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# VIEWS

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## To Be or Not to Be a Court Interpreter

By Sue Eadie, CSC, CT, CLIP

What does it take to be a court interpreter? Each of you who is considering entering the field of legal interpreting should evaluate the skills you bring to the endeavor. Examine your motivation, legal expertise, degree of assertiveness, nerve, and patience. Ask yourself, what qualifies me to be a court interpreter? Review your answer after a few months to be sure.

As an interpreter entering my nineteenth year, I thought I'd seen most all there was to see. I've been with a deaf woman, the victim of a stabbing and a gang rape who had to go through the most humiliating medical examination and evidence gathering procedure one can imagine. I've interpreted police line-ups with deaf victims trying to identify their assailants. I've interpreted for a deaf parent whose child took part in the gang murder of an old woman who wouldn't give the kids a dollar, so they beat her to death by kicking her in the head. I've had to voice

testimony of a mother who tied her son to the rod in the clothes closet and beat him with a stick. Three bailiffs escorted me out of a courtroom



Shirley Herald develops questions for the Legal Task Force in July '94. See story on page 10.

because a new father whose infant son tested positive for drugs at birth had his custody revoked, and he went berserk, blaming the messenger, me. I've had to use the "F" word to a

judge, as that is what my client said to the judge. (I had to talk myself out of a contempt of court charge.) I've gone into lock-ups with rapists and murderers to interview a deaf inmate. I've gone into prisons to assess the needs of Deaf inmates and talked with a "gentleman," whom I later found out was in prison for raping a woman at gun point. These examples highlight the experiences one legal interpreter faces on a daily basis. The job requires nerves of steel, patience, compassion, and a considerable knowledge of the legal system.

Recently, I received a subpoena to testify as to what I interpreted during an interrogation of a deaf minor by a police detective. In trying to avoid testifying, I learned some valuable lessons that I'd like to share with you in case you are ever in a similarly unfortunate position.

What can an interpreter do when faced with a similar situation? Explain to the prosecutor or defense attorney that it is a violation of your

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## Contractual Waiver of Interpreter Confidentiality

By Alice J. Baker, Supporting Member, University of Virginia School of Law

The RID Code of Ethics requires interpreters to keep the contents of all interpreted communications strictly confidential. This ethical provision is supported primarily by the principle that the conversation belongs only to the participants, and that the interpreter therefore does not have the "ownership" of the conversation that gives the decision to reveal its contents. Confidentiality is also justified by concerns that a party's fear of disclosure by the interpreter may have a chilling effect on socially

desirable communications. These conversations may not occur in the absence of assurances of confidentiality, similar to a client's consultation with a lawyer, or a patient's visit to a doctor or psychotherapist. Again, in these settings, the decision to disclose the contents of the communication is seen as belonging to the clients, and not to the interpreter.

Since the right to determine disclosure belongs in any case to the client, the question arises whether the

client should be able to waive confidentiality; that is, whether the interpreter should be permitted to disclose the contents of interpreted communications, when it is certain that neither client objects to the interpreter's disclosure. The Code of Ethics does not expressly address the question of whether the confidentiality provision is waivable by the client. Certain other ethical provisions, such as the duty of competence, are expressly made waivable. Others, such as the duty not to advise, counsel, or offer

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# RID

## National Board of Directors

**Janet Bailey, CSC, SC:PA, President**  
Sign Language Associates, Inc.  
1010 Wayne Avenue, Suite 420  
Silver Spring, MD 20910  
(W) 301/588-7591  
FAX 301/588-3021

**Jerry Conner, CSC, Vice-President**  
418 63rd Avenue, South  
St. Petersburg, FL 33705  
(H) 813/866-9468  
(W) 813/541-4488

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2301 North Akard, Suite 406  
Dallas, TX 75201  
(W) 214/969-5585  
(H) 214/398-0962

**Robin Byers, CSC, Secretary/Treasurer**  
America's Disability Channel  
1777 NE Loop 410, #300  
San Antonio, TX 78217  
(W) 210/824-7446 V  
(H) 210/657-6019  
FAX 210/829-1388

**Rita Jo Scarcella, CSC, Region I**  
808 Barclay Towers, Rt. 70 East  
Cherry Hill, NJ 08034  
(H) 609/354-0826  
FAX 609/428-9496

**Sue Scott, CSC, CI and CT, Region II**  
6541 County Road, 95  
Elberta, AL 36530  
(W) 205/690-6892 V  
(H) 205/986-7550

**Ben Hall, CSC, Prov:SC:L, Region III**  
585 Binns Boulevard  
Columbus, OH 43204-2442  
(H) 614/274-8111

**Daniel D. Burch, CSC, Region IV**  
15744 Marjorie Drive  
Baton Rouge, LA 70819  
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**Kate Volta-Nelson, TC, CI, Region V**  
Accommodating Ideas  
5032 Lankershim Blvd. Suite 1  
North Hollywood, CA 91601  
(W) 818/752-3320

Unless otherwise noted, all numbers are voice and TTY.

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## Legal Settings

By Sharon Neumann Solow, CSC, SC:L

*This article was reprinted with permission from Sign Language Interpreting: A Basic Resource Book, a publication of the National Association for the Deaf.*

Any time the law is a factor, a situation could be called legal interpreting. This means interpreting where police are involved, in a courtroom, for attorney-client interviews, in jail or prison, with a probation or parole officer and so forth. Interpreters serve in both civil and criminal affairs. The National Registry of Interpreters for the Deaf has certification for legal interpreting, the Specialist Certification Legal (SC:L). Legal interpreting requires knowledge of various legal settings, as well as skills in transmission of

information. It is not an area to be taken lightly.

Legal interpreters are sometimes called upon to explain their role for the court. If this is the case, be brief and respectful. Any time anyone is addressed in court, they must respond. This may merely mean stating that the interpreter is unable to answer a question.

Being audible takes on new meaning in court. One must be audible enough for the court reporter to hear and take down the words. The interpreter's back is to the recorder, it is possible his or her voice will be muffled and difficult to hear.

Orientation to the signer's system of communication is essential, as always.

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# Questions for Interpreters in the Judicial System

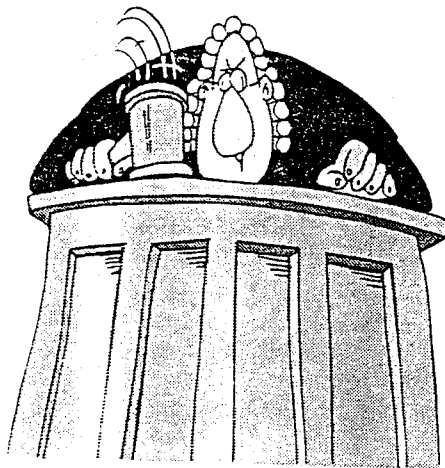
Paul Raci CSC, CLIP, CI and CT

Legal interpreting requires a unique type of person on many different levels. More often than not, the situations are filled with pressure or anxiety. If an interpreter does not understand the judicial system, the vocabulary, or how and when to bi-culturally mediate, the system and everyone involved loses.

Are you comfortable interpreting the Miranda Warning? Do you know the difference between an Arraignment, Pre-trial Hearing, a Disposition, a Motion, or a Certified Plea? Do you know courtroom protocol? What is the proper attire? What is the appropriate behavior of a professional interpreter in a courtroom? How do our Federal and State courts differ?

In California our Evidence Code 754 states that an interpreter has a duty to inform the Court when a client is not understanding the proceedings.

There is even a provision for calling in an intermediary interpreter as another means of facilitating communication.



