

Appendices

Appendix 1: Vermont Refugee Resettlement Program Statistics on Court Interpreter Requests for FY02 -04

The statistics in this report cover almost three fiscal years: 07/01/01 to 06/30/02, 07/01/02 to 06/30/03, and 07/01/03 to 5/1/04. In June and July of 2001 the Vermont Refugee Resettlement Program was in the process of changing its program for tracking interpreter assignments so the statistics for the first fiscal year reported are not exact. The percentage of error, however, is minimal.

In order to give better understanding of the range of interpreter assignments, appointments were divided into groups based on different courts and activities and also by language. These statistics reflect only those assignments where an interpreter was actually physically present in the courtroom. As a result, assignments where an interpreter assisted a lawyer or judge outside of the court were not included. For certain organizations, particularly Legal Aid, the statistics do not distinguish between consultations and actual courtroom presence. Therefore none of those assignments was included in these statistics. Consequently, at least for FY02 approximately 10-15 additional assignments (which took place in court) were not included in this report. It should be noted that the drop in numbers of assignments over the past three years is not necessarily indicative of a drop in need. These numbers only reflect interpreter assignments that were made through VRRP; other resources for interpreter services exist and may have been utilized. As noted in the report, insufficient data prevents a clear understanding of the extent of the need for, and use of, interpreters in the Vermont judicial system (particularly for new language groups entering the state such as the Dinka-speaking Sudanese, May-speaking Somali Bantu, and French-speaking West Africans).

First group: Private attorneys, the Defender General's Office

FY02 total assignments: 10
9 Serbo-Croatian
1 Vietnamese

| FY03 total assignments: Total assignments: 11
8 Serbo-Croatian
2 Vietnamese
| 1 Russian

| FY04 total assignments: Total assignments: 18
13 Serbo-Croatian
5 Vietnamese

Second Group: Attorney General's Office, State's Attorney's Office

FY02 total assignments: 12
6 Vietnamese
3 French
2 Russian
1 Serbo-Croatian

FY03 total assignments: 3
2 Russian
| 1 Spanish

FY04 total assignments: 5
| 3 Serbo-Croatian
1 Vietnamese
1 Chinese

Third Group: Chittenden and Washington Family Courts, Office of Child Support

FY02 total assignments: 28
16 Vietnamese
10 Serbo-Croatian
1 French
1 Spanish

FY03 total assignments: 44
22 Serbo-Croatian
21 Vietnamese
1 Spanish

FY04 total assignments: 27
14 Serbo-Croatian
10 Vietnamese

3 Spanish

Fourth Group: Chittenden Superior Court

FY02 total assignments: 6

3 Serbo-Croatian

2 Vietnamese

1 French

FY03 total assignments: 1

1 French

FY04 total assignments: 0

Fifth Group: Vermont District Court (entire state)

FY02 total assignments: 53

21 Serbo-Croatian

19 Vietnamese

4 French

4 Russian

3 Spanish

2 Albanian

FY03 total assignments: 36

17 Vietnamese

14 Serbo-Croatian

2 Russian

1 Chinese

1 French

FY04 total assignments: 24

17 Serbo-Croatian

4 Vietnamese

1 Russian

1 French

1 Chinese

Overall numbers:

FY02 Overall total number of assignments: 109

44 Serbo-Croatian

44 Vietnamese

9 French

6 Russian
4 Spanish
2 Albanian

FY03 Overall total number of assignments: 95

45 Serbo-Croatian

40 Vietnamese

5 Russian

2 French

2 Spanish

1 Chinese

FY04 Overall total number of assignments: 74

47 Serbo-Croatian

20 Vietnamese

3 Spanish

2 Chinese

1 Russian

1 French

Appendix 2: Training and Registration of LEP Interpreters

Background

Sign language interpreting and spoken language interpreting have much in common both in theory and in practice. However, interpreters in these two fields find themselves in rather different situations, and any plan to register or certify interpreters for the courts must take these differences into account.

Although there are no definitive numbers, it is commonly held that there are approximately 2000 signing Deaf people in Vermont. The population is fairly stable and, because of state and federal laws, Deaf people are provided interpreters in many settings. This has created a market for professional interpreters. There are currently 21 interpreters who hold generalist certificates, two of whom are certified as legal specialists (SC:L), others of whom have some legal training (See Appendix 3 for a list of certificates). The Vermont Registry of Interpreters for the Deaf is the professional organization and there is also a statewide referral agency, Vermont Interpreter Referral Service (See Appendix 3 for a list of resources).

