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Perceptions of Effectiveness of Interpretation Services in the Washington County Court System.

Ricardo Tapia Mosqueda
East Tennessee State University

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Perceptions of Effectiveness of Interpretation Services in the Washington County
Court System

Ricardo Tapia Mosqueda

Department of Political Science, International Affairs, and Public Administration
College of Arts and Sciences
807 University Parkway
Johnson City, Tennessee 37614

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Dr. Rebecca Keeler, Ph.D., J.D.
Faculty Thesis Advisor

Department of Political Science, International Affairs, and Public Administration

Dr. Michele Crumley, Ph.D.
Faculty Reader

Department of Political Science, International Affairs, and Public Administration

Dr. Ardis Nelson, Ph.D.
Faculty Reader
Department of Literature and Language

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Abstract

In the United States, court interpretation services are as old as the country's history. The cultural and rich ethnic diversity of the U.S. has continued to provide a need for interpretation services. However, it was not until 1978 under the Federal Court Interpreters Act that the federal government would institute a framework for the federal courts to follow (Public Law 95-539, 1978). State courts were left to establish their own methodologies for addressing the way in which court interpreters are used. As the U.S. continues to become more linguistically diverse, such services need to be made easily accessible whenever necessary.

In the court of law, one of the most critical elements is communication. The interaction taking place amongst the attorneys, defendants, plaintiffs, judges, and so forth must be effectively communicated in order to ensure that no person's rights are infringed upon. Without this vital element, plaintiffs and defendants cannot be equally protected and justice cannot be served. There are measures taken to ensure that those who are not proficient in the English language have the opportunity to be represented, but the fact that they need somebody else to be their voice in the courtroom poses various issues that will be addressed in this research.

The following research presents the results of a case study of the Washington County Court System (hereafter referred to as WCCS) in East Tennessee. The purpose of the case study is to explore how court interpretation services are being addressed in this area. Study participants were asked about the relationship between Limited English Proficiency (LEP) Spanish speaking individuals and the courts, and their answers consistently suggested that the WCCS is going beyond the expectations set forth by the Administrative Office of the Courts of Tennessee.

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Part I: Introduction

In just two years, 2010 and 2011, state legislatures across the nation passed 164 anti-immigration laws, with the exception of only seven states—Alaska, Connecticut, Delaware, New Hampshire, Ohio, Wisconsin, and Wyoming—failing to pass such laws during this time period (Gordon & Raja, 2012). This influx of new laws stemmed from Arizona’s controversial anti-immigrant law, S.B. 1070, passed in 2010, which, among other things, requires law enforcement officers to determine the immigration status of any individual they reasonably suspect to be in the country illegally (AZ S 1070). According to the American Civil Liberties Union, “two dozen copycat bills were introduced in state legislatures across the country” after SB 1070 passed, and all of these laws “invite rampant racial profiling against Latinos, Asian-Americans and others presumed to be ‘foreign’ based on how they look or sound” (ACLU: American Civil Liberties Union, 2012).

One of these copycat laws passed in Alabama in 2011, even requires public schools (K-12) to determine the immigration status of students and bans illegal immigrants from attending college or receiving any state provided financial assistance (ACLU: American Civil Liberties Union, 2011). Given such legislative trends throughout the nation, one could reasonably suspect states are not sensitive to the needs of Limited English Speaking individuals. Beyond these concrete examples, there was also the increasing anti-immigrant political rhetoric inundating the airwaves, as re-election season was approaching. Such trends and the marginalization of a select group of people that was taking place, provides reasonable suspicion that states may not be taking active measures to ensure LEP individuals have adequate access to court interpretation services.

The Hispanic population has grown significantly over the past decade on the national level, as well as in Tennessee. In fact, a report of the 2010 Census states that, “308.7 million people resided in the United States on April 1, 2010, of which 50.5 million (or 16 percent) were of Hispanic or Latino origin” (Albert, Ennis, & Vargas-Rios, 2011). More so, the majority of the increase in population that took place from 2000-2010 was due to the Hispanic population. This segment of the population grew at a rate of 43 percent, four times that of the 10 percent national rate, making it the fastest growing minority group (Albert, Ennis, & Vargas-Rios, 2011).

Therefore, researching the way in which this group’s voice is heard in the courts is a matter of great importance. I will be using the Washington County Court System (WCCS) as a case study to examine the perceptions of effectiveness of interpretation services in Washington County, TN, which, like the rest of the state and nation, saw major growth in the Hispanic population from 2000-2010.

Because demographics change every year, the American Community Survey (ACS), a program of the U.S. Census Bureau, sends a yearly survey to a sample of approximately three million addresses. Where the U.S. Census explains the *demographics* of people in the country, the ACS explains the *lifestyles* of people in the country. In other words, it provides a clearer way to identify certain issues or aspects of the current population. As seen below in Table 1, the Census Bureau conducted the ACS, a three-year survey (2009-2011) on the population 5 years old and older regarding the language spoken at home. It indicated that 44.7% of the 36,957,894 people who speak Spanish at home speak English less than “very well” (U.S. Census Bureau, American Community Survey, "Language Spoken at Home by Ability to Speak English for the Population 5 years and Over Universe: Population 5 years and Over", 2009-2011).

Table 1: Language Spoken at Home: Population 5 Years Old and Over

| Subject | United States | | | | | |
|-------------------------------------|---------------|-----------------|--|-----------------|-------------------------------------|-----------------|
| | Total | | Percent of specified language speakers | | | |
| | | | Speak English "very well" | | Speak English less than "very well" | |
| | Estimate | Margin of Error | Estimate | Margin of Error | Estimate | Margin of Error |
| Population 5 years and over | 289,077,942 | +/-5,688 | 91.3% | +/-0.1 | 8.7% | +/-0.1 |
| Speak only English | 79.4% | +/-0.1 | (X) | (X) | (X) | (X) |
| Speak a language other than English | 20.6% | +/-0.1 | 57.6% | +/-0.1 | 42.4% | +/-0.1 |
| Spanish or Spanish Creole | 12.8% | +/-0.1 | 55.3% | +/-0.1 | 44.7% | +/-0.1 |
| | 36,957,894 | +/-55,644 | 55.3% | +/-0.1 | 44.7% | +/-0.1 |





U.S. Census Bureau: "Language Spoken at Home" 2009-2011 American Community Survey 3-Year Estimates. http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_11_3YR_S1601&prodType=table. Graphic courtesy of U.S. Census Bureau.

Aaron Terrazas of the Migration Policy Institute writes that, since the 1960s, more than 60 percent of the foreign-born population has traditionally immigrated to California, New York, Florida, Texas, New Jersey, Illinois, and Massachusetts. Although the majority continue to move to these locations, from 1990-2010, the Southeastern part of the U.S. experienced some of the fastest growth-rates of the country. In the state of Tennessee 4.7 percent of the population, or 294,554, is Hispanic. What is fascinating is that from 2000 to 2010 the population increased by 166, 221 people or 134.2 percent (Terrazas, 2011).

A 2011 estimate, as shown in Table 2, indicated that within the overall population of Washington County there are approximately 3,730 Hispanics (U.S. Census Bureau, 2011). This population experienced a "100 or more" percent increase in population change during the period of 2000-2010 (Terrazas, 2011). Additionally, the National Center on Immigrant Integration Policy found that Tennessee had the fourth highest growth rate (281.4 percent increase) in the LEP population from 1990-2010 (Batalova, McHugh, & Pandya, 2012). This put the total LEP population at approximately 174, 000. A Migration Policy Institute estimate places the number

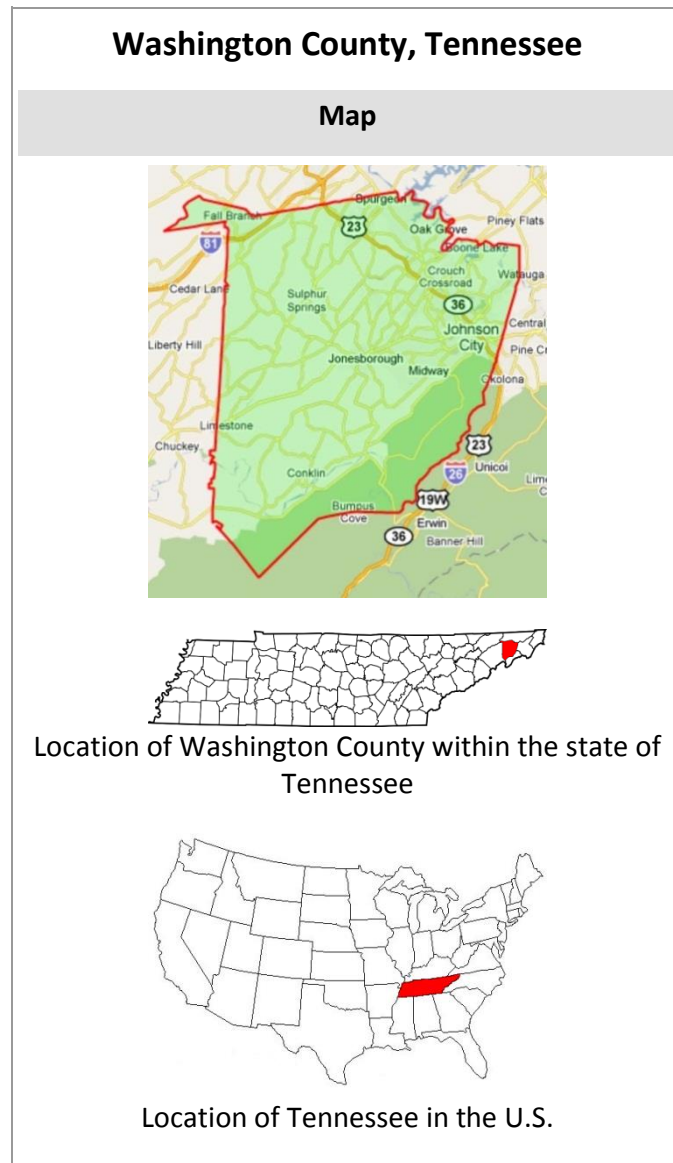
of LEP individuals within the Washington County at 2,100 (Migration Policy Institute, 2011). As shown below in Table 2 published by the U.S. Census Bureau in 2011, 4.6% (this number takes into consideration non-Hispanics) of the Washington County population five years old and over, sometimes or always speaks a language other than English at home (American Community Survey, Language Spoken at Home by Ability to Speak English for the Population 5 years and Over Universe: Population 5 years and Over, 2011). Table 2 further shows the percent of the Hispanic population in Washington County, as well as the total population. Figure 1, courtesy of the FamilySearch Centers, shows the geographic location of Washington County within the State of Tennessee and the U.S.