Are you familiar with your particular state's laws regarding interpreters? Do you know when to call in an

intermediary interpreter? Are you willing to accept responsibility for recognizing your own limitations instead of saying that the Deaf person does not understand? Can you explain to a judge why an intermediary is necessary in a succinct and professional manner? The dynamics of each case is, of course, different, depending on the various elements. There is no set rule on how to represent the situation. One example might be to state to the Court that the Deaf person appears to be semi-lingual. In other words, in your opinion, there seems to be neither a base language of English or American Sign Language that you can establish a rapport with. Bringing in an intermediary interpreter, (someone who is Deaf) might bring more of a dynamic equivalent to the communication process. For every

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## Legal Interpreter Training

Alan Wolf, CI and CT, CLIP

Training for and the provision of legal interpreting is a concern that has been with us as long as we have been thinking about interpreting. Throughout our history, we have generally approached preparation for legal interpreting through the philosophic "filter" of our service models.

Going back to the "Workshop on Interpreting for the Deaf" at Ball State College in 1964, Dr. Stanley Roth and Edward Scouten (at the time superintendents of the Kansas and Louisiana state schools for the Deaf respectively), headed their list of recommendations with several comments specific to legal interpreting. As a matter of fact, almost every committee that met discussed the primary importance of high-quality legal interpreting. Interestingly, the recommended qualifications for interpreters included "high moral character" and "an education sufficient to embrace problems of life and a sophistication to cope with its variations".

Need was eventually translated into action, and workshops happened. What were they like? Transcripts

from workshops in 1967 and 1970 reflect a great deal of discussion about the difference between translating and interpreting, anecdotal lessons about the expectations of legal personnel, and how interpreters can protect the legal rights of the Deaf consumer. Needless to say, these were mimicry of the issues being faced by interpreters in general; professionalizing the interpreter meant facing issues of qualifications, professional boundaries, and preparation. When was the interpreter a language worker, and when was she an advocate? Shades of the older service model of helping blended uncomfortably with hints of the newer model of conducting language.

Through the seventies, workshop transcripts and notes show a much larger emphasis on the terms, language, and styles of usage. Reflective of our need at the time to focus on facilitation, we learned, for example, that arraignment meant the first time a defendant was informed of charges in court. Our training response was to come up with clever, minimal-gesture signs that tried to represent that entire concept. The discussion was about maintaining

interpersonal boundaries and quickness of language. We worried about how we looked, acted, and were accepted in court. Training was sparse, and those who developed a reputation for legal interpreting were said to have traveled far and wide to provide their services.

From the later eighties to the early nineties, workshops began to look deeper into the process. We wondered, not for the first time, about the effectiveness of our translation, the meaning of interpreter as advocate, and practical as well as theoretical skills. We learned about legal concepts, how they were expressed, and how much time it took to really convey the meaning. Workshop materials show an emphasis on huge amounts of diverse material, with topics ranging from how we handle stress to the effects of language and gender status on the interpreting production. Larger amounts of time were set aside for hands-on practical skills development; not only did we have to know this stuff, but we had to prove it to our peers. Training became longer, more intense.

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# Interpreting in Legal Settings

By Nancy Frishberg, CSC

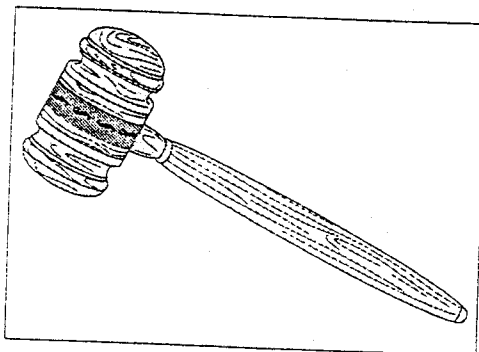
This article was reprinted with permission from *Interpreting: An Introduction*. A publication of the Registry of Interpreters for the Deaf.

When we think of providing interpretation services in a legal context, we usually think of court. However, there are numerous other environments in which interpreters may provide service, including, but not limited to: police interrogations, attorney-client consultations, meeting in correctional institutions or with probation officers, and during the taking of depositions (in some states called "examinations before trial" or EBTs) and administrative hearings. Trial courts in which interpreters may appear include criminal, civil, municipal, family, surrogate and appellate courts. Although states may have different names for courts, they are conceptually the same; for example, in New Jersey, the Family Court Division of the Superior Court hears matters involving juveniles, dissolutions (divorce) and domestic violence, among others. Other states may have separate courts for each type of matter, such as juvenile and matrimonial court.

## Provision of Interpreter Service: Legal Obligations

Each state differs in how broadly it authorizes the presence of interpreters in court and other legal settings (see *Legal Rights of Hearing Impaired People*, Chapter Nine, Dubow, et al, 1982). The United States Constitution, Amendment VI, guarantees criminal defendants the right to a fair trial, to confront witnesses against them, and to the assistance of counsel. Federal laws (e.g., the 1973 Rehabilitation Act, Section 504) protect the rights of deaf individuals to interpreter services in criminal proceedings. However, in municipal, civil, and administrative proceedings, the right to an interpreter may or may not be a provision of state statutes or case law. It is incumbent upon interpreters to familiarize themselves thoroughly with the laws that govern their state and to remain aware of any changes in state or federal legislation which affects their status in legal settings. See Appendix C for a summary of state statutes providing for interpreters for deaf persons.

Payment for interpreter services in non-criminal cases may be an issue. In some states the court is required by law to pay for services provided in any court or court-supported service (e.g. probation). In others, the issue of payment beyond criminal proceedings is not clearly defined and, as a result, interpreter services are sometimes assessed as part of court costs. Where statutes are ambiguous, the decision is left to the discretion of the court.



Unless interpreters are being paid by a referral agency, it behooves interpreters to make contact with the court prior to the assignment to negotiate payment. There will be occasions when a written contract is advantageous, especially for an extended assignment, such as a lengthy trial. Interpreters who wait until the close of an assignment to negotiate or request payment may encounter resistance on a variety of payment issues, such as travel-time fees in addition to mileage reimbursement, a fee for waiting time, reimbursement for tolls and parking, as well as the expected hourly fee. When negotiating the fee for services, interpreters should be sure to speak with someone who is authorized to approve or deny payment.

## Legal Language

For interpreters to be effective in the legal realm, they must possess not only a high level of competence in American Sign Language (and/or signed English) and spoken English, but they must understand English as it is spoken in legal contexts. That is, they must understand not only individual legal terms (e.g. the difference between breaking and entering and burglary) but the structure and purpose of legal language as well. For example, in

order to interpret accurately both direct and cross-examinations, interpreters must understand the rules for questioning a witness. Questions posed by attorneys are often awkwardly constructed and purposefully vague; interpreters must be able to retain ambiguities to render faithful interpretations. Ramifications of incorrect interpretations are far reaching, and include the possibility of a mistrial. Interpreters should begin preparing for their first court appearance long before they enter a courtroom to interpret. Observing court proceedings and paying strict attention to the content and style of courtroom discourse is one good way to begin preparing. Observing and working with experienced legal interpreters is another. Finally, taking criminal justice courses at a local college or university and participating in special RID approved courses on legal interpreting is an excellent way to gain insight into legal issues and court procedures.

## A Brief Look at Deaf Litigants

As in other interpretation settings, deaf people from all walks of life appear in court for many reasons. Some of these individuals are highly skilled American Sign Language users and require or prefer using the services of an American Sign Language/English interpreter. Others use signed English or another manual code for English and require or prefer using the services of a qualified Signed English/spoken English transliterator. Beyond deaf people with sophisticated ASL and/or English language skills, there is another group of deaf people who sometimes appear in court. These are individuals with minimal language competence (MLC). MLC deaf people require special consideration to enable them to communicate with and receive information or direction from the court. In most matters involving an MLC deaf person, interpreters can most ably assist the court by working in a team context of one deaf and one hearing interpreter. Even when special consideration is given, however, the MLC deaf person is often unable to access court proceedings or assist counsel to any meaningful degree given their limited understanding of the process or action.

