

应用型翻译系列教材

Court
Interpreting

法庭口译

董晓波 主编



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内 容 简 介

《法庭口译》是一本不针对特定国家的司法系统，因而适用于任何国家、任何语际翻译的译员培训教材。本书描述了口译员在法庭以及其他法律情境下的工作情况和工作方法。全书围绕法庭口译，介绍了法庭口译重要性、法律语言性质、双语法庭与司法公正、法庭口译员角色定位、法庭口译员培训、法庭口译技巧、法庭口译评估、《法庭口译员法案》评述、法庭口译挑战与未来等内容。同时，《法庭口译》也向读者提供了一幅职业路线图，并辅之以操作性极强的方法和技巧，可助译员准确无误地完成法庭口译任务。

该书可作为基础课程用书，也可作为法庭口译人员和处理法庭口译事务的法庭官员的辅导读物，尤其可以作为翻译硕士专业（MTI）法庭口译选修课教材。

出版说明

随着全球化进程的日益加快，市场上对于翻译人才的需求日渐增加，尤其是不同专业领域的翻译人才越来越受到青睐。许多高等院校开始重视专门用途英语（ESP）课程的开设，商务英语、法律英语、科技英语、旅游英语和新闻英语等，成为重要的 ESP 课程，也越来越受到相关专业学生、普通英语专业中有志于从事相关专业翻译学生的青睐。

为适应新的教学需要，满足社会对专业翻译人才的教学培养需求，对外经济贸易大学出版社策划出版了这套“应用型翻译系列教材”，内容涵盖商务、法律、旅游、新闻、科技等各个方面。它不仅能满足翻译专业人士的需求，同时可作为全国高等院校英语专业（本科）选修课教材，翻译专业（本科、硕士）必修教材，也可以作为英语学习爱好者自学的专业读物。

本系列教材的作者均为全国重点高等院校翻译专业学科带头人和一线优秀教师，充分体现了当今专门英语翻译教育的发展方向和水平。具体书目包括《实用商务英语翻译》、《实用法律英语翻译（英汉双向）》、《实用科技英语翻译（英汉双向）》、《实用旅游英语翻译（英汉双向）》、《实用新闻英语翻译（英汉双向）》和《法庭口译》等。

本套系列大部分教材配有 ppt 电子课件，具体情况请登录 www.uibep.com 查看。

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Preface

前 言

法庭口译，指在审理案件过程中由法院提供的翻译服务，或“指对在诸如法庭和律师办公室进行的法律程序和行为所进行的翻译”（Mikkelsen, 1991）。通常在法庭上发生的传译被称为司法口译或者法庭口译，在法庭外的其他法律场所发生的传译被称为准司法口译。法庭口译在法庭审判中起着“信息中心”的枢纽作用。Alicia B. Edwards (2009) 认为译员在司法系统中主要负责三方面的翻译：证人翻译，即为法官、律师、及陪审员翻译语言障碍证人的证词；被告翻译，即为被告及其辩护律师翻译；程序翻译，即翻译律师、证人和法官之间的对话，使语言障碍者了解法律程序的进行。

法庭话语作为机构性话语一种特殊的功能语域呈现出很强的即席性、互动性和规约性，在本质上是言语行为的类聚系统。基于法庭言语的特点，法庭口译也必然受到机构性话语的各种规约，形成法庭口译独有的特点。在《比较法：西欧和拉丁美洲法律制度》一书中，Merryman 等人比较了大陆法系和普通法系的特点后指出，英美法系的审判特点主要体现为“Concentration（集中性）、Immediacy（即时性）和Orality（口头性）”。自20世纪70年代末起，两大法系相互影响，英美法系的审判特点逐渐体现在大陆法系审判中。

1. 集中性

“在普通法系中，审判是一个单独事件，在这当中所有的证据和事实都被呈列给陪审团看，而最后的裁决是在双方尽全力维护各方利益之后的辩护基础上得出的。因此为证词准备一个当事人更像要排列一出戏剧。相反的，‘典型的民事诉讼其实就是由一系列会议以及在律师和法官之间的书信往来构成的’这样的做法就意味着所有的‘演员’（包括译员）有更多的机会来准备在法庭上的表现。”（Merryman, 1978）在普通法系中，译员经常会在没有任何时间和精力准备的情况下处理许多偶然性的口译任务。虽然在大陆法系国家由于法律程序比较复杂密集，因此很少会碰到普通法系下的突发状况。许多情况下证据都会在一系列的法官和律师会晤及书面交流中提交，这意味着所有诉讼参与人，尤其是译员，有更多的时间准备法庭口译。但由于大陆法系正在逐渐吸收普通法系中的“集中性”这一特点，集中性正成为法庭口译发展一大趋势。

