless of how frequently the interpreter is used. *Moreover, until this study, no one in the court was able to identify who these individuals are (except for the agency directors who interpret in court).***
- **Experience in other states and local courts suggests that without a program of testing or other meaningful screening, a majority of the interpreters who are used in courts are not qualified for court interpreting.**
- **Despite opportunities provided free of charge, only 15 of the approximately 200 different interpreters used by the court attended training opportunities provided by the court as part of this study. *This circumstance appears to have been largely attributable to communication problems, not to lack of interest on the part of the interpreter agency directors or the interpreters.***

Recommendations

Recommendation 7

The court should consider using salaried interpreters for Korean and Vietnamese language cases, full- or part-time.

Comment: Table 8, below, shows the expenditures made recently by the court for just over one year for the five most frequently used languages-provided by interpreter agencies. It is plain that the costs for Korean and Vietnamese interpreting are high enough to warrant careful consideration of a permanent staff interpreter position funded at full or 3/4 time (in each language, one individual does about 55% of the interpreting -- See Appendix 2.) While the recommended strategy would not necessarily lower costs immediately (depending on many interrelated factors having to do with scheduling), it likely would control future cost increases. Most importantly, however, it would increase the court's capacity for improved *quality* of interpreting services in two important

respects. First, the court could require certification as a condition for employment. This would ensure that the majority of services in these languages would be provided by a skilled interpreter. Second, having professional interpreters on staff in two very different Asian languages would enhance the court's ability to strengthen training and on-the-job monitoring of per diem interpreters.

Table 8
What the Court Spends on Per Diem Interpreters
-By Major Language-
(July 1993 - August 1994)

	Cases	Ave/Case	Total Cost	Cost/Year
Korean	366	\$118	\$43,188	\$39,866
Vietnamese	289	\$123	\$35,547	\$32,813
Sign	163	\$142	\$23,146	\$21,366
Cambodian	157	\$121	\$18,997	\$17,536
Cantonese	81	\$103	\$8,343	\$7,701

Recommendation 8

The court should explore the feasibility of contracting directly with two individuals (per language) for services in Cambodian and Cantonese language cases.

Comment: Table 8 shows that the court spends nearly \$18,000 per year for Cambodian language interpreting, and about \$8,000 for Cantonese. It is possible that a contract for this amount of money divided between two individuals (to allow for scheduling conflicts) is enough to provide an incentive for these individuals to "professionalize" what may now be only a sideline occupation.

However, this recommendation needs to be cautiously considered. The reasons for making the recommendation are twofold: first, there is a significant amount of money "on the table" as a result of differences between what is charged by the interpreter agencies (\$50-\$52 per hour) and what the agencies pay the individuals whom they send to the court (\$25 per hour). Spending the same amount of money, but placing it directly in the hands of the interpreters, would concentrate more work in the hands of fewer people. This would lead to increased experience and opportunities for professional training. On the other hand, the action might substantially decrease the incentive that some or all of the agencies have to continue contracting with the court to

provide reliable service responses in the other languages. Moreover, individual interpreters in those languages may not wish to "break ranks" with the agency which sponsors them.

The concerns with quality of service are important enough, however, to warrant close scrutiny of the pros and cons of the recommendation. Moreover, these considerations illustrate why it would be advantageous for the court to institutionalize the kind of data collection the study has provided, and why it is important to establish an Office of Interpreter Services. Management expertise is necessary to weigh these kinds of considerations and apply them during contract reviews and negotiations with the private language service vendors in the future.

Recommendation 9

Management of per diem interpreter services should be located in an Office of Interpreter Services (OIS) to increase the opportunity for evaluation and training of the interpreters.