While the number of people with limited English proficiency (LEP) may surpass the number of Deaf, among the former there is no dominant language group. There are pockets of non-English speakers throughout the state, and the number of different languages spoken is very high in relation to the population represented by each. Moreover, the demand for any single language may change drastically in a matter of two or three years -- or even within two or three months. In certain languages it is difficult to find anyone to interpret, let alone anyone professionally qualified; on the other hand, qualified interpreters may have only occasional work. The term "qualified" is in itself problematic because of the difficulty of training for and testing proficiency in dozens of languages -- an issue that professional associations like the American Translators Association and National Association of Judiciary Interpreters and Translators are still wrestling with.

Registration and certification

Currently the State of Vermont does not certify interpreters in either spoken language or sign language,¹⁹ and while the Sub-committee agrees that certification may be a worthy long-term goal, it suggests that training and registration should come first.

In order to be registered with the Vermont Courts, the Sub-committee recommends that an LEP interpreter must:

1. Pass a language proficiency test in written and oral English
2. Pass a language proficiency test in a designated foreign language
3. Pass a test of courtroom vocabulary, courtroom procedures and basic knowledge of the Vermont judicial system
4. Sign a professional code of conduct

Other questions to be considered: granting permanent waivers for interpreters in languages for which there are fewer than six requests per calendar year; employing out-of-state interpreters (including telephone interpreters) certified elsewhere; accepting certification from other states.

Training

Interpreting is a complex exercise, and so is working with interpreters. Therefore, the Sub-committee recommends that training be required not only for interpreters who wish to be registered with the courts, but also for judges and other court personnel.

While the courts cannot require that attorneys attend a basic seminar on working with interpreters, the committee strongly recommends that they do so. Initial training for interpreters should include a minimum of three sessions, required for all except those who can show equivalent training.

1. Fundamental Concepts of the American Judicial System: overview of US and Vermont court system and structure; introduction to basic legal terminology and procedures (1 -2 days, curriculum to be provided by Vermont courts).

¹⁹ See Appendix 3 for information about how ASL interpreters are certified.

2. Review of basic interpreter skills, ethics, terms of art; discussion of court interpreting as distinct from other branches of the profession; overview of interpreters' rights and responsibilities in the courtroom and the courthouse. (1-2 days, curriculum to be provided by interpreter trainers).
3. Courthouse workshop/practical issues: tour of courthouse; observation of proceedings; discussion of practical issues (1 day, curriculum to be set by courts and interpreter trainers.)
4. Cross training for judges/clerks/interpreters (1 day, curriculum to be set by courts/interpreter trainers)
5. Cross training for attorneys/ interpreters (1 day, curriculum to be set by bar association, interpreter trainers)

Note: Most Vermont interpreters (at least in spoken-language) do not work full time as interpreters – not because the demand is not acute, but because it is irregular. If they are required to attend trainings, they should be compensated for time taken away from other work.

Resource:

Vermont Interpreting and Translating Services
462 Hegeman Avenue Suite 101
Colchester, Vermont 05446
P. 1.802.654.1706
F.1.802.655.4020
jrose@vrrp.org

Appendix 3: Training and Registration of ASL Interpreters

ASL/English interpretation is a vital profession. The Vermont Registry of Interpreters for the Deaf (VTRID), the local chapter of the professional association, has been in existence since 1978. There are currently 21 certified interpreters for the Deaf in Vermont and a number in surrounding states who work regularly in Vermont and quite a few who are not yet certified. There are also two interpreters who are certified Legal Specialists. The profession has a culture of attending trainings, both in and out of state.

Training

Training is necessary prior to certification and continuing education is required in order to maintain certification thereafter at the rate of 8 CEUs every 3 years. Therefore there are quite a few trainings offered, not only in Vermont, but also in New England and across the country. Offerings include general language/interpretation trainings as well as trainings offered on interpreting and a number of trainings for working in special environments such as legal, medical, educational, and other settings. Vermont often hosts or co-hosts these trainings. VTRID provides a mentorship program which helps link potential protégées with interpreter mentors and/or ASL mentors and provides some financial support for the mentors. VTRID also provides modest scholarships for members who are interested in attending any training, in order to encourage professional development.

There are also numerous two and four year degree programs, as well as masters programs, throughout the country that help prepare students for certification and a career in interpretation.

Trainings on interpreting in judicial settings are so specialized that they generally cannot be supported by the number of interpreters in such a small state and often must be regional offerings. Across the country trainings are provided as intensive 3-week offerings, weekend series courses, and/or on-line courses. These are usually area specific and the trainings are broken into topics such as depositions, defense table interpreting, preparation, procedures, motions, rules of evidence, etc. Some of these trainings could be non-language specific and thus apply to spoken language interpreters as well as sign language

interpreters, which would make them more economically feasible locally.

Certification

There is one certifying body for sign language interpretation in the United States, the Registry of Interpreters for the Deaf, Inc. (RID). This organization offers evaluations and awards generalist certificates based on written qualifying exam and subsequent performance evaluations. The group upholds a Code of Ethics that each certified member is required to follow in order to maintain their certification. Currently RID and the National Association of the Deaf are working on a joint certification that should be ready within the next year.