2. 即时性

即时性，指的是普通法系下的法官是通过看和听的方式得到第一手证据的，而不是通过大陆法系中信件读取的方式。Merryman 和 Clark 是这样强调普通法系的审判的，“双方必须在法官‘父亲’和陪审团‘邻居’面前表演完自己的戏份。在大陆法系中，相反的，法官是一个重要的公仆，而他还缺少普通法系法官所拥有的许多东西，比如权势和严厉的性格。大陆法系更世俗化，也更道德化，更不受时间和地点的约束。”（Merryman, 1978）在大陆法系审判

中, 审判向来包含了很多例行的文件传阅的过程, 而对于口译人员来说, 由于大多数文件都是以书面的格式呈递的, 就不需要即时翻译或是同传口译了。但由于诉讼越来越向“即时性”发展, 越来越多即时口译和同传口译, 口译任务会比传统大陆法系下的口译任务艰难许多。

3. 口头性

在传统的大陆法系诉讼中的最后审判时, 许多证据和争议等已在开庭前就整理清楚, 因此在法庭上当事人只会被提问一些尚未厘清的问题。根据 Merryman 和 Clark 的看法, “当事人只被要求给出陈述, 并且不可以被辩护律师打断。对于证词不可以做录音, 法官可以偶尔打断来让法庭记录员争取时间, 因为记录员要靠缩写记录法庭审判全过程。”(Merryman, 1978) 也就是说, 在这个过程中, 法官起着主导作用, 而辩护律师起到的作用微乎其微。而在普通法系中, 所有证据都是以口头表达的方式传递给陪审团的, 包括当事人对律师所提出问题的回答和反应, 以及实物证据, 包括文件、武器、地图、照片以及类似物品。审判是对之前所有诉讼的总结, 而“控辩式”的审判方式, 让证据更清晰地展现在法官和陪审团面前。交叉质问所起的效果比任何陈述都要有说服力。而这一点对译员提出的要求就是要注意时时刻刻保持周密的思维, 全面的准确地进行口译, 因为他们的翻译会被当场录音。

根据 Harris (1997), 口译早在古埃及法老时代就有了石刻的记载。而有文字记载的法庭口译最早可以追溯到 17 世纪。Colin & Morris 较详细地记录了 1682 年在英国进行的一次涉及法庭口译的庭审。那次庭审涉及一桩凶杀案, 诉讼各方有多种语言背景。法庭在决定哪一方当事人可享有法庭口译服务时, 依据的不是各方的语言需求而是阶级。现代意义上的法庭口译始于二战结束后的两次世纪大审判在纽伦堡对 21 名德国战犯进行的大审判, 耗时 217 天, 涉及 5 种语言, 庭审记录长达 4 000 000 字, 计 16 000 页, 使用了大量的法庭口译人员。东京大审判采用英美法系的审判规则, 共 28 名被告被起诉, 但其中 27 人声称无罪。由于案情极为庞大, 审判时间长达两年半。其中涉及的法庭口译尤其复杂: 庭上的全部起诉、答辩、宣判均需以英日两种语言进行。比如溥仪到庭作证, 还需从中文译成英、日文, 他发言两天, 翻译用了六天。庭上除配备大量翻译人员外, 还设有一个三人语言仲裁小组, 以便当庭对翻译问题做出裁定。纽伦堡纳粹战犯审判对口译职业而言可谓是一个分水岭, 因为在该次审判中, 首次利用先进设备提供同声传译。随后在欧、北美、澳、亚和拉美出现了翻译学校, 其最初主要是培养会议译员, 但自政府机构为法庭口译人员制定了专门计划和严格的水平标准 (proficiency standards) 后, 法庭口译员的培养才正式开始。(Carter, 1990) 从此, 法庭口译亦日益成为一项专门化活动。