Table 2: Washington County, Tennessee: Language Spoken at Home

| | People QuickFacts | Washington County | Tennessee |
|---|---|--------------------------|------------------|
|  | Population, 2011 estimate | 124,353 | 6,403,353 |
|  | Population, 2010 (April 1) estimates base | 122,979 | 6,346,110 |
|  | Persons of Hispanic or Latino Origin, percent, 2011 (b) | 3.0% | 4.7% |
|  | Language other than English spoken at home, pct age 5+, 2006-2010 | 4.6% | 6.2% |

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, American Community Survey, Census of Population and Housing, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits, Consolidated Federal Funds Report. Last Revised: Tuesday, 18-Sep-2012 17:20:35 EDT For information on methods, definitions, sampling number, see <http://quickfacts.census.gov/qfd/states/47/47179.html>. Graphic courtesy of U.S. Census Bureau.

Figure 1: Map of Washington County, Tennessee



. Graphic courtesy of FamilySearch Center

https://www.familysearch.org/learn/wiki/en/Washington_County,_Tennessee

According to the latest U.S. Census reports, the Hispanic segment of the U.S. population experienced the largest growth, which is the reason I have chosen to use the Hispanic population as my study population. This particular study relies primarily on the interviews of certified court interpreters, judges, attorneys, and court clerks. The WCCS was used as a case sample to explore

the way courts ensure equal representation to non-English speaking persons (equal representation in the sense of having equal language accessibility). Past studies on the subject were then compared to the data that I have gathered. A further analysis of the methods that are currently being used in the Washington County area examined the strengths and weaknesses of those methods, and a final report will be presented.

The object of this research study is to explore current procedures being utilized to assist LEP individuals within the WCCS. The results will be based on the perceptions of those working within the WCCS, as well as whether it meets the requirements as established by the Supreme Court of Tennessee. When an LEP person steps into a court room, the fact that he or she is not proficient in the English language should not have an effect on the outcome of his/her case. The participants being interviewed are professionals working within the legal justice system whose experience will provide first-hand information necessary towards reaching a conclusion. This critical analysis will examine the performance of the WCCS in affording language accessibility to LEPs, specifically, Spanish-speakers. Again, this will be in reference to the rules established by the state's high court and with data provided through interviews with certain participants, and examination of courts' processes.

A caveat must be pointed out about this study. This research does not discuss in detail three particular aspects of judicial interpreting (from this point forward, judicial interpreting will refer to court interpreting) that are equally important and vital. First, this study does not address how the WCCS addresses language barriers complicated by hearing impairments. Second, this study does not address the translation of written documents and forms. Third, the extent to which courts provide interpreting services outside of the court room is not thoroughly covered. This refers to instances in which an interpreter may be needed in probation offices, legal

consultations, or family court service mediators for custody and visitation matters, to name a few. This aspect of court interpretation would require its own extensive research. Although the aforementioned were not thoroughly covered, they will nonetheless, in the findings portion of this research be discussed to a certain degree, for they were at times discussed during the interview sessions.

For assistance on navigating through the rest of this report: “Part II: Background on Court Interpretation,” covers prevailing thematic points of discussion that are commonly encountered when addressing this issue of judiciary interpreting will be discussed. One of the most important is the impact that culture has on this matter “Part III: Legal Background,” explores statutory and constitutional arguments for the right to a court interpreter. “Part IV: Data and Analysis,” covers the manner in which the responses of the interview subjects were analyzed so as to arrive to commonly shared factors in regards to how court interpretation services in the WCCS. “Part V: Conclusions,” finally, the findings and analysis of the interview data will be presented.

Part II: Background on Court Interpretation

One of the most common mistakes made by those who are unfamiliar with this topic is the misuse of the terms interpretation and translation, as they are often used interchangeably. Interpretation deals with verbal communication (or sign language) between people who speak different languages and the conversion of this speech or sign language from the source language to the target language. Depending on the type of interpreting taking place, this will either occur simultaneously while the LEP individual is speaking or immediately thereafter. For more detail, on this aspect refer to Appendix B. On the other hand, translation is the “transference of meaning of a written document from the source language, into the target language in writing. The translator is given a text and prepares an accurate parallel text in writing, without the pressure of immediate delivery” (Courts, 2011). Clearly, then, the jobs and expectations of interpreters and translators are different, however, “both translators and interpreters strive to conserve as much of the original meaning, tone, intent, and register as possible” (TAPIT, 2012).

Another common misconception is that simply because a person is bilingual he is automatically qualified to fulfill the role of an interpreter. This could not be further from the truth. To this Jon A. Leeth, a federal court administrator, says that: "most people believe that if you are bilingual you can interpret. That is about as true saying that if you have two hands you can automatically be a concert pianist" (Cardenas, 2001, p. 26). A court interpreter is a highly trained person who has undergone a rigorous certification process in order to meet the standards set forth by statutes in their respective state. The Supreme Court of the State of Tennessee establishes these standards. If being bilingual were the only qualification for being an interpreter, there would naturally be as many interpreters as there are bilingual speakers, which in Washington County would be 5,720 (as of 2011) (U.S. Census Bureau, 2011).

Interpreters must be able to recognize and understand differences in dialects and cultures in order to be successful in their jobs. If someone asked, “Do you speak American?” the average person would consider this a rather ignorant question, as there is no such thing as an “American” language. However, this question would likely have a different meaning for an interpreter, who would understand that it is referring to dialect rather than language. Sociolinguistics play a major role in the courtroom and this is part of the reason why interpreters must receive a significant amount of training before they are qualified to work in a courtroom. The interpreter must be able to hear the spoken source language, transfer into his/her native target language, process it, and reiterate it in the language of the court. As Virginia Benmaman (1999) explains,

It takes more than bilingualism to make a legal interpreter. The legal interpreter must also be able to manipulate dialect and geographic variation in his/her working languages, possess wide general knowledge, understand both the legal process and the related terminology, and also understand the various discourse styles used in the courtroom (p. 109).

Study Participant I3 commented that an interpreter has to be up to date because “language is a living and evolving being.” To put this into the context of this study, the English spoken in Washington County is going to be much different from that spoken in the northeastern part of the U.S. Additionally, the source language of the LEP individual will differ depending on where they are from. For example, there is a great difference between Mexican Spanish and Argentinian Spanish, just as there is a great difference in American English versus British English. Interview respondents say that one of the most common challenges encountered when helping people understand each other is the use of slang/dialect. Michael B. Shulman (1993) emphasizes how important it is to have a cultural understanding of the source language through

the following example:

‘Hombre, no tengo diez kilos!’ A Cuban man was convicted on drug charges for uttering the words above. He used the words in response to a request for a loan and, given the dialect of the speaker and the context of the statement, they can properly be translated as “[m]an, I don't even have ten cents.” Instead, the court interpreter mistakenly translated them as, “[m]an, I don't even have ten kilos. (175)

Luckily, in this situation, the error made by the interpreter was discovered before the man could be convicted, but it shows how extensive an interpreter’s cultural knowledge must be. It is also a great example of how potentially detrimental one small mistake can be for the LEP.

Because of the very real potential for such serious and relatively easy mistakes, it should be clear that the duties of an interpreter are demanding and mentally exhausting. It is for this reason that interpreters must not be overworked and should not endure long, strenuous work hours. In fact, the Tennessee rules state that for

legal proceedings lasting more than 2 hours...two interpreters should be designated to ensure the accuracy and completeness of the record by allowing interpreters to alternate work and rest in short shifts, thus avoiding fatigue...Studies have shown that interpreters' accuracy rates greatly decrease after 20-30 minutes of continuous interpretation (Supreme Court of Tennessee, Rule 42, (3g) (1)).

This is why it is critical to have a proportionate ratio of interpreters to the number of cases. One must keep in mind that the interpreter is the voice of the LEP person in the courtroom; if the interpreter makes a mistake, the LEP person is the one who suffers the consequences.

Thus, there are varying perspectives about the appropriate role of court interpreters

within the courtroom should be. The debate is whether the interpreter is simply a conduit of communication with absolutely no discretionary input. In other words, does the interpreter have any liberty to give suggestions or opinions? This presents an assortment of problems about what an “accurate” interpretation is. Is it a literal verbatim interpretation, or does an interpreter have a certain degree of freedom to omit, insert, and/or replace certain words? In addition, the tone, rhythm, and stress placed on particular words during interpretation plays a crucial role on those who are transferring the source language into the target language. Sandra Hale (2002) states,

The results of a number of experimental research studies have shown that the styles in which people render their speech can have an impact on the impression they form on their listeners, in terms of their assessment of the speaker’s social status, personality, intelligence, trustworthiness, and competence (p. 25).

The necessity for accuracy is of the highest importance during the cross-examination aspect of an adversarial hearing/trial, in which the goal of the attorneys representing their clients may be to, “discredit the other side’s witnesses, to convince the decision makers that the other side is fabricating evidence, contradicting, themselves and not telling the truth” (Hale, 2002, p. 27).

This brings me to the second argument, what is the role of an interpreter? Should they have a certain degree of discretionary freedom, as would an expert witness? Part of this training requires that the interpreters understand the code of ethics. The objective of such a code of ethics is to ensure that those LEP individuals in need of interpretation services will have unbiased assistance, placing them in an environment similar to those who do not need such assistance.

The National Center for State Courts (NCSC) is a national organization that courts turn to for information because it is a multilateral cooperation amongst the Conference of Chief Justices, the Conference of State Court Administrators, and other associations of judicial leaders.

Currently there are 43 members, of which the state of Tennessee became a member in 2000. The Preamble of the Model Code of Professional Responsibility for Interpreters in the Judiciary created by the NCSC indicates the role of an interpreter as follows:

Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to limited English proficiency or a speech or hearing impairment. It is essential that the resulting communication barrier be removed, as far as possible, so that these persons are placed in the same position as similarly situated persons for whom there is no such barrier. As officers of the court, interpreters help assure that such persons may enjoy equal access to justice and that court proceedings and court support services function efficiently and effectively. Interpreters are highly skilled professionals who fulfill an essential role in the administration of justice (National Center for State Courts, Information).