Comment: The court currently relies on the office of court reporting services to schedule contract interpreters and to audit invoices submitted by the agency against in-house records related to the assignments. The system appears to work well for these purposes. It's disadvantage is that it systematically isolates the court's professional interpreters from the contract interpreters, which is dysfunctional. The persons at the court with whom the agency directors and interpreters communicate (court reporting office and fiscal services) have very little idea of what the court should expect of the agency or the individual interpreters and what items, apart from hourly rates and responsiveness, might be subject of negotiation and comparative assessment of contract proposals. This puts the program squarely within the framework of what one very experienced professional observer refers to as "the appearance standard" for assessing interpreter qualifications and preference for employment. That is, the organization is satisfied if someone: 1) is available, 2) shows up on time, 3) is

appropriately dressed and appears professional, 4) appears to be bilingual, and 5) no one complains.¹⁷

Recommendation 10

Each new interpreter referred to the court by an interpreter agency should complete a qualifications assessment questionnaire and be interviewed by the supervising interpreter or another staff interpreter prior to her or his first assignment. The court should exercise the right to conduct a substantial skills assessment interview for any interpreter as an apparent need and opportunity arises.

Comment: The capacity to engage in the recommended screening does not exist in the court under its current management structure. Changes are needed in program organization and administration to develop this capacity. The NCSC publication *Model Guides*, pp. 115-119 describes assessment techniques that can be used by a qualified manager of interpreting services to make the recommended assessments, regardless of language.

V.

PROGRAM ORGANIZATION AND ADMINISTRATION

Findings

Is the program effectively organized and managed?

Improvements are needed. A fragmented structure and lines of authority have evolved in the First Judicial District's interpreter services program. The reasons for this made sense in the past, but they now need rethinking. World demographic trends suggest that growth of the need for interpreting services will continue.

Most of the foregoing findings and recommendations suggest reasons for increased centralization of the management of interpreter services. This section provides further evidence pointing in that direction.

¹⁷ Robert Joe Lee, Director of the Court Interpreting, Translating and Bilingual Services Section of the Administrative Office of New Jersey Courts.

In addition to separating staff interpreter services functionally from the per diem interpreters, the court also maintains organizational boundaries between the Common Pleas and Municipal Court interpreters. Moreover, coordination between the Common Pleas central courthouse interpreters and interpreters assigned to the family and juvenile divisions of the court is relatively informal and could be strengthened. These circumstances are dysfunctional given the nature of the work and the need the court has to achieve maximum flexibility and uniform standards of competence among all of its interpreters. For example, the relatively high use of contract agencies to provide interpreters in Spanish (at an annual cost of \$7580) may be attributable to the relatively low levels of communication, coordination and management control over the different interpreter service centers (see Appendix 4)

There is currently no automated support for the court's interpreter services. There is a need to create an automated capacity for recording and later analyzing the kinds of data that are now maintained only on payment invoices and in "scheduling books" maintained in the office of court reporting. Data similar to what this study has provided should be readily available, and centralizing the services would make this more feasible. (The court should note that Figures 11.1 and 11.2 included in the publication *Court Interpretation: Model Guides for Policy and Practice* are based on Philadelphia's practices and this study.)

Individuals with the professional expertise and incentive for improving the quality of the services are tacitly inhibited from proactive efforts to take control of the program. Upper management in the court therefore has no reliable "pipeline" for identifying problems and recommended solutions. Some large issues and some relatively minor ones noted during the study are evidence that the court needs the capacity to consolidate information about the services and see the program as an important functional area. For example, the important relationship between costs for interpreting services and case scheduling practices is not systematically being examined and addressed. In a three day period of observing outcomes of cases scheduled for contract interpreting services, we were able to document over \$1,300 of service costs attributable to continuances and breakdowns in communications between court officers "in the know" about late-breaking case status information and the interpreter schedulin

office (see Appendix 1). How much of these expenses is avoidable is unknown, but certainly some are.

Relatively small issues observed during the study include: 1) case numbers are not included on interpreter assignment and payment records, making inquiries and after the fact auditing difficult; 2) there are forms designed to be completed by the court officers in Municipal Court attesting to date and time of interpreter use that are sometimes completed and sometimes not used. In any case, they no longer appear to have a purpose. They collect somewhere, but nothing is done with them. 3) Interpreters who appear at the central courthouse are expected to sign in and sign out with the scheduling clerk. No similar system is used for assignments elsewhere. 4) A relatively small but appreciable number of interpreter assignments are paid for by the court for reasons that no one at a management level appears to understand (see Appendix 3). 5) There appears to be no one in the courtrooms charged with the responsibility to dismiss interpreters when they are no longer needed during an evidentiary proceeding, nor to locate and dismiss interpreters who are waiting for a case to come up that will be continued without the appearance of the defendant (see Appendix 1)

In summary, the current structure appears to leave the court without anyone who is well-positioned to see the various pieces of this program as a functional whole.