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# Court Interpreting for Fun and Profit: Reflections of a Wordslinger with an Attitude

David Mintz

Once, when asked by someone what I did for a living, just for fun I answered by posing a riddle: I'm in court every day, but I am neither a judge nor a spectator nor a lawyer nor a defendant nor a plaintiff nor a court reporter nor a paralegal nor a witness nor a law clerk nor a court clerk nor a security person nor a journalist nor a courtroom artist. I am more than a spectator, but less than a participant in the proceedings. I am more than a lay person, but less than an expert in legal matters. Who am I? That person was stumped. On other occasions when I've said, "I'm a court interpreter," people have come back with, "oh, you mean you sit there with one of those little machines and take down what everyone is saying?"

While the public is generally aware that many languages are spoken in this country and that not everyone speaks English, few people know or understand much about court interpreting. I certainly didn't five and half years ago, when I stumbled into this trade after an aborted career as a struggling classical musician. I had a vague notion that people with bilingual skills could work as court interpreters, so I tried it.

Ironically, that same vague notion that prompted me to find a satisfying way to make a decent living still bedevils our profession; too many people --including many who purport to be interpreters-- still seem to think you need only speak language x to be able to interpret competently. Court interpreting often gets no respect, and the performance of many practitioners is such that it doesn't deserve any. Training opportunities for interpreters, be they beginners or advanced, are still rare, though they are slowly increasing. Court interpreting as a profession is still in its infancy (the National Association of Judiciary Interpreters and Translators recently turned fifteen). Certification at the federal level exists for just a handful of languages; in the states, certification programs and testing methodologies range from impeccable to pathetic to nonexistent. In some courts the standards are high and the pay is reasonable; in some, the interpreters range from lousy to good, and the pay is lousy; and in some, both the

interpreters and the pay are dreadful. Yet court interpreters, like other better-paid professionals, must --or should-- work tirelessly to develop and maintain their knowledge and skills at levels consistent with the weight of their responsibility.

Standards and working conditions, in general, appear to be improving ever so gradually, as the power structure slowly wakes up to the fact that the right to decent interpreting services flows from constitutional guarantees of due process. Nonetheless, ours remains, by and large, an underpaid and underappreciated profession. In the

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*... what goes on in the  
courtroom is perversely  
fascinating, rich in human  
drama and tragedy,  
competitive like a sports event,  
addictive like a soap opera.*

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federal and in some state court systems, interpreters are fairly compensated, but most are woefully underpaid. And the majority, as freelancers, must suffer the slings and arrows of outrageous last-minute cancellations, either pay for their own benefits or forgo them, endure the ups and downs of their business, and otherwise deal with the hazards of self-employment. In many courts, interpreters are expected to work without relief for hours and days on end.

What sort of people go into this profession? I can't speak for everyone, but I don't mind speculating. Interpreters in general, and court interpreters in particular, tend to be people who tried something else and tired of it, retired from it, or were displaced. (In my case, getting fired from an odious part-time teaching position in a mediocre university music department helped motivate me to start looking for alternatives.) They wake up one day and ask themselves how they can make a living off the language skills they already have, rather than going back to school for another degree in something. Perhaps they attend a conference or workshop, or walk in cold off the street and

perform well on a test. In any case, they become court interpreters. So what makes them stay in it, if conditions are so adverse? Several possible reasons come to mind.

One is the sense that one is providing a valuable service to people who really need it and are genuinely grateful.

There are also interpreters who, like skydivers and gamblers, are motivated by the adrenalin rush of doing something that scares the daylights out of most rational people. Jumping out of a perfectly good plane, betting your entire paycheck on the Superbowl, or getting up in front of a jury and interpreting witness testimony are three distinct yet similar ways to get one's kicks; all are exhilarating but perilous.

Another reason is that there are few other ways to get paid just to sit around and talk all day. Attorney? Psychotherapist? Too much schooling required. Radio talk show host? Tough gig to get. Politician? No comment.

Another is that what goes on in the courtroom is perversely fascinating, rich in human drama and tragedy, competitive like a sports event, addictive like a soap opera. Who can resist all that suspense, horror and suffering?

Yet another reason is that it doesn't necessarily pay that badly; interpreters with good skills (and no major personality disorders and good personal hygiene) can and do contrive ways to make a reasonable living. Those who do not can entertain hopes of someday doing better.

But not the least important of its attractions is that interpreting is lucid; it is the ultimate word game. When you're on a roll and doing your job well, it's fun. There's something uniquely satisfying and stimulating about banging out all those messages, assuming the voices and thought processes of different characters, being no one and everyone at the same time. I've never met an interpreter who disliked interpreting.

*The author, a Spanish interpreter on the staff of the U.S. District Court, Southern District of New York, serves on the Board of Directors of NAJIT. □*

## Testifying to the Prior Provision of Interpretation Service

*From the Legal Curriculum developed by California State University, Northridge. The curriculum will soon be available for purchase at RID.*

The RID Code of Ethics precludes interpreters from sharing information gained during an interpreting assignment. However, there may be times when you are compelled to testify. If you find yourself in such a situation, here are a few things to keep in mind and some suggestions for dialoguing with the attorney who has subpoenaed you.

1. You are covered by privilege when interpreting between a D/deaf person and his/her attorney. Such communications are privileged because any communication between a client and his/her attorney is generally privileged. The fact that you were a party to such communications means that no one except the D/deaf person can compel you to testify about such communications.

2. Know what is considered privileged communication within your state or the state in which you'll be interpreting. Normally, lawyer/client, psychiatrist/patient, priest/penitent, and husband/wife relationships are privileged (or covered by the "cloak of confidentiality," as it is commonly called). These people cannot be

compelled to testify against one another under most circumstances.

3. You are NOT covered by privilege when interpreting between a prosecutor and the State's witness. The prosecutor is not the witness's attorney and is providing no defense for the witness. That means if defense counsel wishes, s/he can call you to testify regarding what transpired between the prosecutor and the witness. Since it is imperative that you meet with the witness and the prosecutor prior to interpreting, this is potentially a Catch-22 situation that you may not be able to avoid. If you are compelled by the defense to testify, consider making a statement for the record as to the inappropriateness of testifying. Here is a sample statement:

Your Honor, the interpreter would like to make a statement for the record with regard to counsel's request. (permission granted.)

I understand, Your Honor, that defense counsel may call me to testify as to what was said between the prosecutor and the State's witness. With all due respect to counsels, Your Honor, it is not appropriate to call me to testify. Here's why. I am here, Your Honor, as an official court interpreter. That necessitates that I

*Continued on page 16*

content areas and cognitive levels, numbers and types of questions.

The Task Force developed five categories of eligibility to stand for a test.

**Category 1:** Current SC:L.

**Category 2:** CLIP, CLIP-R, or Prov: SC:L

**Category 3:** CSC or CI or CT or MCSC, BA or BS in any field or AA in interpreting.

**Category 4:** AA degree in any field, CSC or CI and CT or MCSC; 5 years general interpreting experience (post RID Certification); 75 hours documented legal interpreting experience; or 50 hours of formal legal training.

**Category 5:**

No general education required; CSC or CI and CT or MCSC; 5 years general interpreting experience (post RID Certification), 100 hours documented legal interpreting experience or 75 hours of formal legal training.

We devoted the last part of the meeting to drafting a few test questions and developing a plan for obtaining additional items. The LTI developed lists of legal interpreters, previously unidentified, as possible item writers. Knapp & Associates sent test item packets to identified interpreters. Interpreters met with a task force member who assisted them in writing items. This produced only twenty more questions.

As the Chair of the LTF, I feel frustrated. We have not made the progress I had anticipated on the development of this test. My goal was to have the written test up and running by this time. I still dream of presenting the completed test at the Convention in New Orleans next summer. At this point, I get the message that the members do not support a Legal Interpreting Test. PLEASE, prove me wrong and respond by participating in test question development.