Interview subject A1 stated that interpreters in Washington County consistently take on the role of advocate, an action that is clearly prohibited by NCSC protocol. Though well intentioned, such a role can be potentially detrimental to a case. Because interpreters, as individuals, are strictly prohibited from being advocates, several professional organizations have emerged to take on this role. An example of this can be seen at the national level with the creation of the Advocacy Committee of the National Association of Judiciary Interpreters and Translators (NAJIT). This committee was formed to “advocate in support of state and federal court and legal interpreter and translator programs, and to educate the public about the need for qualified and well-trained professional judiciary interpreters and translators.” In the state of Tennessee, such an organization exists under the name of TAPIT. The goal of an interpreter is to guarantee that an LEP speaker can understand and be understood as well as a native speaker with the same educational background and intellect. Interpreters have a challenging duty of traversing

the Scylla of verbatim interpretation and the Charybdis of interpreter advocacy (Mikkelson, 2008).

Throughout the course of this paper there will be acronyms used for the organizations that are most often discussed. The following table is provided for ease of reference.

Table 3: List of Acronyms

| Table of Acronyms | |
|--------------------------|--|
| AOC | Administrative Of the Courts, State of Tennessee |
| LEP | Limited English Proficiency |
| NCSC | National Center for State Courts |
| TAPIT | Tennessee Association of Professional Interpreters and Translators |
| TFLIN | Tennessee Foreign Language Institute |
| TSC | Tennessee Supreme Court |
| WCCS | Washington County Court System |

As has been seen, the topic of court interpreting is not as simple as it may originally appear to be. There are various topics of debate surrounding this issue. The social dynamic of interpreting is one that goes beyond the person to person social dynamic that takes place. These

services provided by the court function within a broader legal context discussed in Part II:
Statutes and the Constitution, which follows.

Part III: Legal Background

A fundamental element necessary for a thriving democracy is for people to be equally represented and protected by the law or, in other words, be ensured due process and equal protection under the law. Nowhere in the United States Constitution does it state the right to an interpreter, nor has the United States Supreme Court recognized this as a constitutional right. Instead, this task has been left to the lower courts to decide. Nonetheless, defense attorneys frequently challenge trial court rulings, stating that their client had a right to an interpreter, citing constitutional clauses or clearly defined statutes (Davis, Eggington, & Miller, 2011, p. 129),

There are several constitutional arguments often used by advocates, which are rooted in the Fifth, Sixth, and Fourteenth Amendments. The Due Process Clause is located in the Fifth and Fourteenth Amendments. The United States Constitution specifically states, “The accused shall enjoy the right to . . . be informed of the nature and cause of the accusation; [and] to be confronted with the witnesses against him” (U.S. Const. amend. VI).

In 1970, the Second Circuit Court of Appeals decided in the case of *United States ex rel. Negron v. New York*, that the defendant had a right to an interpreter, an action which was denied in a lower court, and thus overturned the trial court’s decision. Rogelio Negron, a man of Puerto Rican descent who only spoke Spanish was initially convicted of murder, however, the evidence introduced against him was never translated or interpreted. This inspired Congress to pass the Federal Court Interpreters Act of 1978 (Public Law 95-539, 1978). The act states that if the presiding judge is aware that there is a need for an interpreter the court shall provide a certified interpreter, if one is not “reasonably available . . . an otherwise qualified interpreter” will be provided for a defendant in a criminal case, or a witness who may present testimony in such judicial proceedings (Public Law 95-539, 1978). Essentially, this act instituted the first court interpreter program. The passage of this act, prompted several other states to establish

consolidated court interpreting programs. In a sense, it appeared to be that an “interpreting movement” was initiated. Several national and state organizations have been created since the ratification of this Federal Court Interpreters Act.

On August 11, 2000, a significant action took place at the federal level. Then President of the United States, William J. Clinton, issued Executive Order 13166—“Improving Access to Services for Persons with Limited English Proficiency.” This executive order has two main points: it mandates that federal agencies must develop and implement a system that will provide LEP individuals with access to services they may need, and it requires that federal agencies that provide federal financial assistance must provide access to their LEP applicants and recipients (Clinton, 2000). In February of 2011, Attorney General Eric Holder authored a memorandum to Federal agencies reaffirming commitment to the mandates of the 2000 Executive Order. The memorandum establishes that while the federal government has improved in providing language access to LEP persons, language access programs are still unevenly implemented throughout federal government agencies and recipients of financial assistance. Holder requests that government agencies renew their commitment to provide access to all persons in need (Holder, 2011). Although the executive order does not extend to operations within the judicial branch, it does indicate awareness, sensitivity, and commitment on the part of the federal executive branch to the need to address language barriers to services.

By the mere act of one person speaking for another, there is the unavoidable risk of error and misinterpretation of the accused or other parties involved. Though this is an inherent and irreparable flaw within this system, it is a necessary risk. A flaw in the interpretation service of an individual is certainly favorable to the complete absence of an interpreter. The absence of an interpreter would mean that a person needing such services would be not be able to understand

the nature of the accusations affecting them, nor would they have the opportunity to confront said “accusers.” Constitutional advocates claim this violates a person’s constitutional right under the Sixth Amendment to the U.S. Constitution.

Currently, there is no national certification for interpreters and translators, as this task has also been left up to lower courts. “Federal courts [e.g. Circuit Courts] have certification for Spanish, Navajo, and Haitian Creole interpreters, and many State and municipal courts offer their own forms of certification” (United States Department of Labor, 2010). “Currently, the state of [Tennessee] only offers a certification in court interpretation. There is no certification for healthcare and community interpreters offered in the state of [Tennessee] at this time” (Tennessee Foreign Language Institute (TFLI)). The following information is gathered from the Tennessee Administrative Office of the Court’s website:

In an effort to provide all individuals with equal access to the judicial system, the Tennessee Administrative Office of the Courts (AOC) created the Court Interpreter Credentialing Program. The program’s purpose is to provide the Tennessee Judicial System with skilled interpreters that accurately and effectively interpret for a witness or party who speaks or understands little or no English. The interpreter program tests each interpreter’s ability to understand English terminology and accurately interpret into the spoken language by those with limited English proficiency (State of Tennessee, Administrative Office of the Courts, Court Interpreters, 2012).

The Supreme Court of Tennessee has two rules directly addressed to the use of court interpreting programs: Rule 41: *Rules of Ethics for Spoken Foreign Language Interpreters in Tennessee Courts* and, Rule 42: *Standards for Court Interpreters*. Based on the feedback received from the interviews that were conducted, this study will focus primarily on Rule 42.

The reason there will be a primary focus on Rule 42 is, because based on the interviews, this has the potential to have a detrimental effect on the retention of highly-skilled interpreters.

A clarification must be noted prior to exploring the controversy surrounding recent changes made to Rule 42. The Tennessee Supreme Court establishes rules such as Rule 41 and 42, and other rules that affect the lower courts throughout the state. However, the AOC provides information for all courts. It is in charge of coordinating the interpreting program in the various court systems throughout the state. For example, when a person has officially become a registered or certified interpreter (the distinction amongst the two will be addressed) it is updated on the AOC webpage. This way court clerks are able to locate and contact an interpreter in their respective area, when the occasion arises. Furthermore, they provide literature and workshops for court clerks to attend. Ultimately, any inquiry concerning the interpreting program is addressed by the AOC. At least in the state of Tennessee, the interpreting program is administered by the AOC. In essence, the AOC is the go-to source for all TN courts.

Rule 42 notes three categories of interpreters: i) non-credentialed interpreter; ii) registered interpreter; and, iii) certified interpreter. A non-credentialed interpreter, is not registered or certified by the AOC. Examples of this are, general community members used as a last resort when all other efforts to provide qualified interpreters have been exhausted. The second category registered interpreter, has completed the necessary steps of the program as set forth by the state. The last, and most important category, certified interpreter, has completed all requirements of the program and received a passing score on the three-part oral exam.

Section 3 of Rule 42, *Determining Need for Interpretation*, makes the appointment of an interpreter a matter of judicial discretion. However, it leaves room to establish that a need for an interpreter “may arise from a request by a party or counsel, the court's own voir dire of a party or

witness, or disclosures made to the court by parties, counsel, court employees or other persons familiar with...[the person in need of such services].” This section sets out a 3-step hierarchy of priorities for procedure to appoint an interpreter:

1. State certified court interpreter, this must be the primary goal in appointing an interpreter.
2. State registered court interpreter. Can only be used if no certified court interpreter can be readily made available.
3. Non-credentialed court interpreter. Can only be used if all other efforts to fulfill steps 1 and 2 have been exhausted, and only with the permission of the AOC if in doing so there is no foreseeable risk to a non-English speaker. (Supreme Court of Tennessee, Rule 42 (3)(c))

Section 5 of Rule 42, *State Certified and Registered Court Interpreter*, establishes the requirements for registered court interpreters and certified court interpreters. In order to be given the title of a state registered court interpreter, the following criteria must be met:

- (1) Submit to a criminal background check. Convictions for any felony or for a misdemeanor involving dishonesty or false statement shall disqualify a candidate from certification if such conviction is ten years old or less as provided in Tennessee Rule of Evidence 609;
- (2) Attend an approved ethics and skill building workshop;
- (3) Pass an approved criterion-referenced written examination;
- (4) Provide verification of United States citizenship or the legal right to work and remain in the United States;
- (5) Complete any required forms and pay any required fees; and

(6) Complete any additional requirements established by the Administrative Director of the Courts pursuant to subsection (d). (Supreme Court of Tennessee, Rule 42 (5)(a))

It is not initially mandatory for a candidate seeking “registered” status to take an oral exam, but if an exam should become available, the candidate must attempt examination at least “once every twelve months from the date he/she is designated as a registered court interpreter until he/she receives a passing grade to become a certified court interpreter” (Rule 42: Standards for Court Interpreters.) If a candidate should fail to take the oral examination as required, their registered status will be revoked and will then have to restart the credentialing process. The rule does not indicate what should happen if a registered interpreter attempts the exam but cannot pass it. However, this information can be located on the AOC’s website, it states that:

Interpreter[s] must re-take each section [they] did not pass with 70% or higher until the 3-year renewal period ends. At this point, the interpreter must have a 70% on at least one section and have earned 60% or higher on the remaining sections to retain “registered” status into the second 3-year renewal period. If the interpreter does not meet this standard, they must seek written permission from the AOC to begin the credentialing process anew (Administrative Office of the Courts, 2013).