Recommendations

Recommendation 11

The court should establish an Office of Interpreter Services (OIS) to provide services to all of the divisions of the Common Pleas and Municipal Courts.

Comment: This recommendation could be implemented more easily when the new court facility opens later this year. All of the interpreters now housed in the City Hall could be provided central office space in the new facility. It is important to note, however, that centralizing the management functions under a single district wide office need not entail the physical centralization of all interpreters. While keeping the

interpreters together physically helps to facilitate collegiality and a common sense of purpose, demand for services in the juvenile and family divisions may best be met by retaining offices for interpreters in those locations. This is a matter for careful study. If branch offices for interpreters appears necessary, the court should consider staffing those offices on a rotating basis, to increase the opportunity for all interpreters to share a balanced work experience.

Recommendation 12

Management oversight of the OIS should be the responsibility of the Office of the district Executive Administrator.

Comment: The reasons for the recommendation to create a central OIS are related to the need to eliminate the current fragmented structure and uncertain lines of authority in the program. They are also related to the obvious need to develop an increased capacity for routine collection of program management data, analysis and planning. These are the some of the central responsibilities of the district's Executive Administrator's Office.

Recommendation 13

The OIS should be responsible for recruiting, scheduling and monitoring the performance of all per diem interpreters.

Recommendation 14

The supervising interpreter should be responsible for determination and administration of professional issues and oversight of daily operations, including those involving contract interpreters.

Comment: The current supervising interpreter does not have a clear brief to become involved in overall program improvement within the judicial district. *Someone* should be tasked with these responsibilities.

Recommendation 15

A senior operations manager or court analyst, attached to the Office of the Executive Administrator as per Recommendation 12, should be placed in charge of the OIS, with responsibility for the following:

- **supervision and evaluation of the supervising interpreter;**
- **formulation of office policy;**
- **design of program management data collection procedures and evaluation of program data; and**

- negotiations with contract interpreter firms regarding issues of quality, as well as cost

Recommendation 16

The OIS should maintain and regularly analyze and report data related to interpreter use and service costs.

Recommendation 17

Free lance and contract interpreters should be required to present themselves to a court officer when they appear for an assignment, and the court officer should be required to complete a signed service verification form that includes:

- case number
- language
- date
- check-in time
- dismissal time
- case outcome.

Comment: If this system is implemented, the verification form should be a required attachment to invoices submitted by the interpreters to the OIS for verification of service. The form need not be passed along to the accounting office, but should be retained for auditing and statistical purposes. If data is not regularly extracted from these forms and compiled for program analysis purposes, however, a valuable opportunity is lost. The data would allow the OIS manager to examine the relationship between scheduled time and actual time, and the relationship between the scheduled purpose of the hearing and the actual outcome.

VI. RECOMMENDATIONS RELATING TO COURT RULES AND JUDGES

Findings

Is there a need for review of court rules related to the use of interpreters?

Yes. There are no state or local rules governing the professional qualifications and responsibilities of interpreters in the court. Such rules establish the foundation for both training and testing interpreters. Without them, court managers, directors of the interpreting agencies, and individual interpreters lack clear direction regarding standards that are appropriate locally. They must rely on practices followed elsewhere, or on academic standards which may be unrealistic.

Does there appear to be a need for programs of education for judges and members of the bar regarding interpreter services?

Yes. National studies have documented the fact that interpreter services have emerged as an important element in court programming, without corresponding efforts to educate judges about how to identify and respond to problems. Examples described previously in the report, that are based on a relatively few in-court observations, suggest that Philadelphia shares in the national experience.

Recommendations

Recommendation 18

The court should adopt a rule of court to establish a Code of Professional Responsibility for Court Interpreters.