When I assumed my position as Chair of this task force, I had plenty of free time to spend on the project. I anticipated a two year commitment. That timeline has come and gone. Currently enrolled in my first year of law school, I attend school at night while working days. My availability is considerably less than when I was appointed to chair this task force. However, I am committed to completing this project. Please, RID members, show your support for this vital certification. Let's make sure that this Certification debuts at the 1994 RID convention. □

## Legal Task Force - Question Writers Wanted

*By Sue Eadie, CSC, CT, CLIP, Chair - Legal Task Force*

The Legal Task Force (LTF) is working to develop the new RID Legal Interpreting Test. The LTF has three new members, Gay Koenemann, CSC, Prov: SC:L, Lynda Rimmel, CSC, SC: L and Reginald Egnatovitch, CDI-P. It is a thrill to work with such a talented team. We had one face-to-face meeting during July of this year. At that meeting, we discussed the status of the question pool and question writing drives. We revisited the examination blueprint and test specifications. The bulk of our time was spent conducting a content review of the questions in the pool. We wrote some more questions in areas underrepresented in the question pool and developed a plan for obtaining additional items. We also established criteria for eligibility requirements to stand for the test.

At the start of the meeting, we had a total of 120 test questions. Our goal is to have a pool of 200 questions. We have conducted several question item

writing campaigns. The task is more difficult than it sounds and we have not received as many items as we had anticipated or that members promised. The majority of the items have come from interpreters in California. We want this test to be a national test, so if you want to be a test question writer, please contact me at (510) 839-2781 home or at (510) 763-6177 Fax with your name, phone, a good time to reach you, and your certification and experience level.

After a technical review of the 120 test questions, only 83 remained as appropriate test questions. We need at least 100-125 test questions in the area of language, the judicial system, and team interpreting.

We revisited the blueprint and test specifications. On the basis of the feedback we received at the last RID convention, we consolidated some areas and clarified others. We looked at the technical specifications, including weight given to various



# Developing A Legal Portfolio

A "legal portfolio" is a packet of information about you which outlines your credibility as a legal interpreter. It can be used to refer to when talking with a judge or an attorney or when being qualified on the stand. It should include, but is not limited to, the following:

- A copy of your RID membership card showing your status as a current certified member.
- Your resume. Since this copy of your resume will be shared with professionals in the legal realm, it should emphasize your education and training as a legal interpreter. In other words, if your bachelor's degree is in economics but you've been through the RID Legal Interpreter Training, your resume should begin with a section on "professional training" and "professional experience." Do not eliminate information about your formal schooling.
- A copy of states (and federal) legislation. Although judges and attorneys have access to statute books, it is advisable for you to have on hand at least one copy (and preferably several) of the legislation under which you will

be functioning. That way if you need to refer to it during a discussion, no one has to go in search of it. Be prepared to give copies to the judge and the attorneys with whom you are meeting.

- A copy of an oath for interpreters. While you may never have to provide the court with an oath, it can't hurt to have one on hand which you can give to the judge and/or the clerk of the court if need be.
- Letters of recommendation from judges, attorneys, or other professionals with whom you've worked in the legal realm and who are qualified and willing to address your competence as a legal interpreter. The most likely individuals to approach for such a recommendation would be an attorney or a judge with whom you've worked during a trial or a judge you have appeared before numerous times. While they may not be able to address specific questions about your technical skills (i.e., your competence with American Sign Language), they may be able to address your professional demeanor, attitude,

and the quality of service they feel they received from you. Having recommendations from legal professionals may increase your credibility if your competence is challenged.

- Your business card. While you may not always pass your business card to an attorney or the court, don't take the chance of getting caught having to jot your name, address and phone number down on a piece of scratch paper. Make the monetary investment for business cards that you would be proud to pass to another professional. Consider purchasing stationary with your professional logo printed on it.
- An invoice for service. Many courts provide invoices which the interpreter only has to sign. Other courts expect a copy of your own invoice as well as your signature on theirs., have your invoice in your legal portfolio so it is available whenever you need it.

*From the Legal Curriculum developed by California State University, Northridge. The curriculum will soon be available for purchase at RID. □*

## CALL FOR RESOLUTIONS

Resolutions differ from motions in that they do not direct the association to allocate resources. They are most typically position statements or formal recognition of individuals or groups.

All resolutions submitted by May 1, 1995, will be reviewed by the Resolutions Committee (to allow for clarification and possible merger with similar resolutions) and printed in the June *VIEW'S* and the convention workbook.

### **The following format is required:**

Whereas...

Therefore, be it resolved that...

**moved by**

(include signature, printed name, membership category, address and phone number)

**seconded by**

(include signature, printed name, membership category, address and phone number)

Remember that only RID voting members (certified and associate) in good standing may make or second motions.

**Mail to:**

Resolutions Committee  
RID, Inc.  
8719 Colesville Road, #310  
Silver Spring, MD 20910-3919

## CALL FOR CONVENTION PAPERS

### **Conference Theme:**

"A Celebration of the Profession"

### **Abstracts:**

Abstracts are invited which deal with interpreters and their organizations from countries outside of the United States, current trends in the field, both in the U.S. and outside, research and studies pertinent to the field of interpreting, and other topics deemed of particular interest to RID members. Presentations regarding minority, rural, and/or other non-traditional issues are strongly encouraged.

**Length:** 250-word maximum

### **Procedure:**

Submit five (5) copies of an anonymous abstract with an identifying cover letter. Reviewers will see only the abstracts without knowing the identity of the author.

### **Deadline:**

March 15, 1995 (notification by May 1, 1995). Early submissions are encouraged.

### **Send to:**

RID Convention Committee  
RID, Inc.  
8719 Colesville Road, #310  
Silver Spring, MD 20910-3919

# Standards of Court Conduct and Professional Responsibilities: Major Roles of the Court Interpreter

The two most significant functions of the court interpreter occur in the courtroom where interpretation is provided for the non-English speaking witness on the stand or for the defendant at counsel table.

The former role is clearly defined in Section 752 of the California Evidence Code. Therein the law states that a court interpreter shall be sworn to interpret "when a witness is incapable of hearing or understanding the English language or is incapable of expressing himself in the English language so as to be understood directly by counsel, court and jury." Section 752 (B) further defines this kind of interpreter as an expert witness through reference to Section 730 et seq. of the Evidence Code. However, by the very nature of this role, the court interpreter is further obligated to aid in discharging the

affairs of the court in an unbiased and expeditious manner. In this sense, his obligations surpass the normal function of the expert witness, and they approximate the services of the court clerk or other attaches. These sections of the Evidence Code indicate the requirements for the use of an interpreter in both civil and criminal matters.

The other primary need for an interpreter in the courtroom arises when a non-English speaking defendant must be apprised of the nature of the proceedings and communicate with counsel. Article I, Section 14 of the California Constitution, as amended in November, 1974, mandates that "a person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings." This section is the

source of the defendant's right to an interpreter. Consistent with this constitutional right, the interpreter appointed for a non-English speaking defendant should be required to faithfully interpret all English testimony to the defendant and all communication between attorney and client without disrupting the proceeding in court. Concurrent with these duties, the interpreter should assist in expediting court proceedings. As such, the court has a clear interest to see that the non-English speaking defendant is provided with an interpreter at all stages of the proceedings, and further, that such interpreter executes his professional responsibilities properly.