The following is the credentialing process to reach the status of a state certified court interpreter:

- (b)(1) To receive designation as a state certified court interpreter, the candidate shall:
 - (i) Successfully meet the requirements to be designated as a state registered court interpreter;
 - (ii) Pass an approved criterion-referenced oral performance examination (Supreme Court of Tennessee, Rule 42 (5)(b))

Based on the interviews that were conducted, to reach this highest of qualifications, seems to be a rigorous and difficult process. So much so that most certified interpreters have to attempt this multiple times. What can be inferred from this statement is that this difficult process yields a competitive and highly-skilled interpreters output, thus providing the best services possible to the non-English speaking population of Tennessee.

On July 1st, 2012 the Tennessee Supreme Court (TSC) implemented two changes to Section 7, *Cost of Interpreter/Translator Services, (a) Rates of Compensation* Rule 42. On May 18, 2012, after the AOC had issued a proposal that would expand and update the provisions under this rule, as well as an amendment, the Court filed an order setting out the AOC's proposed changes. It included a solicitation of written comments concerning the amendments from the bench, the bar, interested organizations, and the public. Interested parties had until June 15, 2012 to submit their comments. Upon review of the AOC's recommendations and submitted comments, the Court implemented the present changes. Because public reaction to this new change will vary amongst the different court systems in Tennessee, coupled with the fact that it has not yet been a year since the implementation of this change, it is too early to tell what the future may hold for this change. Subsequently, the member of TAPIT issued a draft/proposal adamantly voicing concern for potential harm the new changes pose to the court interpretation services in the state of Tennessee. The member of TAPIT believes these two changes will compromise the capability of interpreters to assist the courts in dealing with such cases in which they are needed. More importantly, it undermines the mission of enabling access to LEP "speakers to the qualified interpreting that will enable them (as the case may be) to defend themselves, testify against those accused of harming them, or otherwise make the effective use of

State courts to which they are constitutionally entitled” (Draft/Proposal Letter by Pablo J. Davis, found in Appendix C).

The new changes eliminate the two-hour minimum plus travel time compensation as separate payments to what is now a combining calculation of both into one whole payment. What this means is that under the old rule, Court A requests the service of an interpreter, the interpreter would receive a guaranteed minimum payment of two hours. If the interpreter should be required to stay for longer than two hours (excluding travel time), then the court will compensate them accordingly. Under the previous rule, if a case in which an interpreter was needed was canceled because of the failure of the LEP individual to appear in court, or if a case were rescheduled then the interpreter would still receive compensation for the two hours minimum plus travel time, whether their services were performed for the entirety of those two hours or not. Once the interpreter agrees to the request of Court A, any subsequent court requesting the services of that interpreter that day would be turned down because the court interpreter has no idea how long Court A will in actuality use their services. Interpreters forego other interpreting assignments; not knowing how long they will be required in a reliance upon actual compensation for simply appearing at the first court. Simply put, interpreters want travel time plus a minimum of two hours of interpreting time—regardless of whether they actually interpret for two hours after arrival at court.

Because no court interpreters are full-time employees of a court, they must travel to wherever their services are requested, and have limited control over the schedules on a particular assignment. Again, prior to the changes made to Rule 42, this nature of the job was taken into consideration. The reality is that court interpreters have to spend a lot of time traveling to and from the courts requesting their services. The propensity to turn down an offer from Court A as

opposed to that of Court B's increases, if the distance from Court A is further away from where an interpreter resides. The Member of TAPIT explains in a proposal to the Supreme Court of Tennessee the following anecdote:

An interpreter called to court at 9:00 a.m. for a proceeding, blocks out his or her morning for that purpose—scheduling no other work during that time, since the length of proceedings is difficult or impossible to predict. The travel time it takes to get to court is another matter entirely. Lumping the two issues together is unwarranted and will have deleterious consequences (Appendix C).

A court interpreter is a contracted worker who goes to whichever court is in need of his/her services. To an interpreter, the two-hour minimum pay is not a handout. If it happens to be that the interpreter has blocked out his/her entire day to be at a particular court and is no longer needed, then that interpreter has lost an entire day's pay.

The second scenario a member of TAPIT describes is about compensation for travel time: Interpreter P travels to a court within her metropolitan area, 30 minutes each way. For her, the interpreting minimum now becomes, in effect, one hour. For Interpreter Q, traveling to a more distant court an hour away, the two-hour minimum of interpreting time is eliminated (Draft/Proposal Letter by Pablo J. Davis, found in Appendix C).

Despite the apparent consequences these changes may have, the interpreters interviewed in this study did not seem dissatisfied enough to consider leaving their current profession. Possible explanations could be that interpreters in the Washington County area do not have to travel a great distance or because there is enough demand for their services that the change in Rule 42 does not pose a significant threat to their living wages. Even so, one must remember what is truly at stake here. Although it is unfortunate what is happening to interpreters across the

state, this change has the potential to pose a more profound risk to those non-English speakers who need these services so that their right to be justly represented in the court of law is not compromised.

The following section will discuss the methodology used to explore the manner in which court interpretation services are being implemented in the WCCS. Interviews were conducted with participants who are from diverse populations, but within the same legal community. It will be seen that even though the interview subjects have distinct occupations, they have common shared views. This should not be a surprise; afterall, they are all within the same legal ecosystem.

Part IV: Methodology, Data, and Analysis

The qualitative data gathered for this study was gathered by way of an interview session that was semi-structured, with pre-determined questions that may require follow-up questions based on the interviewee's responses. The study population consisted of "court professionals" who have served in WC courts within the most recent 10 years. This population was further broken down into four categories:

- 1) Judge
- 2) Attorney
- 3) Court interpreter
- 4) Court clerk

The interviews followed the plan presented to and approved by East Tennessee State University's Institutional Review Board.

In order to solicit the interviewee's highest level of openness, it was emphasized that this research is designed so that specific identifiers of a particular person will be excluded such as: name, age, specific years of work related experience, name of the law firm/work place, and type of law that they practice (for attorneys). In relation to their work experience, it was necessary to request whether they had been practicing for at least ten years within their profession. This prerequisite was used in order to assure that participants had sufficient professional or occupational experience in the subject under study during the recent period in which the Hispanic community experienced the fastest growth.

In order to analyze the data gathered from the interviews, elements of the Q Methodology were used as a reference in examining the responses of participants, and as a way to compare their subjective viewpoints. The International Society for the Scientific Study of Subjectivity

describes Q Methodology as a, “research method used to study people’s ‘subjectivity—that is, their viewpoint” (International Society for the Scientific Study of Subjectivity, 2013). Applying this method made it possible to reduce the many individual responses/viewpoints of the subjects down to a few “factors.” These commonly prevailing factors represent shared ways of thinking.

The data in this research was gathered via interviews, in order to analyze the data components of the Q Methodology were implemented. This method has both quantitative and qualitative components. Because a sole questionnaire was not used for every interview subject, the quantitative component in this method was not useful to this study. Some of the questions were specifically tailored for the respective occupation of the participant. In addition, “the instrumental basis of Q methodology is the Q-sort technique, which conventionally involves the rank-ordering of a set of statements from agree to disagree” (Brown, 1996). Because questions were either “yes or no” or “open-ended,” the ranking of responses was not appropriate.

Similarly, however, in order to arrive at the reduced common factors, the questions and answers were set side-by-side. Next, a note was made once an interview subject responded in a similar way as another. In doing so, response patterns were discovered. This made it possible to discover thematic responses, regardless of what role the subject played. Additionally, in order to establish a set criteria for inclusion and exclusion purposes, participants must be recognized by the state of Tennessee as qualified to work within their corresponding position. The ultimate goal was to interview a set goal of ten attorneys, ten judges, ten court interpreters, and five court clerks.

Unexpectedly, however, a notable turn of events took place—data became saturated. Data saturation is explained in the following example:

Qualitative data analysis eventually reaches a point called **saturation**, often signaling

completion of the study when there is a judgment of *diminishing returns* and little need for more sampling. This is the point where new data and their sorting only confirm the categories (often numbering between three and six or so), themes, and conclusions already reached ([sic] Suter, 2012, p. 350).

Before the targeted sample number was achieved, only 3 attorneys, 3 court interpreters, 1 judge, and 1 senior-level court clerk had been interviewed. It was at this point that analysis no longer needed to continue, because saturation had been reached. What this means is that, responses became either repetitive or predictable, to the point that no new data was reasonably expected to be found.

In order to locate the potential judges to be interviewed, the Washington County public records were accessed to find a list of judges. This same process was used to compile a list of the court clerks that would be contacted and interviewed. The confidentiality of the participants was continually assured by explaining to them that their identities will be classified under a coded system made up of a combination of letters and numbers. Only the faculty thesis advisor and I have knowledge of this system.

Initially, the attorneys that were used in this research were located online by accessing the Tennessee Bar Association's (TBA) website to get a list of the attorneys in the Washington County area and create the coded system. The manner in which this was done is thus: First, they were searched by the type of law the attorneys practice including- Criminal Justice, Dispute Resolution, Family Law, Federal Practice, Immigration Law, Juvenile and Childrens Law, Labor and Employment, Litigation, Tax Law, Tort and Insurance Practice (Tennessee Bar Association, 2010). The reason that these sections of law were chosen is because these are the aspects of the legal system that can either potentially or more often than not, affect the general population as

opposed to a specific group. Of course, due to what appears to be an apparent predominant first generation Hispanic population, it seemed appropriate to include Immigration Law. Second, a list was created for each specialty area. Attorneys identified from this search were placed under their respective categories. Third, an Excel file was created to place each of the search results from the categories under one single list, which was printed out. Each cell block with a name on it was cut out and placed in a bowl, after which ten names would be randomly drawn.

It was assumed that not every attorney that was going to be contacted would agree to be interviewed, so to address this problem my method was to highlight the attorneys that consented to be interviewed until I got to the desired goal of ten attorneys. The same methodology applied to the compilation of the the list of certified court interpreters in the east Tennessee area. It was discovered that not every attorney has a publicly listed email. So priority was placed on those with listed emails, these were the first to be contacted. If there was no response to the first round of sent emails, a second email was sent. Once email contact had been exhausted, or responses that indicated no interest in meeting, calls were made to attorneys of which there was knowledge of having had experience with court interpreting services.

The following steps apply to all of the participants interviewed: The participants were initially emailed, and if there was no response they would be contacted a second time by phone.