法庭口译主要分为同声传译 (simultaneous interpreting)、交替传译 (consecutive interpreting) 和视译 (sight interpreting) 三种。同声传译是指讲话人讲话的同时, 拖后几个词开始口译, 这种方法对口译人员的要求较高。同声传译通常只为在庭审过程中只听不说和/或暂时不发言的有关人员而作 (如陪审员、陪审团成员、被告等), 多数时候需要同传设备以便口译员在工作时不受干扰。同声传译在美国、香港地区等是法庭口译的主要形式, 但在大陆这种方式几乎没有采用。一是同传需要专用设备, 而法院基本没有; 二是同传对译员要求太高, 而我国能做同传的法庭口译员非常缺乏。视译可以说是一种口译和笔译的混合体, 因此既可以叫做视觉翻译 (sight translation), 也可以叫做视觉口译 (sight interpreting)。视觉口译的材料往往不会在庭审前给译员, 所以需要译员当场口译, 材料难度大 (如判决书, 证词等), 时间紧迫,

对译员的语言能力、法律知识和心理素质都是一种考验。实践中法庭口译的特点主要体现在几种口译方式交替进行,比如:在庭审的时候根据需要,译员一会儿被要求使用同声传译,瞬间又转到交替口译,抑或又转到视觉口译;同时,法庭口译实际也包含了开庭前后的笔译部分。

忠实和准确是法庭口译的最基本要求。要达到忠实和准确,译员要完整的、一字不差地(verbatim)传译说话人的话语,不得随意增加、删减、解释、改述,也不能有遗漏、曲解、误传等现象发生。口译时,在保持语言的天然以及语域、语体、语气不变的基础上,应使语言结构、语义和原语言一致,对模棱两可的话语、错误的开头语以及重复等都应如实翻译。如果没听清或没听懂,口译人员应征得法官的同意后澄清;如果在同声传译时没听清或没听懂,通常的做法是由口译人员自己判断插话澄清或继续口译。

中立、保密是法庭口译员的职业道德。回避原则是使法庭口译员保持中立的有效方法。法庭口译人员和控辩双方不应有任何私人关系或其他能够影响译员中立立场的特殊关系,如亲戚、朋友、同学、邻居等。同时,在开庭和休庭前后或期间,法庭口译员都不应与控辩双方人员和其家属等进行交谈和接触;在整个庭审期间,译员也不应观看和收听对本案进行的相关报道,也不应和他人对本案进行讨论,以免受到其他观点的影响,从而最终影响到译员的中立性。由于特殊的身份,译员在庭审前后有可能接触到一些材料,如卷宗、专家证词和法庭判决书等等,这时,译员应严守保密要求,不应向任何人透露任何相关信息。

当代西方法庭口译发展成熟的国家都是移民大国,如美国、加拿大等。移民潮导致了大量说各种语言的人员的涌入,使得对法庭口译的要求日益增加,法庭口译也逐渐成为法庭中必然存在的形式。

1. 使用同声传译设备。

译员坐在特制的口译箱里或口译人员专用座位上,通过耳机接听诉讼当事人的陈述内容,随即通过麦克风把发言人的讲话内容原文用译入语传达给法官、检察官、陪审团、原告和旁听者,上述人员则利用耳机选择所需要的语言频道,接受翻译服务。通过先进的设备有效的提高口译的速度和准确性。

2. 为法庭口译立法。

美国,其联邦法院于1978年制定了《法庭口译员法案》(Court Interpreters Act of 1978),要求法庭口译员必须完整准确、一字不差地(Verbatim)翻译源语信息,不得修饰和省略源语信息,不得更改原话语的语体和语域。这部法律的实施,对法庭口译的参与过程、译员资格及认证、口译要求和原则、译员薪酬都做了详细的规定。随后美国各州纷纷仿效,对法庭口译大都颁布了更具体的法规。在美国法庭口译员属于专家证人,身份明确,地位较高。而在标准方面,“联邦法庭口译咨询委员会”(The Federal Court Interpreters Advisory Board)还给出了比较受到公认的“道德与职业操守守则”(Code of Ethics and Professional Responsibility)。美国全国司法翻译者协会(The National Associations of Judiciary Interpreters and Translators)也对法庭口译中的精确性、保密性等方面作出了具体的解释。“如在精确性方面,它要求口译人员应原汁原味地进行口译,不允许添加、漏译、解释、改述、猜测。口译时,在保持语言的天然以及语域、语体、语气不变的基础上,应使语言结构、语义和原语言一致,对模棱两可的话语、错误的开头语以及重复等都应如实翻译。如果没听清或没听懂,

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口译人员应征得法官的同意后澄清；如果在同声传译时没听清或没听懂，通常的做法是由口译人员自己判断插话澄清或继续口译，权衡利弊之后再决定用什么方法解决这样的问题”。除此以外，美国一些地方法庭也有各自的规定，这些守则内容有很多共同之处，一般包括译员应给出完整、准确的口译，并保持公平公正、保密、严格履行口译职责，应做好为任何审判或案件口译的准备等等。此外，法国的《法国刑事诉讼法典》也对法庭口译的相关事项做出了严格的规定。