*From the Legal Curriculum developed by California State University, Northridge. The curriculum will soon be available for purchase at RID. □*

## United States Courts Code of Ethics for Official Court Interpreters

1. The official court interpreter, as an officer of the Court, shall be a person of high moral principles and integrity, honest, conscientious, trustworthy and of emotional maturity. In addition - he must be exceptionally well qualified as a linguist to be appointed to that office.
2. The interpreter shall interpret accurately and faithfully to the best of his ability, always conveying the thought, intent and spirit of the speaker. He should speak in a clear, firm and well modulated voice and use inflections only when called for. At times, because of the difficulty of translation, he may have to paraphrase a statement to adjust his presentation to the level of understanding of the person concerned. However, he must always request permission to do so.
3. In order to give faithful and accurate translation when called upon, and to establish proper rapport, the interpreter shall first determine what the person's educational, cultural and regional background is. Also, whether or not he or she has a speech impediment, is hard of hearing, or has any other physical or psychological problems. Knowledge of these facts will help the interpreter to be more effective.
4. The interpreter must familiarize himself with the case as much as possible prior to going into the courtroom. He should find out whether or not technical language will be used or whether the case involves a particular area where he may have to brush up on certain terms. The very least he should do in preparing himself, is to study the indictment charges to avoid possible translation problems during the formal court proceedings.
5. The interpreter shall maintain an impartial attitude during the course of interpreting. He must never interject his own words, phrases or views into his interpretation, unless, because of difficulty of translation, he is specifically instructed by the Court or permission is granted to do so. He should be particularly careful not to allow the inflections of his voice to be interpreted as partiality.
6. The interpreter shall always guard confidential information and not betray confidence which have been entrusted to him by parties

*Continued on page 26*

## Represent RID's Viewpoints at the Federal Government Level!

The United States Department of Education has an ongoing need for individuals to assist in the review and evaluation of grant applications, and to participate in on-site review of funded projects. These functions are among the most important elements of the discretionary funding process and are designed to ensure that the projects funded meet established selection criteria, designated priorities, and other statutory and regulatory requirements.

The Department of Education is continually updating its Review Register and recruiting additional individuals to serve as panelists and to participate in on-site reviews. Upon approval, the individual is added to the Review Register and is commissioned to serve for a period of three years.

If you would like to be considered for a position that reviews grants related to interpreter training programs and other interpreter related projects, please contact the National Office for an application and further information.



**Eadie Cont'd...**(from page 1)

professional code of conduct to testify, as all assignment related information is strictly confidential.

argument does not have the power of law behind it and, unless your state is unique, a court order compels you to testify what you interpreted.

You can try to explain that your reputation will suffer if you testify and that you may never be trusted as an interpreter again. This may not necessarily be successful, but perhaps you will have a more sympathetic prosecutor or defense attorney. When you accepted the assignment, you also accepted the liability.

Another approach would be to argue that too much time has passed since the assignment and you can not possibly remember any of the details of it. Reading the police report may or may not refresh your memory. You can argue that the police report was a representation of the officer's words and memories, not yours. Interpreters forget what they interpret. They are not court reporters making a record of an interview. We don't keep any records, except for copies of our invoices. This argument fail because the attorney will ask for your best recall.

Where can one go to for advice? You could call California Center for the Law and the Deaf, National Center for the Law and Deafness, the attorney for the Disabilities Rights and Education Fund or RID staff. You could consult with colleagues around the country, Spanish Court Interpreters, friends who are attorneys, attorneys who have Deaf children, and do your own legal research at a law library. Hiring counsel to represent you may be expensive, but well worth the cost. Counsel may approach the court before trial with a motion to quash the subpoena.

Perhaps one could argue that it would be a violation of the deaf client's civil rights under the Americans With Disabilities Act (ADA) to testify against him or her, as the only reason an interpreter was present was due to his/her deafness. Try to argue that it may be a violation of the fifth amendment for an interpreter to testify as a witness' statement.

this time, you may realize you are unable to avoid testifying. You will testify. You cannot receive a fee as an expert witness, because you are testifying regarding what you saw and

heard. Although the court is asking for your professional opinion, you are not considered an expert witness.

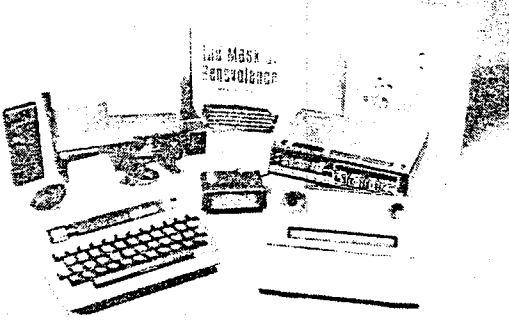
When it is a forgone conclusion that you are unable to avoid testimony, arrive at court well prepared to present yourself in a professional manner. In preparing for testimony, it may be helpful to count the jobs that you have interpreted since the date in question, and try to get it on the record. If the number is high, it may convince the court that it is impossible to remember any details.

To further prepare for testimony, arm yourself with a copy of RID's Code of Ethics, California Court Interpreter's Code of Ethics, any RID VIEWS articles on the subject, your legal resume, and any interpreting contracts that specifically mandate adherence to the RID Code of Ethics.

The most useful lesson to be learned, is no matter what the setting, make acceptance of the assignment conditional that any interview between the police and a deaf client be videotaped. Once you have a video tape, if any questions challenge the interpreting, the defense or prosecution can hire an expert to evaluate the tape, and the interpreter can remain true to his/her professional code of conduct.

This nightmare can happen to any interpreter. In an article written by Alice Baker, CSC, CLIP, University of Virginia Law School in the January 1993 VIEWS, Ms. Baker challenges RID to relax the requirement of confidentiality in three situations. One is when the interpreter's testimony becomes necessary to overcome a hearsay objection. In my case, the officer's testimony as to what he heard the deaf minor say, came through the interpreter, and is hearsay under the rules of evidence.

I implore you to evaluate your true motivations for working in the legal setting. I recommend that before you embark on a legal interpreting career, that you have five to ten years of generalist experience behind you. Visit court rooms, and acquaint yourself with legal vocabulary and procedures. Talk with interpreters who are currently working in the field to assess if this is an appropriate choice for you. Avail yourself of all training opportunities in the field of law. Obtain the appropriate certification. Contact your local spoken language court interpreters to see what, if any, training they offer. Work with a mentor certified to work in the courts. To be or not to be a court interpreter....that is the question you must answer. □



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opinions, are expressly made nonwaivable. That waivability is not expressly mentioned in the confidentiality provision is noteworthy, especially in light of the fact that it is generally considered in the field to be the most important provision.

In this article, I consider whether, and to what extent, waiver of interpreter confidentiality should be permitted under the Code of Ethics, and some of the problems raised by a waiver doctrine.

## **I. Should the Parties to the Conversation Be Permitted to Waive Interpreter Confidentiality?**

**Example #1:** Patient sues Doctor for medical malpractice after suffering injury caused by ingesting tetracycline with milk products. Patient claims that Doctor failed to warn him not to take tetracycline with milk products. Both parties may agree that it is in the interest of justice to allow the interpreter to testify to the contents of Doctor's instructions to Patient.

I have long believed that interpreters ought to be allowed to disclose the contents of conversations that they have interpreted under waiver from both parties. As long as the parties, who "own" the conversation, do not object to the interpreter's disclosure, it is difficult to see why the interpreter should not testify, so long as a knowing and written waiver is obtained from both parties.

## **II. Under What Circumstances Should Waiver Be Permitted?**

The paradigm case, described above, has two characteristics that make us comfortable about allowing waiver. First, the agreement to waive confidentiality is made in writing. Requiring that an agreement be in writing protects the parties in three ways. It performs an evidentiary function, providing certainty about the desire of the parties. It performs a ritual function of bringing home to the person making the written agreement the reality of the waiver. And it provides definiteness by channeling the agreement into a standard mode so that it is clear whether a waiver agreement has been made.

Second, the waiver agreement is made after the conversation has already taken place. Again, having an ex post agreement protects clients. Once the conversation has already taken place we are certain that the party to the conversation knows

precisely what he is waiving. And because the conversation was protected at the time it happened, we are confident that the conversation was not chilled ex ante by fears of future disclosure.