In order to protect the confidentiality of each participant, each of the interviewed subjects were placed in a coded system. This system was designed in the following manner: Judges- Jn, Attorneys-An, Interpreters-In, and Court Clerks-Cn. The “n” represents the number assigned to each participant. In other words, “n” was substituted with a number, for example, “J1.” For a visual depiction of this, refer to Table 4.

Table 4: Interview Subjects Key

| Interview Subjects | |
|--------------------|---------------|
| Judge (J) | |
| J1 | Judge 1 |
| Interpreter (I) | |
| I1 | Interpreter 1 |
| I2 | Interpreter 2 |
| I3 | Interpreter 3 |
| Court Clerk (C) | |
| C1 | Court Clerk 1 |
| Attorney (A1) | |
| A1 | Attorney 1 |
| A2 | Attorney 2 |
| A3 | Attorney 3 |

Once the interviews were completed, the methods that are currently in place in the Washington County area were analyzed, with emphasis on their strengths and weaknesses.

Some unexpected problems were encountered while conducting this field research. The first was that most attorneys and judges do not have their email publicly available. The same applies to their primary contact phone number. What had to be done was that their secretaries were the initial point of contact, who would then transfer me to the target contact. The second problem was the realization that not every attorney has had experience using court interpretation services. Initial attorney respondents had no experience in working with LEP individuals or interpreters. At this point attorneys of whom there was knowledge of working with the Hispanic community were contacted. This “knowledge” came from legal aid clinics that have been held specifically for the Hispanic community.

At the conclusion of the interview with J1, the judge introduced me to three attorneys that were also at the courthouse on that day, one of which agreed to meet with me later for an interview session. Interview subjects A2 and A3 were contacted because there was knowledge of them having had experience working with Hispanic clients.

Another unexpected issue was the difficulty in establishing an interview session with the judges. Similar to the attorneys, no public contact email was listed. Rather, their office had to be contacted first, at which point the secretary would let me know of available times to meet. Because there is a limited small number of judges per cases heard, options to meet were minimal. Judges either did not have time in their schedule, no response was heard, or they were out of town.

Unfortunately, LEP individuals who have been involved with the judicial system were not included in the interview portion of this research. The greatest issue with this is that it would

have been difficult to locate people who have been in court, and then to be able to contact them. Court records are not maintained in a way that will reveal identifying and contact info of LEPs who needed, requested, and who were provided interpreters. These interviews would have added a significant perspective to this research. Findings and conclusions in this paper could be different with the participation of LEPs who requested or were provided court interpretation services.

V: Findings and Conclusion

The findings of this exploratory research revealed unexpected results. I began my research skeptical whether the WCCS was meeting the standards set forth by the Administrative Office of the Courts. I expected to encounter a system in which the courts were not sufficiently fulfilling the needs of Spanish-speaking LEP individuals nor were they concerned with maintaining a well-organized process of facilitating such services. In short, I expected to find a system that was generally hostile towards the LEP population.

However, I discovered that not only is the WCCS fulfilling the requirements established by the Tennessee Supreme Court but they are also surpassing those requirements. They are doing more than what is required by having established a set day of every week in which there are court interpreters available. This day happens to be on a Tuesday. In instances of a criminal case, a person is guaranteed to access to a court interpreter, regardless of what day their case is scheduled. Based on Rule 41 and 42, the WCCS is fulfilling the established requirements to ensure that anyone who needs interpretation services has access to them and that the people working in this field are adequately trained and educated. For the time being, the format the WCCS has developed is frequent enough for the cases that are scheduled.

In qualitative research, many factors can affect the sample size of the study being conducted, the most significant being data saturation. I found that my intended target sample number of interviewees was too large. I arrived at a point in which new information was not expected to increase had more participants been interviewed, thus the data had become saturated. Answers from the interviewee participants, regardless of the category a respondent represented, was becoming repetitive. Data saturation can best be explained as, “the point in continuous data collection that signals little need to continue because additional data will serve only to confirm

an emerging understanding" (Suter, 2012, p. 350). The emerging understanding here was that the WCCS as whole, is taking a proactive role in fulfilling the guidelines set out by the state.

The field research and interviews conducted indicate that the WCCS is meeting the requirements outlined by the AOC for court interpretation. In fact, the WCCS is going beyond the requirements by having implemented a "court interpreter day" (as referred to by most interviewees). Subject participants were asked if they had witnessed a change in the past 5-10 years in the involvement of LEP individuals and/or interpreters in court proceedings. With the exception of one individual, all of the subject participants agreed there has definitely been an increase in requests for and use of court interpreters. The individual who stated that there has not been an increase, explained that this personal observation is in relation to criminal court cases and that it may very well be a different matter in civil proceedings. The following shows the responses of subject participants J1 and A1 to the aforementioned question. Two things must be noted. First, they both mention that there is a single day dedicated to court interpretation. Second, the attorney's original question is slightly worded different than that of the Judge's:

J1: *Q: In the past 5-10 years have you seen a change in non-English speaking persons, also referred to as LEP (Limited English Proficiency) Individuals, involved in court proceedings such as defendants, party to a case, witnesses to a case? If yes, in what ways?*

A: There is more of an increase. So much so, that there is a specific day for interpreters to be guaranteed to be present.

A1: *Q: What types of differences are present in Civil and Criminal cases? For example, is it easier to acquire court interpretation services during criminal cases?...Do you*

believe that this number has changed over the past 5-10 years? If yes, in what ways?

A: This number has definitely changed. [It] used to be that there would only be an interpreter [that came] once a month, but now there is an interpreter every Tuesday.

There is an unavoidable flaw in this system of having one day per week dedicated for court interpreting worth mentioning. The following point was mentioned by subject participant J1:

J1: At arraignment, if there is an LEP that needs an interpreter, the case is rescheduled for the next day, but if it should happen to be on a Wednesday, then the LEP is let out of jail so that they are not in jail for seven days. Of course, this only happens if said individual is not considered to be a flight risk [a person that may flee town].

As previously mentioned, there has been an evident increase in the use of court interpretation services within the past 5-10 years. Of these cases, the vast majority are for Spanish speakers. Subject participant C1 mentioned that because there was such a notable increase in the use of Spanish court interpreters, now there is one available every Tuesday that the courts are in session. If an interpreter of another language is needed, one will be provided on this day as well. However, similar to cases of Spanish interpreters, if an LEP person comes on a day other than the court interpreter day, their case is immediately rescheduled for a later date. For example, the following table shows the responses of J1, A1, A2, A3, and C1 when asked what type of measures the court takes in ensuring effective communication in the presence of a language barrier. In the example, A2 explained that because there are ethical guidelines preventing attorneys from being interpreters, the extent of A2's involvement was for the purposes of rescheduling the case for a time when an interpreter could be made available.

Table 5: Steps Taken to Address Language Barriers in Court

| <i>Q: What measures are taken in civil/criminal proceedings to ensure effective communication where there is a language barrier?</i> | |
|---|--|
| Subject Participant | Response |
| J1 | <i>Ensure that there is an interpreter at the present case hearing or reschedule the case for another time when an interpreter is available.</i> |
| A1 | <i>If [there is] any doubt at all reset case for when there is an interpreter.</i> |
| A2 | <i>In instances of immediate need, I have been asked to interpret.</i> |
| A3 | <i>In order to ensure a speedy trial, a competent attorney will notify the court clerk that an interpreter will be needed beforehand.</i> |
| C1 | <i>An interpreter is present, if no interpreter is present, but is needed, then the case will be rescheduled for another time when an interpreter will be present.</i> |

If an LEP person is incarcerated and it is a preliminary hearing, he/she will be released if there is no reason to suspect that person poses a flight risk. Otherwise, it is the responsibility of an attorney that their client has an interpreter available at their scheduled appearance. Other than a case being scheduled for “court interpreter day”, there is no knowledge of the actual delay that occurs when cases are rescheduled. A3, however, mentioned that there has not been a violation of a speedy trial right as a result of unavailability of court interpretation services within the WCCS.

At first, the number of people who were interviewed may appear too small. However, one must take into consideration that the Hispanic population in Washington County is only 3% of the total population; of this number, it is unknown exactly how many cases are heard in which interpreting services are needed. In initial contacts made to establish interviews, most

respondents replied that they have never used court-interpreting services. This could also be attributed to the size of the WCCS. Perhaps, if a different court system were included in this research, then the findings may have been different. Not every court system encounters the same issues. A larger proportion of LEPs and court professionals may provide a new insight on this topic.

Several thematic features can be discerned from the interviews. These themes revolved around three points: First, there was shared satisfaction among interviewees with the procedures taking place in WCCS interpreting services. This means that there is a consensus amongst the various subject participants that the court interpretation services in the WCCS are achieving the goals it sets out to do. Second, conceptual and practical deficiencies of the present system are addressed. These are inherent and unavoidable flaws in court interpreting. One example is that it is unrealistic to have an interpreter available in court every day. In fact, A1 mentioned that, “in a perfect world, having an interpreter available all day, every day would be ideal.” The “legal language” of the courtroom is a difficult language to understand, regardless of whether a person is an LEP individual or not. Third, all participants were concerned on the need for cultural understanding. The participants expressed that it is very important to recognize the difference in norms, beliefs, and behaviors so that an efficacious court process can be carried out and potential biases are avoided. As explained by the participants, cultural understanding takes on two meanings—understanding of the rule of law and understanding of one’s ethnic background.

Based on my interviews, it appears that participating judges, attorneys, interpreters, and court clerk in the WCCS are satisfied with the operating procedures and practices for court interpretation services. One example of this can be seen in that there is a consensus that the available interpreters satisfactorily meet the demand for interpreters in cases heard in court,

primarily in cases where Spanish is the source language. Furthermore, there is a consensus that no case is heard before the court until an interpreter is provided. For example, each participant was asked when the court is required to provide an interpreter. The following dialogue that took place can be seen below:

J1: *Q: When is the court required to provide interpreters? Does it depend on the role and type of case? (e.g.—witness, party to a case, civil/criminal case?)*

A: It does not matter, there is always an interpreter, each LEP has their own Interpreter. The judge assigns an interpreter even if LEP says they speak, “a little bit.”

Table 6 shows a specific question that was asked, and the responses received from every interviewee that was asked the same question. All, except A3 and I1, agreed that there are enough interpreters available in the WCCS.

