

Interpreter and Translation Project

*Updated July 10, 2013

- November 2009 Supreme Court Committee to Study the Use of Interpreters and Translators Appointed by Chief Justice.
- November 14, 2011 Committee Report to the Supreme Court
- Committee Report detailed its findings and recommendations. The report to the Supreme Court included 32 recommendations.
- January 11, 2012 Supreme Court directs the State Court Administrator's Office to proceed with a number of recommendations proposed by the Committee.
- Committee recommendations included the below items with current status notes relative to each item:

1. Take reasonable steps to provide timely, cost-effective and meaningful access for LEP individuals and those with hearing impairments to services the UJS provides.

This recommendation is largely aspirational in nature and relates more specifically to the individualized recommendations below.

2. Anyone that requests an interpreter should be presumed to need an interpreter until the Court has an opportunity to address the individual. In many instances, a person may be fluent enough to grasp general concepts but may not understand legal concepts to a degree that would enable them to meaningfully participate in a judicial proceeding.

This has been reinforced through judicial training and Benchcards.

3. Study and pursue legislative changes and court rules to establish statewide rules relating to the qualification, appointment and compensation of court interpreters.

Legislation was introduced to update the interpreter oath and that legislation passed during the 2012 session. A court rule was adopted in February creating a Code of Ethics for Interpreters.

4. Ensure qualified interpreter services are provided when necessary to LEP or hearing-impaired individuals who are parties or witnesses in any type of court proceeding, those who have a direct and substantial interest in a proceeding (such as parents of minors involved in juvenile actions) or court customers seeking information.

This has been reinforced through judicial training and resource materials.

5. Develop and implement professional ethics and language proficiency qualification standards for interpreters and require interpreters to comply with these standards.

Professional ethics standards were adopted by the Supreme Court. Qualification of interpreters is addressed on the circuit court level through voir dire by the judge to assess interpreter qualifications. Sign language interpreters are certified by the State of South Dakota.

6. Implement and enforce quality control measures and oversight to ensure that interactions with LEP or hearing-impaired individuals are accurate and effective and also encourage feedback from LEP or hearing-impaired individuals, court personnel and others with information related to language services.

Quality control measures are addressed by the judge in the specific case. We are currently exploring an access to justice survey that would seek feedback from court users, including LEP or hearing impaired individuals, coming into contact with the court system.

7. Statewide oversight of the interpreter program would be desirable for consistency and cost-effectiveness rather than requiring each circuit to recruit, train and test interpreters.

Statewide involvement is currently focused on providing resources from State Court Administration. Qualification and monitoring are the responsibility of the circuit courts through individualized Language Access Plans and judicial oversight.

8. Provide interpreter services to those in need without charge to the extent feasible.

Interpreter costs may be the responsibility of the parties or paid by the county or UJS respectively depending upon the particular circumstance.

9. Work with state and local government and other interest groups to address funding issues associated with the provision of interpreter services and the cost of implementing these recommendations.

There were initial discussions going into the 2012 budget session concerning interpreter funding but there has been no change in the law.

10. Develop a statewide roster of qualified interpreters, establish their qualifications through testing standards and create preferential assignment of interpreters based on those qualifications. The creation of standards and preferences will lend itself toward the recruitment of more professional interpreters. It is recommended a tiered system be established with a preference toward the most qualified interpreters whenever reasonably available.

There has been an updated statewide interpreter roster created and made available on the UJS Intranet page. Interpreter assignments and qualifications are addressed at the circuit court level.

11. Establish a defined complaint procedure within the UJS for any person wishing to file a complaint regarding language access.

There has been no statewide defined procedure established largely because of the current status of local control concerning interpreter issues. This item is part of the current task list for FY14.

12. Establish a procedure for enforcing compliance with any policies adopted.

A verification process for the interpreter Code of Ethics has been created.

13. Create a mechanism to enable an unofficial audio/video recording of proceedings where an interpreter is used when the court determines it appropriate. This could be used to verify interpreter accuracy, provide interpreter oversight if questions as to accuracy are raised or as a training tool for State Court Administration.

This item has not been addressed at this point.

14. Provide initial and periodic training to court staff on the effective use of interpreters and translators and interacting with LEP and hearing-impaired individuals. This training should include identifying those in need of such services and should be provided to new employees as part of their orientation.

Training has been provided to judges, court reporters and court services officers and support staff with training scheduled for clerks in the near future. A section has been created for interpreter issues for new judge training but similar training has not been included as part of new employee orientation. We are currently exploring the

creation of a short video to utilize for employee orientation and this item remains on the task list.

15. The UJS should work with the State Bar to provide cultural competency training to attorneys as part of its continuing legal education process and this training should include the effective use of interpreters.

This idea has been proposed to the CLE committee but it has not been recommended or provided to date. Future tasks include training for attorneys on interpreter related issues.

16. Provide adequate training to judges, court staff and attorneys in order to identify and understand interpreter fatigue and the necessity for multiple interpreters.

This aspect has been incorporated into all interpreter trainings.

17. Establish guidelines for policies and best practices for the use of interpreters in the South Dakota court system.

An Interpreter Handbook was published that details best practices for court staff, judges and attorneys. This is available on the intranet and in hardcopy format.

