

## INTERPRETERS IN COURT Justice for All?

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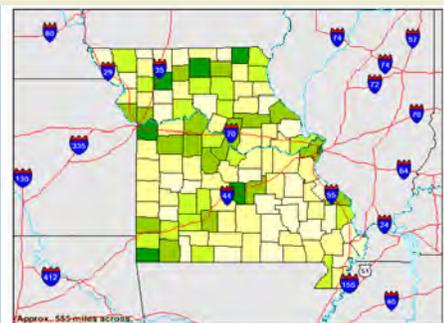
## Interpreting or Translating?

**Interpreting** is the process of transferring one spoken language into another spoken language, either simultaneously or consecutively.

**Translating** is the process of facilitating written communication from one language to another.

## Percent of Persons 5 yrs. & Older Who Speak a Language Other than English at Home (source: US Census Bureau, 2000 Census)

Data Classes	
Percent	
0.9 - 2.2	
2.3 - 3.2	
3.3 - 4.7	
5.0 - 7.1	
7.6 - 10.2	



## What's This Session About?

The difference between being a bilingual person

...even a highly educated one ...

And being a court interpreter.

## Constitutional Rights

- **5<sup>th</sup> Amendment:** Cannot be deprived of life, liberty or property with due process, fundamental fairness and equal protection under the law.
- **6<sup>th</sup> Amendment:** Defendant has the right to be meaningfully present at their own legal proceeding.
- **14<sup>th</sup> Amendment:** Applies rights to resident citizens in all states.

## The Law

- **Executive Order 13166** signed by President Clinton in 2000 requires recipients of federal assistance to ensure **meaningful access** to programs/services in compliance with Title VI of the Civil Rights Act.
- **Section 476.803, RSMo.** states the courts shall appoint qualified interpreters in all legal proceedings in which the non-English speaking person is a party or a witness.
- **Section 476.800, RSMo.** defines **qualified** as "an impartial and unbiased person who is readily able to render a complete and accurate interpretation or translation of spoken and written English for non-English speaking persons and of non-English oral or written statements into spoken English."

## The Law - Continued

- **Section 476.806, RSMo.** allows interpreters **reasonable fees and travel expenses** not to exceed state rates, but they shall not be compensated for travel time. Also **authorizes OSCA to pay** for interpreters' services in **criminal and delinquency proceedings** with an appropriation for that purpose.

## Examples of Case Law

- **U.S. ex rel. Negrón v. State of New York** 310 F. Supp. 1304 (EDNY 1970)
- **State v. Rodriguez** N.J. 1996 (Super 129, 133-37)
- **Ohio v. Fonseca**, 1997 (124 Ohio, App. 3d 231)
- **NY v. Serna**, 1999, NY AD.3 Dept. (WL 357316)
- **Giraldo-Rincón v. Dugger**, 1989, MD FLA (707 F Sup 504)

## Bilingual Attorneys?

- What happens to attorney-client privilege when the attorney acts as interpreter?
- When the attorney is acting as attorney, who is interpreting for the client?
- When the attorney is interpreting, who is representing the interest of the client?

Source: [www.translationforlawyers.com](http://www.translationforlawyers.com)

## How do the Courts Know an Interpreter is Needed?

The court is advised by:

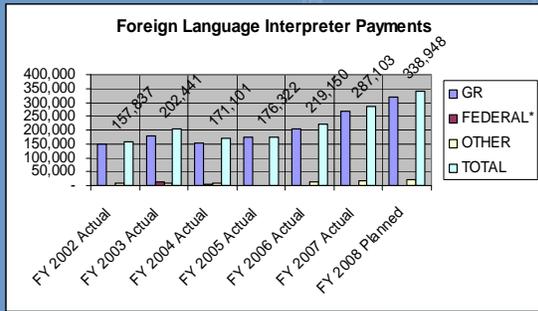
- Attorneys
- Juvenile Officers
- Friends
- Families
- Jailers
- Law Enforcement
- Shelters

## How Are Interpreters Scheduled?

- Upon notification that a party or witness does not speak or understand English very well, the courts will schedule an interpreter for future court appearances (*two will be scheduled for proceedings expected to last more than 2 hours*).
- If there's an immediate need during a criminal proceeding, telephone interpreting may be used.

- What do you expect of interpreters? What do you want them to do for you?
- What knowledge, skills & abilities do you expect them to have to accomplish this? What qualifications should they have?
- How do you know if the interpreter has these qualifications?