Table 6: Available Interpreters in the WCCS

| <i>Q: Do you believe that there is an adequate supply of competent interpreters in the Spanish language?</i> | |
|--|--|
| Subject Participant | Response |
| J1 | <i>Yes, never been a problem.</i> |
| A1 | <i>Yes, for cases scheduled.</i> |
| A2 | <i>Yes</i> |
| A3 | <i>No, the number of interpreters has not increased in proportion to the need.</i> |
| C1 | <i>There is currently a sufficient amount of interpreters.</i> |
| I1 | <i>There is probably not a sufficient number.</i> |
| I2 | <i>Yes, there are many certified and registered interpreters in this area.</i> |
| I3 | <i>In Washington & Sullivan County, there is enough.</i> |

The only concern one interpreter voiced was that if the AOC does not promptly update their website upon the certification of new certified and registered interpreters, then it may appear that there is not a sufficient quantity of interpreters from which to choose. For example, when interview subject I2 became certified, it took several weeks before the individual's name was added to the AOC website. The courts look to this site as a primary point of reference when searching for an interpreter. If new interpreters are not added to the website in a timely manner, then the courts will continue to contact those whom they have contacted in the past, piling a majority of the cases onto just a few interpreters and consequently prolonging cases.

There appears to be adequate cooperation amongst the different groups of actors involved in this research. After concluding the interviews, no subject participant mentioned a notable problem that may be hindering the ability to provide the interpretation services to an individual. Anytime a language barrier is encountered, an interpreter is provided; if one is not readily available, then translated documents are provided to the LEP person. Court personnel take every measure necessary to ensure that an LEP's case is not heard unless there is an interpreter present. Not only would it violate the rights of an LEP as established by the TSC, but also it is the most cost-effective option for courts. A court would suffer a graver economic impact if it did not provide these services, than providing them. Other than the responses from the interviewees and the statement that there has never been a violation of a speedy trial right, there is no data suggesting an excessive delay due to rescheduling.

On the topic of a right to an interpreter, the following examples demonstrate the questions and responses to each question that was asked to the participants in this research. The following question was posed to the interpreters:

Q: Do you believe that non-English speaking persons know that they have the right to a court interpreter?

The interpreters in this research indicated that most LEP's who come to court have an understanding of court interpretation services being available. Even if an LEP individual is going to court for the first time and is unaware of this availability their case will be rescheduled.

The following question was asked to both J1 and C1:

Q: How do you think that non-English speaking persons know that they have the right or opportunity to a court interpreter?

For example, when asked a similar question, J1 answered that there is an assumption that people do not know their rights, so they are informed of all their rights. If J1 finds there is a need for an interpreter, the case is immediately rescheduled. C1 responded that if an individual comes to a court clerk and that clerk can clearly see that said individual is in need of an interpreter, translated forms will be given to him/her and have that person return when there is an interpreter available, if none is readily available.

Q: Are litigants, witnesses and others informed of their right to an interpreter during their first contact with a judge or court clerk?

A1: A: Yes, at arraignment the judge asks if an interpreter is needed.

A2: A: Not in civil cases.

A3: A: Unsure if the individual is informed of there being right; however, one is provided if need be.

The only issue that one attorney had was that interpreters take on too much of an “advocacy” role, consequently calling into question their commitment to ethical obligations under TN Supreme Court Rule 41. For example, interview subject A1 mentioned that there are times in which the interpreter communicates exclusively with the LEP individual, leaving the attorney “out of the loop,” as A1 put it. This is something that is strictly against protocol; there is not supposed to be any form of conversations taking place between the interpreter and LEP speaker. Anything that is discussed between the two must also be communicated to the third person involved. This further emphasizes what the role of an interpreter means and what limitations they have. Ultimately, it is to the benefit of the LEP person that such instances do not take place because interpreters do not have the qualification to give legal advice. By doing so, they may unintentionally cause more harm than good.

As previously mentioned “Rule 42: Standards for Court Interpreters” had a significant impact on the relationship between court interpreters and the courts. It is clear that some interpreters are having a somewhat negative response towards the change to the terms of compensation because it is lowering their wages. As interview subject I1 explained, “interpreters are contracted day by day; they are not full time anywhere.” Interview subject A1 further explained that if no interpreters are employed full-time, then the state has to pay less money. Interpreters are concerned that this change in Rule 42 will affect the quality of the interpreter program. If the pay for interpreters is not at a level that is satisfactory, then the pool of interpreters to choose from may become smaller and less proficient.

Interview subject I2, however, suggested that this change will only affect “veteran” interpreters. Newly certified interpreters will not be affected by this change because they had no experience with the previous compensation scheme and it may seem to them as if their pay is satisfactory. I2 explains that this change only seems to be discouraging for interpreters who were working before the change and it will not have an effect on the continuation of an effective interpreting program. However, if the court system loses its veteran interpreters, this seems like a rather significant loss. In order to reiterate and emphasize the importance, if the changes do have a negative impact, it will not be the interpreters or the courts that will be most affected; rather it is those LEP individuals who need to be represented in the court of law as stated by the U.S. judicial system. One thing is certain, LEPs in the WCCS are guaranteed an interpreter, regardless of the case.

One of the interviewed interpreters raised an interesting topic for concern. This is the influence that interpreters have on the method of operations. As I2 put it, “courts get used to doing it a certain way, even if it’s not AOC procedures.” In this instance, I2 was referring to a

commonly occurring situation in which interpreters set a precedent for protocol, so if an interpreter performs in a particular way, then the courts get accustomed to this method and expect subsequent interpreters to perform in the same manner. This way of operating can be potentially beneficial or detrimental. It can be beneficial because the Tennessee Supreme Court rules produce a general structure that courts are to follow, which is tailored to the needs of the county. Because the interpreters working in the Washington County area understand the prevailing issues and needs of this area, they are able to establish protocol that could actually be in conflict with that set forth by the TSC. On the other hand, this process could be detrimental to the process that the TSC has established and hinder the ability for the courts to perform efficiently.

The aspect of cultural understanding operates in two contexts—cultural understanding of the LEP’s country of origin and the cultural understanding of the court. Nonetheless, it is important to keep in mind that the nature of the court is a complex system that is difficult to understand even to the native speaker. Previous studies have shown and those interviewed in this study agree that one of the most common challenges encountered in court is a lack of cultural understanding, on both the LEPs and court personnel’s (judge, attorney, interpreter, and clerk) part. Nearly every respondent made a statement to this effect in his/her interview. There are certain norms that are acceptable in an LEP person’s home country; however, those norms are contrary to the norms of this specific society. Some of these individuals come from a country where there is a weak rule of law. Take the following scenario as an example: A man is pulled over or indicted for an offense; instead of going to court, he “pays off” an arresting officer or the judge. To this man, this is not something out of the ordinary; it is a norm, whether right or wrong is beside the point. Because some LEP individuals come from a place where the rule of law is

not enforced, they may not understand the legal process in this country. Because of this, interview subject J1 ensures that Spanish speaking LEPs receive a translated document of their constitutional rights so they can be aware of their rights.

One of the interpreters in this interview gave an anecdote of an LEP who tried to pay this interpreter for the services he/she provided. Rather than jumping to a hasty conclusion about this questionable act, the interpreter simply informed the LEP that court related payments (unless a private attorney is hired) are handled through the court clerk's office.

As a final interview question, every participant was asked, if given the opportunity, what changes would they implement in the current methods that the WCCS is using to address language communication barriers experienced by the Hispanic community. The following table illustrates the responses of each subject participant:

Table 7: Subject Participants Suggested Changes

| <i>Q: If you could change anything about the current process/methods by which the Washington court system is addressing communication barriers experienced by Hispanics in their dealings with the courts, what changes would you make?</i> | |
|---|--|
| Subject Participant | Response |
| J1 | <ul style="list-style-type: none"> • <i>If Spanish interpreters could come more than just Tuesdays, it would speed process on arraignments.</i> |
| A1 | <ul style="list-style-type: none"> • <i>In a perfect world, having an interpreter available all day, every day would be ideal.</i> • <i>Have all forms in Spanish.</i> • <i>Have someone in clerk's office who spoke Spanish.</i> |
| A2 | <ul style="list-style-type: none"> • <i>Have a Spanish speaking employee in the clerks office.</i> • <i>Posting signs in Spanish in the courthouse.</i> • <i>Having a court interpreter readily available.</i> |
| A3 | <ul style="list-style-type: none"> • <i>Probation office needs to have an Interpreter available.</i> • <i>The court clerk's office needs somebody who is bilingual.</i> • <i>Agencies and departments in the court system need to have bilingual speakers.</i> |
| C1 | <ul style="list-style-type: none"> • <i>If Hispanic person should happen to be living here for a while then they should learn English. There should be free classes available for them to be able to do so.</i> • <i>Overall satisfied with current methods being used.</i> |
| I1 | <ul style="list-style-type: none"> • <i>Cannot answer because not currently active court interpreter.</i> |
| I2 | <ul style="list-style-type: none"> • <i>It is a good thing to have all cases on Tuesday, but if there are many cases, then said defendant could have to wait a week in jail to have an interpreter available. If a native speaker is arrested Tuesday afternoon, Wednesday their case can be heard.</i> • <i>Tennessee has one of the best interpreter programs in the nation.</i> |
| I3 | <ul style="list-style-type: none"> • <i>Cannot answer because not currently active court interpreter.</i> |

In conclusion, this research led to the discovery of the following:

First, the Washington County Court System is indeed complying with the regulations, as established by the Tennessee State Supreme Court, for providing court interpretation services. Second, there is the unofficial “court interpretation day.” On this day, there is a 100% guarantee that court interpreters will be in court to assist LEP individuals, primarily those of the Hispanic community. Third, interpreters are needed for justice activities that occur in government offices outside of the courtroom. For example, there should be interpreters or bilingual staff in the probation office. Currently there is none. Simply because an LEP’s case has been heard and tried, this does not end his/her need for an interpreter. Also, there is the question of what happens to LEPs who are incarcerated. Finally, the most unexpected and interesting finding of all was in regards to cultural understanding. The importance of cultural understanding is as vital at court interpreting as the mere act of interpreting itself. This can mean the difference between understanding the slang of one LEP person, and his/her innocence.

Suggestions for future research:

- As stated before, LEP individuals who have used court interpreting services were left out of the interview portion of this study. Because this group is at the heart of this research, it would have been fascinating to interview these individuals.
- Rather than increasing the sample number of subject participants, it may be best to include an additional court system. The reason being that the responses gathered from the interviews only reflect first-hand accounts that have taken place in the WCCS. Including a different court system and comparing the data gathered from both may yield different findings.