The question then becomes how far we are willing to extend this analysis. If we permit express contracts to waive confidentiality after the fact, do we allow parties to enter into ex ante contracts waiving confidentiality? If we permit written, express contracts waiving confidentiality, do we also imply contracts to waive confidentiality in appropriate circumstances?

### **a. Should We Allow the Parties to a Conversation to Contract in Advance that the Interpreter May Disclose the Contents of the Conversation?**

**Example #2:** Buyer and Seller plan a mediated negotiation to resolve a dispute over the sale of widgets, as an alternative to trial. Both parties agree in advance that if a disagreement arises as to the terms of the negotiated agreement, the interpreter may testify to the contents of the negotiation at future mediations or at trial.

In the case in example #2, the parties know in advance that their dispute may go to trial, and that there may be serious evidentiary problems if the interpreter is not permitted to testify. They may want to agree before the fact to permit a disinterested neutral to testify to the contents of their negotiated transaction.

In this case, the parties have all the protection afforded by an agreement in writing. But some of the protections of the ex post contract are lost. Suppose that after the conversation, Buyer decides that it is to her disadvantage to have the interpreter testify. Not only may it be factually difficult or impossible to revoke the waiver, the very fact of attempting a revocation may work to her detriment by implying to the judge that Buyer has something to hide. These concerns may make us less willing to permit ex ante agreements allowing the interpreter to disclose.

### **b. Should We Imply Agreements to Waive Confidentiality?**

It is also possible to imply an agreement to waive confidentiality from the behavior of the parties, or by the contents of other contracts to which they are subject.

**Example #3:** Interpreter and both clients are full-time employees of a government agency. All are subject to a standard agency employment

contract that requires all employees to cooperate in any investigation of alleged employee misconduct. Both clients are aware that the interpreter is subject to the disclosure requirement.

In the case in example #3, one can argue that the clients waived confidentiality in advance, at least regarding investigations of employee misconduct, by the fact of using an interpreter they knew was subject to a disclosure requirement. If they wanted to ensure confidentiality, they should have hired an outside interpreter, who would not be subject to the disclosure requirement. On this view, disclosure should be allowed.

On the other hand, we need to be aware that most interpreting service is in fact provided by agencies, and that our clients rarely have absolute discretion to select their own interpreters. Taken to an extreme, this view would permit an interpreting agency to abrogate all confidentiality simply by placing a disclosure clause in its employment contracts.

**Example #4:** Agency, which provides 85% of the interpreting service in the community, has a clause in its employment contracts requiring interpreters to disclose to any agency official, or authorized investigating agent, the contents of any interpreted conversation.

Of course, it is difficult to imagine either that an agency would attempt to insert such a clause into its general employment contracts, or that interpreters would agree to this as a general condition of employment. But the concerns raised by this city-wide specter are the same in the small agency context, when a single interpreter is under a disclosure requirement with regard to a specified set of clients.

To the extent that discrete agencies have legitimate needs for interpreter disclosure, these needs can be better met by content-specific disclosure rules, rather than an implied waiver of all confidentiality. It is legitimate to require an interpreter to disclose the contents of communications made in furtherance of crime or fraud, or where there is a serious threat of bodily injury to a third party if the interpreter does not disclose. It is legitimate to require an interpreter to disclose suspected ongoing child abuse to the appropriate authorities. It is not legitimate to permit a hiring agency contractually to abrogate all confidentiality for interpreted transactions merely by inserting a disclosure clause in the interpreter's employment contract. □

### Implications of Legal Interpreting

At first glance, an interpreting assignment may seem self-contained, that is, it may seem to have no future legal implications. However, interpreters must be aware of certain characteristics of an assignment which could lead to an arrest, a police investigation, or a court hearing. Here is an example. An interpreter between the Department of Social Services (DSS) and a deaf mother who is alleging child abuse by the child's father. During the meeting between the DSS worker and the mother, the interpreter hears no specialized legal vocabulary and no attorneys are present. How could the matter have legal ramifications? In some states, if the mother's allegations are substantiated by the DSS, a district attorney, or (prosecuting) investigator is brought in to investigate filing criminal charges against the father, especially if the allegations involve sexual abuse. The mother may be advised to seek a restraining order from the court, barring the father from further contact with the mother and child. Once the case is activated in court, the DSS file and statements made by the mother through an interpreter would be available to the father's defense attorney. The qualifications of the interpreter and the fidelity of the interpretation could come under the attorney's, and perhaps eventually, the court's, scrutiny. Here is another example. An interpreter is contacted by the staff at an hospital emergency room during the night and asked to interpret for a deaf woman in the emergency room. Upon arrival, the interpreter discovers the deaf woman has been raped and several tests will be administered. The doctor informs the interpreter that the police have been contacted and they will take a statement from the victim. A statement is a formal narrative of facts (H. Black, 1983). It may be spoken or signed and then is translated into written form. When a

victim gives a statement to the police, it becomes part of the police record. If there are errors in the interpretation of the statement, when the case comes to court, discrepancies between live testimony and the police report could call into question not only the victim's testimony but the interpreter's qualifications as well. It could mean the difference between a conviction or an acquittal for the defendant. Interpreters must always use discretion when accepting assignments, but they must be especially mindful of the potential ramifications of interpreting in legal or quasi-legal matters. For interpreters, the impact on one's professional credibility cannot be overstated.

### Privileged Communications

Privileged communications are statements made by persons protected by state law from "forced disclosure on the witness stand" (H. Black, 1983). Certain professionals, such as attorneys, clergy, and doctors (depending on the state) are protected by privilege (also called "cloak of confidentiality"). Interpreters, when in the presence of those protected by privilege, are also exempt from forced disclosure, unless all of those who hold the privilege request the interpreter to testify as to what was said during privileged communications. In this situation, the interpreter has no legal ground for refusing to testify. The RID Code of Ethics can and should be used as a basis for asking to be excused from testifying; however, the code holds no legal status and could be struck down. In situations not covered by privilege (such as police interrogations), the interpreter may want to request that the interpretation be videotaped. The videotape then becomes the record of the interpretation. If later asked to testify, the interpreter could refer the requesting party (usually counsel) to the videotape. This strategy may save the interpreter from testifying. □

remain in a completely impartial position. If counsel compels me to testify, I would be constrained to violate the code of professional responsibility under which I function and would have to ask to be removed from further involvement in this matter. Additionally, Your Honor, if I am required to testify, I provides defense counsel and the jury with the advantage of hearing testimony twice, an advantage they would not have were the witness not D/deaf.

The rules of privilege vary from state to state. Some states (such as New Jersey) include relationships other than the traditional. Never assume a privilege exists in one state just because it did in another, except for the attorney/client privilege which is covered in virtually all states. However, if a person unnecessary for the transmittal of information between client and attorney is present, the privilege may be nullified. **KNOW WHEN THE PRIVILEGE DOES NOT APPLY.**

If you've spoken with a D/deaf defendant in a setting in which no attorney was present, you were not covered by privilege at that time and could be compelled to testify at a later date. Sometimes this cannot be avoided (e.g., if you interpreted for a D/deaf victim who reported an assault at the police station). Regardless of the fact that you considered yourself to be an impartial party and regardless of the mandates of the RID Code of Ethics, you are vulnerable to being called to testify when such circumstances prevail.

Never lose sight of the fact that as a currently certified interpreter you are functioning under a code of ethics designed and promulgated by a professional organization. You could and should use the RID (or other) Code as a defense against testifying, but you must recognize its limitations in protecting you. It is not legally binding in a court of law and cannot keep you from testifying (unless noted in the statute or rules of evidence or by some legal authority, such as a State Supreme Court).

If you find yourself compelled to testify regarding interpretation services you've provided in the past, there are numerous arguments you can use in hopes of the request being withdrawn. □

### !!! Attention RID Affiliate Chapter Presidents!!!

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How to make your organization an active, productive, cohesive unit?

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Contact: Sherry Ashton - 301-608-0050

\*\*lodging, registration and travel provided by RID.