RID also awards a Specialist Certificate: Legal (SC:L) to certified interpreters who have taken trainings and have experience in legal work and who pass both a written qualifying exam covering legal terminology, procedures, and application of ethics as well as a performance evaluation which evaluates interpretation of: the Miranda warning, courtroom witness testimony, legal arguments between attorneys and the court, voir dire of the interpreter, and jury instructions. In order to sit for the SC:L, an applicant must already hold a generalist certificate.

Currently there is no requirement for certification to work in the courts. However, in practice most courts have the names of a few certified interpreters who have experience in their area or they call the Vermont Interpreter Referral Service (VIRS), which, for a finders fee, will work at locating interpreters who are available for the assignment. VIRS' current policy requires that they call the two interpreters who hold SC:L and refer them for the assignment. If neither is available, then depending on the assignment, other certified interpreters who have received training or have experience in the courts will be called and offered the assignment. It is not surprising that there are only 2 SC:L holders in Vermont as there are a little over 100 SC:Ls in the whole country and about 6 in New England.

While there are currently a few Deaf individuals who act as intermediary interpreters between interpreters who can hear and Deaf consumers, there are no certified Deaf interpreters (CDI) yet in Vermont. A Deaf interpreter (DI) is one who serves a consumer who may have idiosyncratic language needs such as cognitive delays, not being a fluent American Sign Language user, is a Deaf/Blind person and/or the situation is such that it would be best facilitated through

someone who shares a common language and culture with the Deaf person needing the service. Interpreters who are Deaf are often used in judicial situations. Due to the limited pool of Deaf people working toward certification and the limited opportunity for employment, trainings are not usually viable in such a small state and can rarely be self-supporting.

VTRID works to help support these trainings and obtain funds from other sources as well. Interpreters who are Deaf would work in judicial setting with interpreters who can hear and are certified.

The accepted professional standard of MINIMUM competency in the field of interpretation for the Deaf and Hard of Hearing is:

RID certificates: Certificate of Interpretation (CI)
Certificate of Transliteration (CT)
Comprehensive Skills Certificate (CSC) a certificate that is no longer awarded but still valid.

NAD certificates: NAD III, NAD IV, and NAD V

Specialist certificates, legal (SC:L): Highly recommended for work in judicial and other legal settings. Often considered the minimum competency.

Due to the number of interpreters available either with SC:L or with training and generalist certificates working in Vermont, there is really no longer any reason for courts to employ interpreters who are not certified and it is suggested that the courts adopt the policy used by VIRS. Interpreters without the legal specialist certificate should take whatever training and screening is required for spoken language interpreters in order to be qualified for the courts.

Resources

Vermont Interpreter Referral Service (VIRS)
130 Austine Drive, Suite 110
Brattleboro, Vermont 15301
800-639-1519 V/TTY
E-mail: virs@sover.net
www.virs.org

Vermont Registry of Interpreters for the Deaf (VTRID)

% VIRS

Registry of Interpreters for the Deaf, Inc. (RID)
333 Commerce Street
Alexandria, Virginia 22314
703-838-0030 V
703-838-0459 TTY
www.rid.org

National Association of the Deaf NAD
814 Thayer Avenue
Silver Spring, MD
301-587-1788 V
301-587-1789 TTY
NADinfo@nad.org
www.nad.org

National Certification

Registry of Interpreter for the Deaf (RID) certificates:

Specialist Certificate:

Legal (SC: L)

Generalist Certificates:

Certificate of Interpretation (CI)

Certificate of Transliteration (CT)

Comprehensive Skills Certificate (CSC) a certificate that is no longer awarded but still valid.

NAD IV, and NAD V (the National Association of the Deaf) no longer certify, but these are now administered through RID. There is a Level III but it would not be appropriate for court work.

These are accepted as the professional standard of MINIMUM competency in the field of interpretation for the Deaf.

Deaf Interpreter Certificate: Certified Deaf Interpreter (CDI)

Appendix 4: Training for Judges and Others in the Judicial System

An expanded pool of trained and qualified interpreters will be of limited value unless judges, court staff, attorneys, and other professionals who interact regularly with the courts are also trained. Specifically, the training should address:

- Review of all statutes and rules relevant to interpreters;
- Recognizing when an interpreter is needed;
- Understanding the qualifications required;
- Assessing the skills of an interpreter;
- Working effectively with the interpreter in court;
- Providing appropriate oversight of interpreter performance;
- Understanding appropriate use of telephone interpreters and equipment;
- Recognizing Americans with Disabilities Act issues;
- Review of the Code of Professional Responsibility of Court Interpreters;
- Understanding who pays for an interpreter and rate of pay.