- Similar to the finding of there being a need for interpreters outside of the courtroom, there is the question of what happens to LEPs once they have been incarcerated. This cannot be stressed enough; equal protection of the law occurs in society, in the courtroom, as well as within a correctional facility. How is an LEP able to communicate once they have been incarcerated?

As the immigrant population continues to grow throughout the country, it is important to understand the potential issues that may arise for those encountering a language barrier so that the situation may be addressed. It is imperative that interpretation services are effectively carried out and that there are sufficient resources to fund them in order to ensure that those in need of such services have access to them. We are living in a complex, interdependent global community, where the societies of developed nations have greatly expanded as the result of growth of immigrant communities. With these new immigrant communities comes a myriad of language and cultural differences, and it is the duty of both the state and federal governments to provide for the well-being of their people by protecting their due process of the law.

The speed in which the population is demographically changing places a huge task before the American judicial system. Because the linguistic atmosphere of this country has become so diverse, it must be carried out through a multilateral effort. This effort to protect the constitutional values of this country can be most effectively accomplished via the cooperation of interpreters, courts, administrative agencies, and professional organizations. Only through this consortium can there be a guarantee that language barriers that hinder the guarantee of life, liberty, and justice are eradicated. Though interpreting presents many difficulties, based on the results of this study, the Washington County Court System has been performing exceptionally well.

Appendix A: Terms Commonly Used in Court Interpreting

For the purposes of establishing meaning to terms used in this project, *Volume 5, Chapter 1: Court Interpreting of the Guide to Judiciary Policy*, was used to retrieve and list the following terms and definitions that are applicable to this specific project as well as to inform readers of the different forms of interpretation (Administrative Office of the U.S. Courts , 2011).

(b) Certified Interpreter

An interpreter who has successfully passed all the required components of the Federal Court Interpreter Certification Examination administered under the auspices of the Administrative Office. All staff court interpreters must be federally certified court interpreters. See: Guide, Vol 5, § 310.10.

NOTE: The above only applies to Federal Courts, and not those within the state of Tennessee. The majority of court interpreters in the state of Tennessee are not Federally certified. The requirements to be a certified or registered court interpreter in the state of Tennessee are explained in “Part III: Legal Background” of this research. Or under Supreme Court of Tennessee, Rule 42, Section 5, *State Certified and Registered Court Interpreter*.

(e) Consecutive Interpretation

The consecutive mode is used to interpret testimony given by a limited English proficiency (LEP) individual on the witness stand, or other statements for the record involving questions and answers, as well as for situations in which dialogue with the LEP individual develops, such as interviews. The interpreter verbally conveys the translation of the original message into the target language after the speaker has paused. Note-taping is an essential tool for optimal performance during consecutive interpreting.

(j) Limited English Proficiency (LEP) Person

Individuals who speak only or primarily a language other than the English language.

(l) Relay Interpretation

Relay interpretation occurs when no interpreter is available to interpret a language of limited diffusion (LLD) into English, but one can interpret the needed language into another language for which there is an available, qualified interpreter. The non-English speaking interpreter "relays" the interpretation into the common language and the second interpreter relays this into English and vice versa. (Examples: Mixtec to Spanish to English, or Tactile Signing to American Sign Language (ASL) to English.)

(m) Simultaneous Interpretation

The rendering of the full and accurate meaning of speech from one language into another while the speaker or signer is still talking. This requires the interpreter to listen, comprehend, translate, and reproduce a speaker or signer's message while the speaker or signer continues to speak or sign, typically lagging a matter of seconds behind the speaker or signer's communication. The simultaneous mode is used by interpreters when interpreting all that is said in courtroom proceedings for non-English speaking defendants or other participants as defined in the Guide, Vol 5 § 210.10 and § 255.20(c).

(n) Simultaneous Interpretation Equipment

Electronic equipment that allows the interpreter to interpret into a microphone and the interpreted speech to be sent in real time via a transmitter to a receiver (earphones) for one or more defendants. The use

of such equipment also enables interpreters to better position themselves where they can hear and see the speakers without strain and to serve multiple defendants at the same time.

(o) Sight Translation

Conveying orally in one language the meaning of a text written in another language. It is a hybrid of translation and interpretation that requires the interpreter to first review the original written text, then render it orally into the other language.

(p) Source Language

The language from which a statement in another language is translated or interpreted.

(q) Target Language

The language into which a statement in another language is translated or interpreted.

(r) Team Interpreting

The use of two or more interpreters for trials or lengthy hearings. The interpreter not actively interpreting (known as the passive interpreter) researches terms, takes notes, monitors the interpretation being provided, and provides support to the active interpreter. Team interpreters alternate roles during the interpreted event.

(u) Translation

The transference of meaning of a written document from the source language into the target language in writing. The translator is given a text and prepares an accurate parallel text in writing, without the pressure of immediate delivery.

Appendix B: Draft/Proposal Letter by Tennessee Association of Professional Interpreters and Translators (TAPIT) Member to the Supreme Court of Tennessee

[sic]

July 10, 2012

Supreme Court of Tennessee
Nashville, Tennessee

Re: New Rule 42, as amended June 27, 2012 regarding foreign-language interpreting

To the Honorable Justice of the Supreme Court:

The Tennessee Association of Professional Interpreters & Translators (TAPIT) wishes to thank the Court for opening a forum for public comment on the proposed Rule 42 amendment originally released May 18, 2012, regarding use and compensation of foreign-language interpreters in Tennessee courts. We submitted our ideas to the Court, as did many of our members individually, along with other interpreters, judges, and attorneys.

In making the comments public, the Court fostered dialogue among those affected by the proposed amendment. And we applaud the Court for taking public comment into account in drafting the final version of the new rule.

At the same time, we wish to express our continuing and serious concern. While a number of proposed changes were wisely omitted from the new rule released June 27, 2012, two crucial aspects of the system have been severely compromised - in a way that will harm the ability of certified interpreters to continue to provide service to the State's courts - and thus, the access of limited-English residents of Tennessee to the qualified interpreting that will enable them (as the case may be) to defend themselves, testify against those accused of harming them, or otherwise make the effective use of State courts to which they are constitutionally entitled.

The proposed amendment would have eliminated both the two-hour minimum and compensation for travel time. Outcry over both issues was central to the outpouring of highly knowledgeable, detailed public comment.

While the new Rule 42 restores travel-time compensation, it vitiates and in effect eliminates the two-hour minimum by combining its calculation with that of travel time.

TAPIT takes exception to this change. The two-hour minimum needs to be understood: It is not a favor nor an act of generosity to interpreters, it is rather a standard practice in the interpreting profession and, indeed, across many industries where specialists' time is their currency – and has long been a matter of course in the State's courts.

The two-hour minimum is a sensible and traditional recognition of the realities of our profession and how it works in tandem with the operation of the courts. To wit: An interpreter called to court at 9:00 a.m. for a proceeding blocks out his or her morning for that purpose - scheduling no other work during that time, since the length of proceedings is difficult or impossible to predict. The travel time it takes to get to court is another matter entirely. Lumping the two issues together is unwarranted and will have deleterious consequences.

Let us consider two individuals: Interpreter P travels to a court within her metropolitan area, 30 minutes each way. For her, the interpreting minimum now becomes, in effect, one hour. For Interpreter Q, traveling to a more distant court an hour away, the two-hour minimum of interpreting time is eliminated.

Were saving money the Court's sole imperative, the new measure would make sense. However, the Court's overriding commitment to justice for all Tennessee residents makes the change highly inadvisable. By weakening the possibility of most qualified, credentialed interpreters to earn a livelihood while serving the State courts, the new rule will in the end, counterproductively, undermine that crucial, patriotic goal. Naturally, the Court has the authority to mandate how interpreters are deployed and compensated in the State's tribunals. At the same time, in a free market, professionals themselves must decide how best to employ their time so as to earn a living.

TAPIT strongly urges the Court to reconsider this provision. For the same reasons, we urge the Court to consider the adoption of a cancellation policy, and the other measures we proposed in our letter to the Court dated June 12, 2012. The considerable achievements of our State Courts system in the realm of linguistic access must be safeguarded and built upon, not weakened as aspects of the new Rule 42 do.

We look forward to working closely with the Court and with the Administrative Office of the Courts to ensure that interpreters and courts collaborate effectively, furthering the goal of justice for all in the State of Tennessee.

Respectfully submitted,

[President, TAPIT]

Proposed by TAPIT member, Pablo J. Davis (Memphis)

[sic]

Appendix C: Interview Questionnaire

The following are the set of questions that were asked to the interviewee participants. It must be pointed out that some of the questions were used gathered from a research study conducted by The Brennan Center for Justice at New York University School of Law (BCJ), in a study of 35 states:

Attorneys:

- a) Have you been practicing law for at least 10years?
- b) How would you describe your Spanish speaking proficiency?
- c) Can you give me an estimate of how many of your clients during recent calendar years speak Spanish as their primary language?
 - i) What types of differences are present in Civil and Criminal cases? For example, is it easier to acquire court interpretation services during criminal cases?
 - ii) Do you believe that this number has changed over the past 5-10 years? If yes, in what ways?
- d) In instances when you have a client who is not proficient in English, also referred to as LEP (Limited English Proficiency) Individuals, how do you ensure you and your clients understand each other?
- e) The following is a quick checklist, requiring only a yes or no answer, except for when appropriate:
 - i) Does the state have a written statewide mandate in place covering all parties and witnesses in all civil proceedings?
 - ii) Does the state have a clear standard and guidelines for determining eligibility of LEP individuals who need an interpreter?

- iii) Does the state have a clear procedure for appealing denials of interpreters? If no, what would you change/add?
- iv) Do courts take a proactive role in denying interpreter waivers if they are not knowingly and voluntarily made, or if the court determines an individual has limited proficiency in English?
- v) Do you believe that there is an adequate supply of competent interpreters in the Spanish language? If the answer is no, what is being done to address this issue.
- f) Are litigants, witnesses and others informed of their right to an interpreter during their first contact with a judge or court clerk?
- g) Can you recall recent cases or instances in which there was a language barrier between you, the court, or other court personnel and your client? If so:
 - i) How frequently has this occurred and during what time frames?
 - ii) What accommodations were made, if any, to improve communications with your client?
 - iii) How well do you think the court understood your client's communications?
 - iv) If there was a jury, how well do you think the jury understood your client's testimony?
 - (1) Do you think that it is possible for juries to have unfavorable biased opinions towards your client's inability/ difficulty in speaking English? If so, what is done to address this?
 - v) How well did you feel you understood your client's communications?
- h) What measures are taken in civil/criminal proceedings to ensure effective communication where there is a language barrier?