18. Provide continuing education for court qualified interpreters.

Not applicable at this time but the concept of interpreter workshops is being developed.

19. Encourage judicial staff, law enforcement and attorneys to note any interpreter needs for an individual in advance of any proceeding so interpreter services can be arranged. For example, in Minnesota law enforcement notes on a ticket if an individual will need interpreter services. Advance knowledge will help in providing adequate interpreter coverage.

Odyssey flags interpreter required cases for calendaring purposes and tracks language needs. The need to work with law enforcement and attorneys to identify these cases earlier in the process as recommended remains on the task list.

20. South Dakota should recognize interpreter certifications from the federal government and other states to enlarge the available interpreter pool and promote the sharing of resources.

This is currently considered during the search for qualified interpreters.

21. Work collaboratively with community groups, teachers, professors, graduate and law students, attorneys and legal services to provide and encourage development of language services specific to the court system.

Currently working on an advertising campaign to recruit interpreters through Universities.

22. Develop a glossary of common legal terms and their translations in commonly encountered languages.

This is currently in development.

23. Translate instruction sheets for UJS pro se forms into Spanish and other languages as appropriate.

Translation of forms has been ongoing (see below for list of translated items).

24. Develop video and informative materials in the most common languages, including sign language, explaining the judicial process.

This has not been done and is on the task list for the future; particularly as part of additional interpreter website material.

25. Post signage in public areas and on the UJS website for the most frequently encountered languages indicating that interpreter assistance is available.

Signage for local courthouses has been provided and website signage is being developed but has not been finalized.

26. Develop and distribute judicial bench books or bench cards to assist judges when presented with an LEP or hearing-impaired individual.

This has been done.

27. Proceedings requiring interpreters should be grouped to make the most cost-effective use of an interpreter's time. This should be coordinated with other agencies that may require language services such as law enforcement or the Department of Social Services.

We have internally encouraged this and Odyssey accommodates this. We do not currently coordinate our interpreter services with other groups outside the court system.

28. The use of videoconferencing technology and telephone interpreting should be encouraged for shorter and less complicated proceedings or

last-minute needs whenever possible to provide services in the most timely and cost-effective manner.

This technology is currently utilized and is encouraged when an interpreter cannot be physically present.

29. As soon as budget constraints allow, South Dakota should consider joining the Consortium for Language Access in the Courts. Membership in that organization would ensure access to tests to establish qualified interpreters and share interpreter related resources and databases with the forty other member states. As of the date of this report, membership would cost \$3,000 per year for five years and then \$5,103 per year thereafter.

We are currently exploring the feasibility and benefit of such membership.

30. Review the implementation of these recommendations and monitor and address any concerns or issues on a recurring basis to assess additional needs and training.

Work toward implementation and review continues as we assess available options and improvements to the provision of language access services in the South Dakota courts.

31. Engage in outreach efforts to identify and recruit potential interpreters.

This is being planned through a recruitment initiative that is in the development stage. Currently, recruitment occurs at the circuit court level exclusively.

32. The UJS should track and collect data for LEP and hearing-impaired contacts to determine immediate and emerging language needs.

Odyssey allows us to accommodate this and includes specific language information. See attached Odyssey language summary for FY13 (NOTE: This information only reflects Odyssey data and should not be considered a complete representation but instead an informational snapshot).

Other Items Completed

- Intranet Interpreter Section
 - Resource Materials
 - Training Video
 - South Dakota language and census data

- Code of Ethics/Verification Form
 - Legislation
 - Statewide Roster
- Translated Documents
- Documents translated into Spanish:
 - Parenting Time Guidelines
 - Representing Yourself
 - Interpreters Handbook
 - Advisement of Rights
 - Small Claims Brochure
 - Record search request form
 - Summons for Divorce
 - Parenting Time Guidelines
- Documents translated in Karen:
 - UJS-504 – Conditions of Probation (Adult)
 - UJS-420 – Conditions of Probation (Juvenile)
 - UJS-626 – Sex Offender Addendum
 - UJS-601 – Release of Information
 - UJS-602 – Plan of Restitution
 - UJS-410 – Informal Diversion (Juvenile)
 - UJS-411 – Consent to Informal Diversion
- Sign Language
 - Juror Orientation Video (closed captioning)
- Interpreter Badges for Identification
 - Equipment purchased
- Audio Equipment
 - Equipment purchased that allows multiple persons to hear a single interpretation and provides voice amplification to prevent interpreter strain.
- Language Access Plans adopted by all circuits statewide
- Signage Provided for the Circuits/SCAO
- Budget/Cost
 - \$23,000 appropriated during FY 13 for the first time by the Legislature
 - Budget itemization attached. Roughly \$2000 remains outstanding for translation bills.

FY14 Task List/Items Planned Going Forward

- Continued training for remainder of CSOs; Clerks and then expand to Attorneys
- Create an Interpreter Workshop
- Development of Orientation video on Language Access for UJS employees
- Interpreter Section on UJS website
- Interpreter Recruitment Campaign
- How to Become an Interpreter Handout
- Continued Translation of Documents and Brochures
- Develop a Complaint Process for Language Access Issues
- Access to Justice Survey