## Support the RID through your Workplace Campaign and the Combined Federal Campaign

It's that time of the year again, when individuals make contributions to various organizations through their workplace campaigns. You can make a contribution to the Registry of Interpreters for the Deaf through the Combined Federal Campaign (CFC).

Federal and military personnel as well as private sector employees can support the RID by writing in **#1328** on their CFC pledge card.

If your workplace doesn't participate in the CFC you can write a special note asking that your donation be directed to the Registry of Interpreters for the Deaf, Inc., 8719 Colesville Rd. Suite 310, Silver Spring, MD 20910. If your employer has a matching gift program, you may be able to double your support for the RID.

Thanks for your support and for helping to spread the word about RID!

### *Solow Cont'd...(from page 2)*

It may be a good idea to converse with the client to become comfortable with the interpreter's signing. It is still essential to avoid discussion of anything related to the case at hand, for confidentiality only applies when we are interpreting. Tremendous caution is recommended in any case where the interpreter is alone with a client. Both to avoid conversation and simply for a rest, the interpreter may find it easiest to isolate him- or herself during breaks. However, be certain to stay close by in case you are needed.

Sign language is highly visible. The interpreter can position him or herself in such a way that his or her signs are not visible to people other than the clients. Often lawyers and clients have quiet conversations in the hall outside the courtroom. It would be unfair if the interpreter signed so visibly that other signers could "eavesdrop" on the private conversation. In these cases the interpreter must exercise caution,

signing in a whisper just as the lawyer speaks in low tones.

Terminology is an important factor in the legal setting. It is the lawyer's job to explain terms and legal consequences, but the interpreter must be prepared to clearly sign such explanations; therefore, familiarity with the terms and with the law will be of tremendous benefit to the interpreter. Likewise, the vocalization of information must be carefully handled. The interpreter works extra hard at accuracy and never assumes anything. It may be that responses are not necessarily coded in "signs" but may, in fact, be facial or gestural. If a deaf person nods, that is not vocalized as a "yes." The signer must use a sign that means YES. If a person gestures or points, the court interprets that vocally. For example, the judge may say, "the defendant is pointing to his right shoulder."

The area of legal interpreting is complex and important. Interpreters should be well prepared and competent before accepting assignments in a legal setting. □

### *Raci Cont'd...(from page 3)*

100 cases there are 100 different ways of handling this part of your job. Working the judicial system requires that you keep a cool head, check your work, and do the right thing.

How does an interpreter know what the right thing to do is? The majority of us have learned through experience or "on the job training." After one has freelanced for some years, one can become "seasoned" and comfortable. But we, as professionals, need maintenance and feedback to enable us to grow.

I am a CSC with over 10 years of freelance experience. I am a CODA who has never been through an ITP program. Going through the Legal Training Program that was offered at CSUN was a humbling and inspirational experience that I would recommend to ALL interpreters.

If you are interpreting in a courtroom these are questions that you should be ready to answer. If you cannot locate a legal training program to enhance your understanding of the field, you can familiarize yourself with courtroom procedure through research and observation. □

## Fiscal Year 1994 Audit Available!

The audit for the Fiscal Year ending June 30, 1994 is in from the accounting firm of Benz, Flaherty & Kreber, PC. For a copy, please call the National Office at 301/608-0050.

### **Wolf Cont'd...** (from page 3)

Have our efforts at training succeeded? Certainly, individuals who undertake, complete, and continue legal training are far better equipped than those who do not, but the number remains woefully low. While our sense of adequate standards is shared more collectively, the number of individuals who attempt legal interpreting without training, or who misrepresent cursory training (one day introductory workshops, etc.) is embarrassingly high.

There are those of us who have said training needs to become more standardized, by creating fewer, better funded legal training centers. It is an important point, but one that may miss the deeper issue. I would argue that we are better served by a strong certification system; a skills-based evaluation, using consumer-based criteria, free from the constraints and conflicts of interest created inherent in any test

administered by an association of professionals served by the testing. Standards need to be clear, comprehensive, and rigorously applied, avoiding some of the problems we faced in our original attempts at certification, as well as with our more recent certificate of transliteration. Once these standards are in place, consumer demand will spur the development of training programs that are judged effective by their ability to prepare graduates for legal certification.

Doubtless, our current training for legal interpreters will become even more involved. We are just beginning to give definition to the breadth of experience called upon, from the expected linguistic and cultural mediation skills, to the rarer experiences in inter-class conflict, cross-cultural discernment, as well as judicial expertise and currency. We will no doubt demand increasingly complex and comprehensive training for work in this setting. Our task now is to set the standard. □

### **Region IV Cont'd...** (from page 5)

already well under way for the El Paso State Convention. Looks to be a stellar production.

In an embarrassing oversight, I failed to mention in the October Region IV Report that a contested election was held at the Region IV Conference between L.Nodurft and Dan Smith (MO-SL) for the coveted position of Region IV treasurer. Congratulations, Laura on your new responsibilities. And thanks Dan for being willing to run.

The Presidents/Officers/Representatives of the Region have agreed to share newsletters among the Region. As part of this understanding, articles can be re-printed as long as long as appropriate credit is given to the author and the newsletter.

Finally, polish your "sparklies" and get ready to trek to N'awlins in August. Get your proxy in to the National Office. □

### **Region II Cont'd...** (from page 4)

what each person was made in the chapter's monthly newsletter, "Focus". A dedicated group of volunteers was then recruited to distribute the ALDs, explain their use, set the frequencies, and be on hand to make sure that everything was working properly. Except for the occasional dead battery, everything went swimmingly.

There was an initial hesitancy among some members. Their concern was that beginning sign language students or other members not fluent in ASL might be intimidated by the plan. This was alleviated in a very strategic way--complete non-judgmental acceptance of each individual's ability and right to communicate in the way most comfortable for him or her. Interpreters were available to hearing participants who could not sign fluently. An interesting phenomenon occurred--people began to feel more confident about their skills and fewer and fewer people depended on interpreters and ALDs.

In fact, students and beginning signers looked at it as yet another golden opportunity. As Kathy Goodson, a Dekalb College ITP student put it, "Students were able to challenge their receptive skills or use the ALDs to listen to highly skilled sign-to-voice interpreters."

Feedback from the convention has been very positive. People who used the ALDs were pleased with the system. Many members have requested that this policy continue for future conferences.

We were informed during the conference that the Potomac Chapter was the first in our region to do this. Georgia is proud to be the second! □

## **Official Minutes**

### **The RID Board of Directors**

#### **August 4 - 7, 1994**

The meeting of the Board of Directors was held at the Comfort Inn in Brunswick, Maine and was called to order by President Janet Bailey at 9:00 AM EST. The meeting adjourned August 7th at 11 AM EST.

The following members were present: Janet Bailey, Jerry Conner, Robin Byers, Stella Ashley, Rita Jo Scarcella, Sue Scott, Ben Hall, Daniel Burch.

Absent Thursday: Rita Jo Scarcella, Stella Ashley, Kate Volta.

Absent Friday: Stella Ashley, Kate Volta.

Absent Saturday: Kate Volta.

Also present were Clay Nettles, Dorene Brough, RID's 5000th member, Beth Michaud, Meryl Troop, Margaret Haberman, Anna O'Connell, Barbara Millios, Diane St. Lawrence, and Jody Rich.