3. 推行法庭口译资格考试。

美国 1980 年就开始实施的“联邦法庭口译员资格考试”（The Federal Court Interpreter Certification Examination），通过统一的笔试和口试，确保法庭口译人员具备合格的资质和良好的法庭口译能力。美国司法部制定的《法庭口译人员法案》（The Court Interpreters Act）要求美国法院管理办公室（The Administrative Office of the U. S. Courts）制定联邦法庭口译人员认证标准。经认证合格的口译人员全部录入专门的合格口译人员名册，以供地方法院挑选。要认证就要有测试。该法最具积极意义的就是在 1980 年正式实施了“联邦法庭口译人员资格考试”（The Federal Court Interpreter Certification Examination, FCICE）。然后，美国法院管理办公室委托州立法院国家中心（National Center for State Courts, NCSC）和加利福尼亚的 CPS 人力资源服务机构（CPS Human Resources Service）进行具体管理与运作该项考试。FCICE 口译人员资格考试是政府出面实施的一项大规模的考试，是对语言水平要求非常高、非常严格及非常难通过的考试，其目的是检测应试人的语言应用能力。整个测试分为笔试和口试两个独立的部分，必须同时通过笔试和口试才能获得从业资格。

4. 加强对法庭口译译员的管理与培训，统一翻译的标准。

澳大利亚有一套相当完善的翻译资格认证制度。该制度设立于 1978 年，后在全国强制推行。澳大利亚翻译资格认证局（National Accreditation Authority for Translators and Interpreters (NAATI)）对口译的规定非常详细。根据其规定，专业翻译人员在澳洲被分为四个级别，由低到高分别为：（1）口译预备员；（2）口译员；（3）会议口译；（4）高级会议口译。只要达到口译员级别，便有资格从事专业口译工作。但 NAATI 对法庭口译人员有更高要求，多数情况下建议由第（3）和（4）级别人员担当。NAATI 还将通过资格考试人员的有关信息及联系方式，全部公布在其网站上，供人们挑选。

我国是一个多民族国家，宪法规定各少数民族都有使用本民族语言的权利，因而在一个有 50 多种少数民族语言的大国中，法庭口译是维护法律公正、民族平等的重要一环。而更重要的是自改革开放以来，我国对外政治、经济、文化交流日益广泛；在华长期居住的外国人越来越多，涉外案件也日益增多，外国公民在我国的合法权益应该受到我国法律的公正保护，相应的，其违法行为应受到法律公正的制裁，因此，法庭口译人员需求量急增。但我国大陆目前在法庭口译人员的筛选标准、法庭口译的操作程序和法庭口译质量评价上尚无章可循。通常法院碰到需要聘请口译人员的情况下，才临时通过高校或者社会途径寻找口译员；

法律上也没有明确要求译员需要掌握相关的基础法律知识；更没有相关的资格认证和考试制度。其次，从教育层面来看，我国高校没有开设法庭口译专业，也没有这方面的专业培训和认证。而法院法官大都不会熟练地使用外语，一般的译员又缺乏相应的法律知识，因此常常出现“专业人员不懂外语，外语人员不懂专业”的两难局面。因此，构建我国法庭口译

制度，加大法庭口译人才的培养是当务之急。

《法庭口译》一书编写过程中参考了国内外最新的相关资料，尤其是本人在美国佐治亚大学法学院做博士后期间所收集的相关资料，是一本不针对特定国家的司法系统，因而适用于任何国家、任何语际翻译的译员培训教材。本书描述了口译员在法庭以及其他法律情境下的工作情况和工作方法。全书围绕法庭口译，介绍了法庭口译重要性、法律语言性质、双语法庭与司法公正、法庭口译员角色定位、法庭口译员培训、法庭口译技巧、法庭口译评估、《法庭口译员法案》评述、法庭口译挑战与未来等内容。同时，《法庭口译》也向读者提供了一幅职业路线图，并辅之以操作性极强的方法和技巧，可助译员准确无误地完成法庭口译任务。

该书可作为基础课程用书，也可作为法庭口译人员和处理法庭口译事务的法庭官员的辅导读物，尤其可以作为翻译硕士专业（MTI）法庭口译选修课教材。

本书由董晓波主编，关琦、王辰诚、张淑珍等参编。在整个编著过程中，我们力求完美，但由于水平所限，不乏疏漏和欠妥之处，恳请广大同仁和读者不吝指正，以便充实与完善。

董晓波

2011年1月

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The Increasing Importance of Language Interpretation in Courts