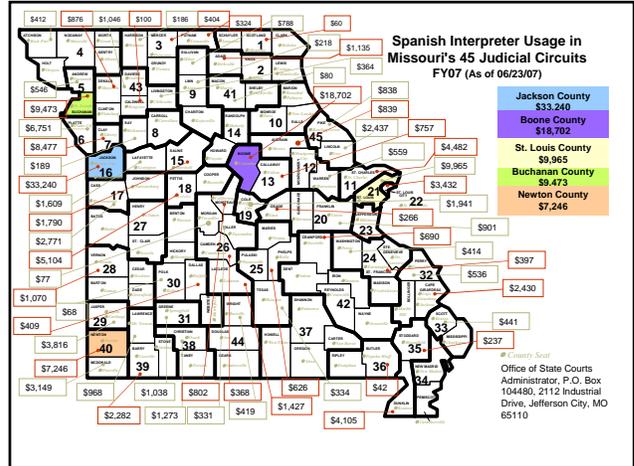
## FY 2002 Actual through FY 2008 Planned



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## Why's This Important?

There is a difference between being a bilingual person

... even a highly educated one ...

And being a court interpreter.

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## Court Interpreter's Job Description

To render everything said in court in the source language, into the target language

- Accurately, without any distortion of meaning
- Without omissions
- Without additions
- Without any changes in style or "register"
- With a little delay or interference in the routine pace of court proceedings as possible.

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## What the Interpreter Does...

1. Listen
2. Comprehend
3. Abstract the message from the words and word order
4. Store ideas.
5. Search for the conceptual and semantic matches.
6. Reconstruct the message in the other language.
7. WHILE . . . Speaking and listening for the next chunk of language to process
8. WHILE . . . Monitoring their own output.

- **November 1999** – Established **Access to Justice Program** to ensure equal access to Missouri's courts for persons with disabilities or who are limited English proficient.
- Joined the **Consortium for State Court Interpreter Certification** with the National Center for State Courts, and based certification program on their model. ([www.ncsconline.org](http://www.ncsconline.org))

## Timeline

- **June 2000** – Held first **English –Spanish language court interpreter certification orientation** and conducted 1<sup>st</sup> tests, resulting in 2 certified Spanish language certified court interpreters.
- **May 2003** – Added the **written test** component to the certification process.
- **June 2004** – Held first **language neutral orientation** (open to all language sets).
- **June 2008** – Added the **Oral Proficiency Interview (OPI)** for languages that do not have a full oral exam.

## What is Certification?

Interpreters complete a 2-day **orientation**, pass a **written test** with 80% or better, and pass an **oral proficiency exam\*** with 70% or better on each part receive certification.

- *Their names/contact information/rates are given to the courts to contact when they need an interpreter.*
- *Their names and contact information is posted on our website for the public to refer to as needed ([www.courts.mo.gov](http://www.courts.mo.gov)).*

\*Arabic, Cantonese, French, Haitian-Creole, Hmong, Korean, Laotian, Mandarin, Portuguese, Russian, Serbian, Somali, Spanish, and Vietnamese.

## What About the Other Languages?

Passing an Oral Proficiency Interview (OPI) with "Superior" results in a "Registered" status.

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- *Their names and contact information is posted on our website for the public to refer to as needed.*

## Oral Proficiency Interview (OPI)

ONLY OFFERED TO CANDIDATES WITH LANGUAGE COMBINATIONS THAT WE DO NOT OFFER A FULL ORAL PROFICIENCY EXAM IN THEIR LANGUAGE SET WHO HAVE PASSED THE WRITTEN TEST.

OPI conducted in Jefferson City during regular testing weekend via telephone call to company such as *Language Testing International* ([www.languagetesting.com](http://www.languagetesting.com)).

MUST GET "SUPERIOR" RATING TO BE LISTED ON ROSTER AS "REGISTERED"

## As a Consumer

Keep in mind that being an interpreter requires more skills than being bilingual.

*(Just because I have two hands doesn't mean I can play the piano!)*

## Think You Want to be a Court Interpreter?

1. Check the courts website for current scheduling information ([www.courts.mo.gov](http://www.courts.mo.gov))
2. Check the National Center for State Courts website for information on becoming a court interpreter. ([www.ncsconline.org](http://www.ncsconline.org))
3. Contact the Office of State Courts Administrator, Access to Justice Program, to be added to the mailing list.

## Take With You . . .

- Laws require qualified interpreters to provide meaningful communication. Advise the courts if needed.
- Interpreting takes more than being bilingual.
- Bilingual attorneys acting as interpreters face ethical questions.
- OSCA has a certification program with training and standardized tests to determine proficiency.
- OSCA's website ([www.courts.mo.gov](http://www.courts.mo.gov)) has interpreter contact information.

## Questions?

# Thank You