Comment: The court has been provided with a copy of a "Model Code of Professional Responsibility" (see Chapter 9 of *Model Guides*, previously cited.) The model code should be reviewed by an advisory group of judges and court interpreters and proposed rules drafted for adoption by the appropriate authority in the court, at the state or local

level. The NCSC Model Code has been adapted and adopted by Supreme Court rule in Minnesota and Oregon, and is examined and adapted by advisory committees or staff counsel in several other states.¹⁸

Recommendation 19

Unless free lance or contract interpreters have been screened and approved by the OIS prior to assignment to a court, the courtroom judge should conduct a qualifying voir dire for all per diem interpreters in at least all of the following circumstances:¹⁹

- **guilty pleas;**
- **sentencing hearings; and**
- **evidentiary proceedings.**

Recommendation 20

The court should consider the feasibility of establishing special scheduling practices for interpreted cases.

Comment: This recommendation was discussed with the study advisory committee. For example, it was suggested that interpreter cases appearing on high volume calendars might be concentrated in fewer courtrooms, rather than being distributed to judges without regard to the need for an interpreter. The feasibility of strategies such as this should be explored in more detail.

VII. DOCUMENT TRANSLATION

Findings

Document translation is one of the duties that staff interpreters perform when they are not needed in court. Interviews and observations suggest that there is no systematic procedure for receiving and assigning translations, and for the efficient

¹⁸ The Model Code is also very similar to the code adopted by the Supreme Court of neighboring New Jersey.

¹⁹ See *Model Guides*, Chapter 6, "Judges' Guide to Standards for Interpreted Proceedings."

retrieval of information about what documents have been translated. Moreover, translation is a special skill that is not equivalent to the oral skills required for interpreting. Sound procedure is to assign translations to individuals who have established their qualifications for written work, and to *a/ways* provide for review of all translations by at least one other professional.

The following recommendations would improve this aspect of the services the court provides to linguistic minorities.

Recommendations

Recommendation 21

Requests for official translations of forms and documents made by judges or administrators should be directed only to the supervisor of OIS, rather than to individual interpreters.

Comment: This allows the work to be prioritized, quality control standards maintained, and an inventory of translated documents to be kept more systematically.

Recommendation 22

A log of all requests for document translations should be maintained in the OIS, including

- **Request date**
- **Document identification (form #, name, etc.)**
- **Requesting official**
- **Name of assigned primary translator and reviewing translator(s)**
- **Completion date**

Recommendation 23

All bilingual signs or other notices posted in the court facilities should be prepared or reviewed by the OIS.

VIII.

CONCLUDING SUMMARY OF RECOMMENDATIONS

The provision of interpreting services to Spanish-speaking linguistic minorities in Pennsylvania's First Judicial District is generally of high quality and appears to be

excellent when compared with many of the nation's major metropolitan areas.

Consideration of implementing the recommendations contained in this report might best be guided by the following priorities:

- Formally designating responsibility for oversight of all interpreting services with the Executive Administrator. This appears to be an important prerequisite for achieving consistent quality standards and the elimination of unnecessary costs for all language interpreter services, irrespective of court level, court division, language, or manner of compensation of interpreters (i.e., salaried vs. contract).
- Exploring the feasibility of joining the State Court Interpreter Certification Consortium by special arrangement with the Consortium Steering Committee, in order to secure affordable access to a wide range of valid and reliable oral interpreting proficiency tests for interpreters.²⁰
- Achieving parity in compensation between interpreters and other position classes with similar responsibility and somewhat comparable educational or training requirements.
- Taking action to extend the court's high standards for qualification of Spanish language interpreters into the non-Spanish languages, especially Korean, Vietnamese, Cambodian and Cantonese.

²⁰ Through the Consortium, Philadelphia can acquire access to tests in Spanish, Vietnamese and Korean by the end of 1995. By the end of 1996, tests in Cambodian, Cantonese, Russian, Polish, Arabic Laotian, and French will also be available through the Consortium. These account for 10 of the 13 most commonly needed languages in Philadelphia, apart from sign language (see Table 7).

Appendix 1
In-Court Observation Notes

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Appendix 2
Rosters of Contract Interpreters

Summary Listing
Listing by Frequency
Listing by Language

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Appendix 3

Location of Interpreter Assignments

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Appendix 4
Spanish Language
Contract Interpreter Assignment Listing

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Appendix 5
Memoranda Re: Management

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