A well-integrated program of professional education and resource materials should be developed for this purpose. Training materials, videos and demonstrations from other states and the Federal courts will be incorporated as appropriate and available.

Interpreter Handbook

A handbook for judges and court staff should be developed for handy reference in the courtroom and in the clerk's office. It should include current law and rules that apply to use of interpreters and a checklist for judges and staff that covers best practices agreed to for the conduct of interpreted proceedings (based on the *Judges' Guide to Standards for Interpreted Proceedings* developed by the National Center for State Courts and amended for use in Vermont).

To be included in this handbook:

- Model voir dire for determining the need for an interpreter;
- Information that should be secured to establish the qualifications of interpreters when no prior screening exists;
- Interpreter's oath;

- Suggested text for judge's statement in court to clarify the role of the interpreter;
- Suggested text for clarifying the interpreter's role to the witness;
- Suggested text for clarifying the interpreter's role to the jury;
- Guidelines for use of telephone interpreters.

District, Superior, and Family court benchbooks

Benchbooks should be reviewed to identify where interpreter issues should be noted.

The audience for professional training should be identified broadly to include trial, probate and assistant judges, Superior, District and Family court managers, court staff, court officers, states attorneys, public defenders and assigned counsel, Corrections workers, SRS workers, victim's advocates, guardians -ad-litem and others. Training should be incorporated into regularly scheduled education programs. Training assistance from the Vermont Bar Association and the Vermont Law School should be solicited.

Forms, instructions and procedures should include reference to interpreter issues and information where appropriate. Certain of the forms and instructions should be translated into other commonly used languages. A model jury instruction should be added to the civil and criminal jury instructions about the role of the interpreter in the courtroom and the jury room and an instruction cautioning bilingual jurors to rely only on the official English translation.

Appendix 5: H.79: An Act Relating to Prohibiting the Disclosure of Communications Made to Interpreters for Hearing Impaired Persons

BILL AS PASSED HOUSE AND SENATE

2003-2004

H.79

AN ACT RELATING TO PROHIBITING THE DISCLOSURE OF COMMUNICATIONS MADE TO INTERPRETERS FOR HEARING IMPAIRED PERSONS

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 1 V.S.A. § 339 is added to read:

§ 339. COMMUNICATIONS MADE TO INTERPRETERS; PROHIBITION

ON DISCLOSURE

(a) An interpreter, whether or not the interpreter is a qualified interpreter, shall not disclose or testify to:

(1) a communication made by a person to an interpreter acting in his or her capacity as an interpreter for a hearing impaired person; or

(2) any information obtained by the interpreter as a result of serving as an interpreter for a hearing impaired person.

(b) There is no prohibition on disclosure under this section if the services of the interpreter were sought or obtained to enable or aid anyone to commit or plan to commit what the hearing impaired person knew or reasonably should have known to be a crime or fraud.

(c) This section shall not be construed to limit or expand the effect of section 334 of this title.

Sec. 2. STUDY COMMITTEE

(a) A committee is established to study the efficacy of including communications made by persons who are limited English proficient and require a foreign language interpreter within the prohibition on disclosures established by section 339 of Title 1.

(b) The committee shall consist of the following members:

(1) A member appointed by the Vermont refugee resettlement program.

(2) The defender general or his or her designee.

(3) A member appointed by the Vermont center for crime victims services.

(4) A member appointed by the Vermont network against domestic violence and sexual assault.

(5) The executive director of the Vermont human rights commission or his or her designee.

(6) A member appointed by Vermont Legal Aid.

(7) The attorney general or his or her designee.

(8) A member appointed by the Vermont coalition for disability rights.

(9) Two foreign language interpreters appointed by the Vermont refugee resettlement program.

(10) The executive director of the department of state's attorneys and sheriffs or his or her designee.

(c) The committee may elect a chair and a vice chair and may hold public hearings.

(d) All members of the committee shall serve on the committee for the duration of the study unless circumstances dictate a permanent replacement. Vacancies shall be appointed in the same manner as original appointments.

(e) The committee shall report its findings and recommendations to the general assembly and the governor no later than January 15, 2005, whereupon it shall cease to exist. The report shall include:

(1) a recommendation as to whether communications made by persons who are not hearing impaired but who are limited English proficient and require a foreign language interpreter should be included within the scope of the prohibition on disclosures established by section 339 of Title 1;

(2) a definition of the term "limited English proficient"; and

(3) any suggested legislative changes.

Published by:

**The Vermont General Assembly
115 State Street
Montpelier, Vermont**



www.leg.state.vt.us

**Appendix 6: Code of Professional Responsibility for
Interpreters in the Judiciary**

See attached document.

**Appendix 7: Judge's Guide to Standards for Interpreted
Proceedings**

See attached document.

Appendix 8: Interpreting Terminology

See attached document.