随着经济全球化进程的加快，各国之间的经济、文化交流也日益增加，移民更是成为一种风潮。由于美国、加拿大等西方国家都是移民大国，移民潮导致大量说各种语言的人员的涌入，使得各国法庭对于法庭口译服务的需求也急剧增加，法庭口译也从而逐渐成为法庭中必然存在的形式。从言语交际的角度来看，法庭口译是实现使用不同语言、有着不同文化背景的诉讼各方以及庭审法官、合议庭或陪审团成员之间互相理解沟通的桥梁与中介。从法律沟通的角度讲，法庭译员经常肩负着沟通不同法系之间的差异性的重任。1978年，美国联邦法院出台了《法庭口译人员法案》，为民事和刑事诉讼中使用庭审口译服务提供了依据，从而保障了各个语种的人在法律上平等的权利。

1. Trends in Cultural Diversity

Among the nation's most significant trends for the 1990s and the next century are the interrelated ones of immigration and cultural diversity. The estimated number of home speakers of non-English languages in 1990 was nearly 32 million, approximately 12.6 percent of the total population.

Moreover, equally important as the actual numbers of NELS (non-English language speakers) are national trends. While the total population of the United States increased by 10 percent between 1980 and 1990,

- the nation's Asian and Pacific Islander minority populations increased by 108 percent;
- the nation's Hispanic population increased by 53 percent;
- other language minority populations increased by 45 percent.

This diversity makes it increasingly difficult for the criminal justice system to meet constitutional requirements of fundamental fairness (Fifth and Fourteenth Amendments), equal protection (Fourteenth Amendment), and the right to cross examine adverse witnesses (Sixth Amendment). Laws in most states also require that interpreters be appointed when witnesses and defendants in criminal cases cannot speak English. Language barriers and barriers erected by cultural misunderstanding can render criminal defendants virtually absent from their own

court proceedings. In addition, they can result in misinterpretation of witness statements made to police or triers of fact during court proceedings and can deter minority litigants from the civil justice system as a forum for redress of grievances. This amplifies the significance of court interpretation as a management issue for the courts, which are increasingly compelled to use language interpreters in court proceedings. Often, however, interpreters used by the courts are not properly qualified for interpreting in court and justice system settings. While a majority of states have legislation that requires interpreters for deaf or hard of hearing persons to possess minimum qualifications and be certified for competency, few states have enacted legislation to establish qualifications for foreign language interpreters.

2. Miscarriages of Justice

At least 22 states have appointed bodies to study the concerns of linguistic, racial and ethnic minorities vis-à-vis the courts. Some of these studies were initiated specifically to look at the needs of linguistic minorities; others were focused more generally on racial and ethnic bias in the courts. In both cases, however, the published studies of these judiciary task forces and commissions have extensively documented widespread breakdowns in due process and equal protection for non-English speaking litigants who appear before the courts. Other research studies and news media investigations also document alarming miscarriages of justice resulting from courts using improperly trained and unqualified interpreters. The causes of these problems are fourfold:

- underestimation and misunderstanding by the legal community of the skills required for court interpreting;
- absence of standards for court and legal interpreter qualifications;
- lack of effective and efficient mechanisms for locating qualified interpreters; and
- a shortage of qualified court interpreters.

To address the causes of problems with court interpreting, comprehensive, statewide mechanisms and procedures need to be formalized by statute and implemented by state court administrative offices to ensure that interpreters who possess the appropriate minimum skills for interpreting in court settings are available and used. Some states (notably California, New Jersey, Washington, and Massachusetts) stand out for their accomplishments in setting standards, developing test and certification programs, and implementing training programs for interpreters, judges, and other justice system personnel. Reforms are being publicly urged and are in progress or being contemplated in many other states, such as, Florida, Kansas, Michigan, Minnesota, Nevada, New York, Oregon, Utah, and Virginia. All states face similar problems to some degree.

