

## Court Interpreter Employment System and Improvements in Language Access

To understand the current issues of contention between court interpreters and court administrators in Northern California, it's important to understand the development of court interpreting as a profession and historic inequities in the treatment of interpreters as court workers.

Court administrators are proposing to use Video Remote Interpreting (VRI), have kept wages stagnant and have sought to cut back full time jobs. These proposals would fundamentally change the way court interpreter services are delivered. They also threaten to reverse progress made slowly, over more than thirty years, to establish standards for interpreter competence and to recognize the essential role of interpreters in ensuring access to justice in California.

Before 1979, there were no standards by which to measure the accuracy of an interpretation. Interpreters in life and death cases were the janitor, a lawyer's wife, audience members, and children. In the late eighties and early nineties, testing standards were raised and statutes enacted to enforce the use of certified interpreters. These measures were in response to extensive media attention exposing serious problems with the use of unqualified interpreters, as well as court decisions finding violations of due process for failure to provide language access.

The Judicial Council became responsible for the regulation and oversight of interpreters, including continuing education, testing, and recruitment, pursuant to SB 1304 (Lockyer, 1992).<sup>1</sup> This legislation was enacted in response to an award-winning exposé on interpreting services in the California courts published in the *San Jose Mercury News*.<sup>2</sup>

Today, certified interpreters are tested and trained professionals held to high standards of competence who must comply with ethical codes and continuing education requirements. But although the standards had been raised and the work force had professionalized by the early nineties, pay remained flat for a decade, during which interpreters worked without protections or security. Not surprisingly, the courts struggled to attract and retain enough skilled interpreters.

Court interpreters won basic employment protections and representation rights only 10 years ago, with passage of the Court Interpreter Act.<sup>3</sup> The courts didn't establish full time positions with benefits until 2005. Prior to these developments, the vast majority of court interpreters were contractors treated as contingent workers without rights or benefits, even though many had spent decades serving the court system.

In a short time, the employment system implemented in 2003 has created greater stability and reliability in the delivery of interpreter services. Interpreter use and expenditure data show measurable improvements in language access and cost efficiencies. A Judicial Council report analyzing data for 2004-2008 found that, "[s]tatewide, employees interpret 16.2 percent more cases per day than contractors."<sup>4</sup>

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<sup>1</sup> *Court Interpreters Program FAQs*, Judicial Council of California, <http://www.courts.ca.gov/2683.htm>.

<sup>2</sup> "How Court Interpreters Distort Justice," Miranda Ewell and David Schrieberg, *San Jose Mercury News*, December 17, 1989.

<sup>3</sup> SB371 (Escutia 2002), California Legislature, [ftp://www.leginfo.ca.gov/pub/01-02/bill/sen/sb\\_0351-0400/sb\\_371\\_cfa\\_20010509\\_105137\\_sen\\_comm.html](ftp://www.leginfo.ca.gov/pub/01-02/bill/sen/sb_0351-0400/sb_371_cfa_20010509_105137_sen_comm.html).

<sup>4</sup> Ernest L. Cowles, Carole W. Barnes and Britte H. Livingston, "2010 Language Need and Interpreter Use in California Superior Courts," Institute for Social Research, California State University, Sacramento (May 2010), <http://courts.ca.gov/documents/language-interpreterneed-10.pdf>

Not only do employee interpreters perform more interpretations per day, but they cost less as well. Expenditure data for the same time period shows that on average, employee interpreters statewide cost the courts 10.4% less per day than contractors. And because employees also perform more interpretations per day than contractors, the average cost *per case* for employees was 22.7% less than the average cost per case for contractors.<sup>5</sup>

Thanks to the employment system, statutes and rules of court are being actively enforced for the first time, requiring courts to give priority to certified/registered employees and contractors. This has led to significant reductions in the use of non-certified and non-registered interpreters in California courts,<sup>6</sup> down from 25 percent of total contractor costs paying for non-certified or non-registered interpreters in fiscal 2004-2005 to 14.55 percent by fiscal 2011-2012.

Now, only ten years later, court administrators are proposing to turn back the clock, effectively dismantling that progress by eviscerating full-time positions and introducing a technology “solution” that is in search of a problem and threatens to reduce the quality and availability of language access services.

There is no reason to return to less reliable and less accessible ways to cover cases with interpreter needs. In California we have more than 900 professionally trained staff interpreters who are dedicated to serving the courts and providing due process and equal treatment under the law to all non-English speaking participants in the justice system.

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<sup>5</sup> Trial Court Interpreters Program Expenditure Report for Fiscal Year (2007-2008), Judicial Council Annual Report to the Legislature (February 2009), <http://courts.ca.gov/documents/tcinterpret-expendreport-fy0708.pdf>.

<sup>6</sup> Trial Court Interpreters Program Expenditure Reports (2004-2008 and 2011-2012), Judicial Council Annual Report to the Legislature, <http://www.courts.ca.gov/2686.htm>.