- i) If an official court interpreter was used during a court proceeding in which you were involved; how effectively was the court interpreter able to communicate with you, jury, judge, court clerk, or any other person that is typically involved in court hearings.
 - i) Were the court interpreters in these instances certified?
- j) If someone other than an official credentialed court interpreter provided interpretation assistance in a court proceeding in which you were involved, how effectively did that interpreter communicate with you, the jury, judge, court clerk, or any other person that is typically involved in court hearings?
 - i) What was the primary language of the interpreter(s) (Spanish or English or something else) if you know?
 - ii) How was/ were that/ those interpreter(s) selected, and were they relied upon only after trained, dedicated court staff assess the interpreter's qualifications?
 - iii) Was / were the interpreter(s) related in some way to your Spanish speaking client? If so, how?
- k) If you could change anything about the current process/methods by which the Washington court system is addressing communication barriers experienced by Hispanics in their dealings with the courts, what changes would you make?

Court Judges:

- a) Have you been a judge for at least 5-10 years?
- b) How would describe your Spanish speaking proficiency?
- c) In the past 5-10 years have you seen a change in non-English speaking persons, also referred to as LEP (Limited English Proficiency) Individuals, involved in court proceedings such as defendants, party to a case, witnesses to a case? If yes, in what ways?
- d) When is the court required to provide interpreters?
 - i) Does it depend on the role and type of case? (e.g.—witness, party to a case, civil/criminal case?)
- e) Does the state have a clear procedure for appealing denials of interpreters? If no, what would you change/add?
- f) Do you believe that there is an adequate supply of competent interpreters in the Spanish language? If the answer is no, what is being done to address this issue.
- g) Can you recall recent cases or instances in which there was a language barrier between you, the LEP litigants, and other court personnel? If so:
 - i) How frequently has this occurred and during what time frames?
 - ii) What accommodations were made, if any, to improve communications?
 - iii) How well do you think the court understood the litigant's communications?
 - iv) How well did you feel you understood the Limited English Proficiency person's communications?
- h) What measures have you taken in civil/criminal proceedings to ensure effective communication where there is a language barrier?

- i) What measures do other judges take, that you know of?
- i) If an official court interpreter was used during a court proceeding in which you were involved; how effectively was the court interpreter able to communicate with you, jury, court clerk, or any other person who is typically involved in court hearings.
 - i) Were the court interpreters in these instances certified?
 - ii) Are litigants and court personnel allowed to challenge the appointment of interpreters on competence and ethics grounds; if so, is this something that you allow or is this assured by a state statute?
- j) Have you ever received any form of training by the state on the following:
 - i) Determining whether a party or witness needs the assistance of an interpreter
 - ii) Determining whether a particular interpreter is competent
 - iii) Using interpreters effectively, and
 - iv) Run courtrooms in which simultaneous or consecutive interpreting of testimony or proceedings is occurring
 - v) If the answer is yes, to any of the aforementioned, can you explain as to what you were trained to look for?
 - vi) If the answer is no, how do you determine if somebody is an LEP individual?
- k) Has any court personnel who come into contact with the public been trained by the state in how to:
 - i) Determine whether a party or witness needs the assistance of an interpreter,
 - ii) Determine whether a particular interpreter is competent, and
 - iii) Use interpreters effectively

- iv) If yes, what are the methods they are instructed to apply in addressing each of the aforementioned points?
- l) How do you think that non-English speaking persons know that they have the right or opportunity to a court interpreter?
 - i) Are litigants, witnesses and others informed of their right to an interpreter during their first contact with a judge or court clerk?
- m) If there was a jury, how well do you think the jury understood the Limited English Proficiency person's testimony?
 - i) Do you think that it is possible for juries to have unfavorable biased opinion towards a person's inability/ difficulty in speaking English? If so, how did you deal with it?
- n) If you could change anything about the current process/methods by which the Washington court system is addressing communication barriers experienced by Hispanics in their dealings with the courts, what changes would you make?

Court clerks:

- a) Have you been working as a court clerk for about 5-10 years?
- b) Approximately how many people per year request a court interpreter?
 - i) Approximately how many times per year does the court provide a court interpreter?
- c) In the past 5-10 years, do you believe there has been a change in the amount of times a court interpreter is being used in court? If yes, in what ways?
- d) What experience have you had in working with non-English speaking persons, also referred to as LEP (Limited English Proficiency) Individuals, for example, people coming in to file a lawsuit or other matters?
- e) Does the state offer training on the following:
 - i) Determining whether a party or witness needs the assistance of an interpreter
 - ii) Determining whether a particular interpreter is competent
 - iii) Using interpreters effectively, and run courtrooms in which simultaneous or consecutive interpreting of testimony or proceedings is occurring;
 - iv) Determining whether a party or witness needs the assistance of an interpreter
 - v) Determining whether a particular interpreter is competent
 - vi) Is this type of training a requirement? If no, how do you go about determining the aforementioned?
- f) Do you sit in court proceedings?
 - i) How long have you had that role—on sitting in court proceedings?
- g) Can you recall recent cases or instances in which there was a language barrier between you, the judge, litigants and other court personnel? If so:
 - i) How frequently has this occurred and during what time frames?

- ii) What accommodations were made, if any, to improve communications with the litigant?
- iii) How well do you think the court understood the litigant's communications?
- iv) If there was a jury, how well do you think the jury understood the litigant's testimony?
 - (1) Do you think that it is possible for juries to have unfavorable biased opinions towards a litigant's inability/difficulty in speaking English? If so, how did you deal with it?
- v) How well did you feel you understood the litigant's communications?
- h) What measures are taken in civil/criminal proceedings to ensure effective communication where there is a language barrier?
- i) If an official court interpreter was used during a court proceeding in which you were involved; how effectively was the court interpreter able to communicate with you, jury, judge, or any other person that is typically involved in court hearings.
 - i) Were the court interpreters in these instances certified?
 - ii) If someone other than an official credentialed court interpreter provided interpretation assistance in a court proceeding in which you were involved, how effectively did that interpreter communicate with you, the jury, judge, court clerk, or any other person that is typically involved in court hearings?
 - (1) How was/ were that/ those interpreter(s) selected, and were they relied upon only after trained, assessing the interpreter's qualifications?

j) How is the Washington County court system assuring that those Hispanic participants, e.g. defendants, witnesses, party to a case, in court proceedings who need an interpreter will be provided one?

(1) What happens when participants in a particular court hearing do not request a court interpreter?

k) To the extent possible, in order to ensure that LEP individuals receive the same treatment as other court participants, in order to minimize delays in their cases, is the following being done:

i) Are case files and scheduling documents marked with “interpreter needed” designations?

ii) On notices and summons documents issued to lawyers and pro se litigants, is there language stating that they must notify court personnel immediately if an interpreter is needed?

iii) Is there an inclusion of data elements in case management systems to indicate whether litigants or witnesses need interpreters?

iv) Are interpreter cases called promptly so the interpreter can move on to other courtrooms?

v) Are interpreter cases scheduled in the same courtroom on specific days of the week or at specific times of the day?

l) How do you think that non-English speaking persons know that they have the right or opportunity to a court interpreter?

- i) For example, In each of the languages in which interpreter services are commonly requested, in wording comprehensible to non-lawyers, are all litigants, witnesses and others informed of their right to an interpreter, by:
 - (1) Posting notice on the court system's website;
 - (2) Prominently placing signs in clerks' offices, courtrooms, and all other public areas;
 - (3) Ensuring that the first court employee to come into contact with litigants informs them of their right to an interpreter; and
 - (4) Placing language on court documents and forms informing litigants of the right to an interpreter.

- m) Do you believe that there is an adequate supply of competent interpreters in the Spanish language? If the answer is no, what is being done to address this issue.
 - i) For example, is the state doing the following:
 - (1) Providing compensation adequate to attract and retain competent interpreters.
 - (2) Recruiting interpreters from professional organizations and from the community.
 - (3) Maintaining census data and court's records on the need and demand for interpreters, and using those records to plan for future needs.
 - (4) Is there a single office or individual within the court system with responsibility for implementing and overseeing the court interpreter program?

- n) If you could change anything about the current process/methods by which the Washington court system is addressing communication barriers experienced by Hispanics in their dealings with the courts, what changes would you make?

Court interpreters

- a) Have you been working as a certified court interpreter for at least 10 years?
- b) In the past 5-10 years, have you observed a change in the amount of times a court interpreter is being used in court? If yes, in what ways?
- c) Can you give me an estimate of how many times per year (or last year) you have had to interpret for somebody at court? If yes,
 - i) How many of those times were you summoned by the court to interpret, and how many of those times did a participant in the proceeding actually contact you?
 - ii) What are the challenges you face in helping people understand each other in court? For example, how often do you come across instances in which a lack of understanding in a person's culture (both in the interpreter and the person needing interpretation), certain idiomatic phrases, and slang pose a problem in effectively being able to interpret?
 - iii) If there was a jury, how well do you think the jury understood the litigant's testimony?
 - (1) Do you think that it is possible for juries to have unfavorable biased opinions towards a litigant's inability/difficulty in speaking English? If so, how did you deal with it?
- d) Do you believe that non-English speaking persons know that they have the right to a court interpreter?
 - i) For example, In each of the languages in which interpreter services are commonly requested, in wording comprehensible to non-lawyers, are all litigants, witnesses and others informed of their right to an interpreter, by:
 - (1) notices on the court system's website

- (2) the prominently placement of signs in clerks' offices, courtrooms, and all other public areas
 - (3) the first court employee to come into contact with litigants informs them of their right to an interpreter
 - (4) the placement of language on court documents and forms informing litigants of the right to an interpreter
- e) Do you believe that there is an adequate supply of competent interpreters in the Spanish language? If the answer is no, what is being done to address this issue.
- i) For example, is the state doing the following:
 - (1) Providing compensation adequate to attract and retain competent interpreters.
 - (2) Recruiting interpreters from professional organizations and from the community.
 - (3) Maintaining census data and court's records on the need and demand for interpreters, and using those records to plan for future needs.
 - (4) Is there a single office or individual within the court system with responsibility for implementing and overseeing the court interpreter program?
- f) If you could change anything about the current process/methods by which the Washington court system is addressing communication barriers experienced by Hispanics in their dealings with the courts, what changes would you make?

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