Most states, however, lack the necessary expertise and financial resources to match the accomplishments of California, New Jersey and Washington in the foreseeable future, without determined policy initiatives and creative strategies for interstate resource-sharing. One such

initiative is now underway in Minnesota and Oregon, in collaboration with New Jersey and Washington, with substantial interest being shown by other states

3. Court Interpretation: The Requirements

Court interpretation for foreign language speaking and deaf or hearing impaired individuals is a highly specialized form of interpreting that cannot be effectively performed without commensurate specialized training and skills. Arguably, it is the most difficult form of interpreting. Being bilingual, even fluently so, is insufficient qualification for court interpreting. Court interpreters must be able to preserve “legal equivalence” while interpreting. Moreover, they must be able to do this in each of three modalities: simultaneous interpreting, consecutive interpreting, or sight translating documents.

Interpreters must be able to translate with exactitude while accurately reflecting a speaker’s nuances and level of formality. The interpretation cannot be summary or convey only the gist of the original source message.

Dr. Roseann Gonzalez, Director of the Federal Court Interpreter Certification Project, and her colleagues write that to maintain legal equivalence, the interpreter must interpret the original source material without editing, summarizing, deleting, or adding while conserving the language level, style, tone, and intent of the speaker or to render what may be termed the legal equivalence of the source message.

Legal equivalence also entails “conservation” of speech style. It is important to remember that from the beginnings of judicial proceedings triers of fact (the judge or jury) have to determine the veracity of a witness’s message on the basis of an impression conveyed through the speaker’s demeanor. The true message is often in how something is said rather than what is said; therefore, the style of a message is as important as its content.

The interpreter is required to render in a verbatim manner the form and content of the linguistic and paralinguistic elements of a discourse, including all of the pauses, hedges, self-corrections, hesitations, and emotion as they are conveyed through tone of voice, word choice, and intonation; this concept is called conservation.

If interpretation is improper, defendants may misunderstand what is taking place; the evidence heard by judge and jury may be distorted, if not significantly changed. When poor interpretation occurs, the English speaking members of the court and the non-English speaking litigants or witnesses virtually do not attend the same trial.

When non-English speakers tell their stories, it is more likely than not that significant portion of their testimony will be distorted by the interpreter omitting information present in the original testimony, adding information not present, or by stylistically altering the tone and intent of the speaker. Judges and juries are not given the opportunity to “hear” the testimony as it was originally spoken, and defendants and witnesses cannot fully comprehend the questions asked of them. This linguistic distortion compromises the fact-finding process....

Writing in the Bilingual Courtroom: Court Interpreters in the Judicial Process, Dr. Susan Berk-Seligson also describes the ways in which evidence may be distorted by the interpreter:

“An interpreter has the power to make a witness’s testimony cast more (or less) blame than it did in the source language...and, alternatively, he/she can remove from the testimony any blame-laying strategies it may have contained. Moreover, an interpreter can make an attorney look more polite and less aggressive to a witness, and a witness more, or alternatively less cooperative to an attorney. Finally...interpreters often introduce an element of coercion into the examination process when they interpret for witnesses and defendants.”

In addition to highly specialized and demanding interpretation skills, court interpreters must adhere to strict codes of appropriate behavior and at times face unusual problems of law and ethics. For example, interpreters are often asked for legal or behavioral advice, which they must decline to give; they may overhear private conversations between foreign language speaking defendants that contain evidence; defendants may even “confess” to an interpreter during private moments.

4. Judges’ Dilemmas

In most states, there is no clear policy to guide judges regarding the qualifications of foreign language interpreters, yet it is the responsibility of the trial judges to determine whether a bilingual individual presented to assist them in court proceedings is qualified. The laws in Arizona, Colorado, Illinois, New Jersey, and Texas, which simply require that an interpreter take an oath of true translation and “be qualified as an expert”, are typical of the language of many state statutes. In many of these same states, however, the law is specific as to what constitutes “qualified” when it comes to interpreting for persons who are deaf or hearing impaired. In Texas, interpreters for deaf persons must have specific certifications issued by the National Registry of Interpreters for the Deaf (NRID) or by a Texas Board for Evaluation of Interpreters. Arizona, Colorado, Florida, New Jersey, and New York also have specific language in the state’s laws that provide guidance to a trial judge regarding qualifications that interpreters for deaf persons must possess.

Moreover, the judges who must make these discretionary decisions are without appropriate guidance or training regarding the skills that are required for court interpreting and the damage that can be done by untrained and inadequately skilled individuals. Only a handful of the nation’s trial judges and court administrative officials are enlightened about what should be required of a court interpreter and about what can and does go wrong when court interpreting is improper.

Unfortunately, because of general lack of understanding among the judiciary and the public concerning the consequences of not providing appropriate language services, interpreters have never been subject to uniform professional or legal regulation.