Items discussed included the following:

- Janet Bailey cast the one vote, per the Bylaws, to elect Rita Jo Scarcella as Region I Representative to the Board of Directors.
- Welcome and introduction of new board members
- President's report
- CSUN curriculum contract review
- Vice President's report
- VIEWS topics
- Regional Reports
- Goal Planning

Motions acted upon include the following:

#### **1.29**

To accept the minutes of the June 29, 1994 Board of Directors meeting as amended. J.Conner/ B. Hall

Unanimous

#### **94.30**

To accept the budget for FY 95 as submitted by the Association Administrator. R. Byers/ J.Conner  
Unanimous

#### **94.31**

To authorize the Association Administrator to negotiate for new office space. B. Hall/ D. Burch Unanimous

#### **94.32**

BE IT RESOLVED that the Board of Directors of the above corporation do hereby authorize Clay Nettles, Association Administrator, RID and his successors in office to negotiate, on terms and conditions that he may deem advisable, a contract or contracts with the Louisiana Department of Social Services, with the effective date of July

Continued on page 26

# Providing Sign Language Interpreters for Hearing Impaired Jurors

By Robert K. Loesche

At a recent juror utilization and management seminar conducted by the FCC, participants suggested that it would be helpful to publish, in the Court Administration Bulletin, the procedures through which a district court may procure the services of a sign language interpreter for a deaf or hearing impaired juror. I am aware of three ways in which this may be accomplished.

First, some deaf individuals may have their own personal interpreter who they are willing to use during jury service without cost to the court. Such services may be accepted, but only as long as the court is satisfied that the interpreter is qualified, which is a critical condition. A deaf person may offer, for example, the services of a family member or relative who knows enough sign language to assist the deaf individual in his or her day-to-day affairs, but such an interpreter may be wholly inadequate to perform simultaneous translation of complex and sophisticated court proceedings hours at a time. While voluntary services are desirable, they should not be accepted at the expense of accuracy. There are no specific criteria for determining qualifications for this purpose, but courts may want to follow the procedures used under the Court Interpreters Act and seek persons holding a Legal Specialist Certificate from the Registry of Interpreters for the Deaf, Inc., or, if no such person is reasonably available, an individual possessing a Comprehensive Skills Certificate from the Registry of Interpreters for the Deaf. See Interim Regulations of the Director of the Administrative Office Implementing the Court Interpreters Amendments Act of 1988, 15 (Nov. 16, 1989).

Second, I am advised (although I have not heard of this first-hand) that in some locations, especially large cities, there are support and advocacy groups for the deaf that are willing to provide interpreters for jurors without charge to the court. Again, such services may be accepted as long as the court is satisfied with the qualifications of the proposed interpreter.

Finally, if voluntary services are not available, courts may retain qualified

Interpreters as Independent contractors pursuant to the Director's authority to retain experts and consultants under 28 U.S.C. 602(c) and 5 U.S.C. 3109. Under the preexisting delegation of the Director's contracting authority, courts may enter into such agreements directly as long as the total cost does not exceed \$25,000. Compensation paid to interpreters must be fair and reasonable in the local marketplace; in this regard courts may wish to refer to the fee schedule appended to the Courts Interpreters Amendments Act regulations cited above. In selecting an interpreter, competition appropriate to the dollar amount of the contract must be obtained; i.e., a single bid is sufficient for contracts of less than \$2,500 and at least three oral bids must be obtained for contracts between \$2,500 and 25,000. See Vol. 1 -B Guide to Judiciary Policies and Procedures, Chap. VIII, Part B.2.B. A court wishing to enter into a sole source contract must get advance approval from the Administrative Officer, and should initiate the approval process by contacting Mike D'Onofrio, Chief of the Procurement and Property Branch in the Contracts and Services Division (202-273-1434). The expenses for these contracts are paid centrally out of the jury appropriation under the general authorization for fees and expenses of jurors. They are not charged against any individual court's allotments under the Salaries and Expenses appropriation. The accounting codes relating to this authorization include: Fund, 092540; Budget Organization, PETIT JU; Cost Organization, D\*\*\*\*C (as appropriate for the particular district); and Budget Object Code, 2559.

I note in closing that case law has determined that deaf jurors requiring the assistance of a sign language interpreter are legally qualified to serve, and that an interpreter may accompany the juror into the deliberation room. See *United States vs. Brumbaugh*, 703 F. Supp. 399 (W.D. Pa 1989) (evaluating state statute virtually identical to Federal Jury Service and Selection act); cf. *People v. Guzman*, 716 N.Y. 2d 7, 555 N.E. 2d 259 (1990) (state case adhering to *Dempsey*). □

## Call for Workshop Presenters

RID plans to sanction a number of workshops at the 1995 Convention in New Orleans, scheduled for July 31-August 6, 1995, to be held at the New Orleans Sheraton in the French Quarter.

RID will award CEUs, space and manage administrative details for presenters. RID will provide a registration discount to presenters. Interested individuals or organizations should write to the National Convention Committee and outline the types and quantity of workshops you would be interested in providing. Space is limited. Please respond at your earliest convenience.

The address is:  
National Convention Committee  
8719 Colesville Road Suite 310  
Silver Spring, MD 20910.

## Special Pre-move sale!

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*Johnson Cont'd ... (from page 9)*

assembly in which membership is individual, personal, and non-transferable. In a stock corporation, on the other hand, where the ownership is transferable, the voice and vote of the member also is transferable by use of a proxy. But in a non-stock corporation, where membership is usually on the same basis as in an unincorporated, voluntary association, voting by proxy should not be permitted unless the state's corporation law- as applying to non-stock corporations- absolutely requires it. Because the personnel presence and participation by members in meetings is a fundamental principle of parliamentary procedure, if the law under which an organization is incorporated allows proxy voting to be prohibited by a provision of the bylaws, the adoption of this book as parliamentary authority by prescription in the bylaws is treated as sufficient provision.

RID as an organization is now being asked to consider making a significant change, one that will considerably impact on how we function. On the one hand, we can continue to bog us down in numerous snags and loopholes and allow an influential and popular few to promote personal agendas that DO NOT (and by proxy's very design, CANNOT) represent the true century and become a truly representative organization by eliminating the use of proxies and guaranteeing one body- one true vote on every issue. The choice is YOURS!

(I welcome your feedback. Please send your opinions to the national office "Attention Bylaws Committee Chair". All responses will be considered at the Bylaws Committee Fact to Face meeting to be held in early January. At that time, we will be meeting with our parliamentarian and develop the final draft of our Bylaws referendum.) □

*United States Courts Cont'd ... (from page 9)*

6. The interpreter shall always guard confidential information and not betray confidence which have been entrusted to him by parties concerned. During trials or any legal proceedings, he should not, under any circumstances, discuss the testimony or merits of the case with those he interprets for or anyone else. He shall properly advise those he interprets for and anyone concerned with the case to do the same.

7. The interpreter shall always adopt a conservative manner of dress and conduct in upholding the dignity of the Court and of his profession. This is particularly important when he is interpreting in the courtroom and attention is upon him. He shall also be thoroughly familiar with all local court rules and abide by them.

8. The interpreter must constantly strive to improve his knowledge of legal terminology in English and the language he interprets for, and also be familiar with general courtroom procedures so that in addition to interpreting for those concerned, he may, when time and situation permits, explain to them what is happening in the courtroom. The interpreter is responsible to have the proper dictionaries and other linguistic reference materials readily available for consultation.

Louis F. Marquez, Official Court Interpreter, United States District Court, Western District Texas, San Antonio Division, February 9, 1973.

*From the Legal Curriculum developed by California State University, Northridge. The curriculum will soon be available for purchase at RID. □*


*Minutes Cont'd ... (from page 18)*

15, 1994, and to execute said document on behalf of the corporation, and further we do hereby give him the power and authority to do all things necessary to implement, maintain, amend or review said documents.

The next meeting will be held, via conference call, September 3rd, 1994 at 12:00 Noon EST. □



*Happy Holidays*



*from the*  
*RID National Staff*

*The Tarrant County (Texas) Court System requires the service of approximately 7,000 jurors per month. Ms. Linda Bierman-Davis, Jury Bailiff /Administrator for Tarrant County estimates that, on average, Tarrant County has one juror per month that is deaf. In her many years of service, Bierman-Davis has never encountered any problems personally, nor through the judges, with the interpreters that have worked in the various county courts.*