



ALASKA JUSTICE FORUM

A PUBLICATION OF THE JUSTICE CENTER

Winter 2006

UNIVERSITY of ALASKA ANCHORAGE

Vol. 22, No. 4

Language Interpretation and the Justice System

Antonia Moras

In late 1995, F.C. was arrested, along with another man, in an undercover drug operation conducted by the Anchorage Police Department. He had been observed apparently facilitating a cocaine sale and had a marked bill in his possession. He was charged with misconduct involving a controlled substance in the third degree—a felony.

F.C. was a native of the Dominican Republic and spoke very little English. At the time of his arrest he had a green card—that is, he was a legal resident of the United States, although not a citizen. He lived with his wife, who was a citizen, and their two young children.

He was convicted of the offense after a jury trial. He did not testify in his own defense.

During the sentencing phase of the trial, all parties showed awareness that the conviction might affect F.C.'s ability to stay in the country, and the state itself recommended that he receive informal probation as his sentence. Court notes indicate that the intent was to avoid the possibility of deportation as a result of this conviction. It was a first offense and he was considered "a least serious offender." With a suspended imposition of sentence (SIS), the judge placed F.C. on informal probation for one year and imposed a fine. Under the SIS, if the defendant met all the conditions of his probation and paid the fine, the conviction would be discharged. No jail time was imposed.

F.C. completed his probation successfully, and in 1998, the conviction was set aside. In the meantime, however, the Immigration

and Naturalization Service had placed him in removal—deportation—proceedings as a result of the felony drug conviction. The subsequent discharge of the conviction under the SIS was not recognized. Under the immigration laws enacted in the mid-1990s, convictions on most drug offenses automatically result in deportation, even if, as in F.C.'s case, the individual is a legal resident of the U.S.

Although he had continued to maintain his innocence, F.C. had not appealed his original conviction. The case records show that he probably did not understand that he had a right to appeal. Facing deportation, he applied for post-conviction relief (PCR) and also began the appeals process.

Please see Interpretation, page 5

Translated Transcript from F.C. Case

Judge: Okay, we're on record, jury is not present, I just want to do a Levine inquiry to make certain Mr. C. knows that he has the right to testify. And Mr. G., if you can assist in translating this. I want to make certain Mr. C. understands, um, that he has the right to testify on his own behalf if he wants to. Can you tell him that?

Interpreter: You have the right to give testimony, if you want... as we have explained to you. Do you understand?

Judge: And his lawyer has told me that he's not going to call him as a witness, so Mr. C. is not going to testify.

Interpreter: And your lawyer has told you [or him] that he is not going to call you, yes? That you are not going to give test... you are not going to give testimony. [Indiscernible.]

Judge: Is that what Mr. C. wants to do?

Interpreter: Is that what you want to do?

F.C.: Well, I think so.

Interpreter: Yes.

Judge: Okay. And he understands that he could testify, even if his lawyer advised him against it. That it's his choice.

Interpreter: And now that is up to you. You have the right to give testimony even though your lawyer advises you not to do it.

F.C.: Well, it's fine.

Interpreter: But, do you not want to give testimony, or do you want to give it?

F.C.: I think I want to give testimony.... I think so. I think that giving testimony. . . [indiscernible].

Interpreter: I'm having a little trouble getting it across to him.

Judge: Okay. But I guess the one thing I want to—I'm not trying to tell him that he should testify. . . . or not testify.

Interpreter: [Indiscernible] . . . that you do not want to give testimony.

Judge: I just don't want him to complain, at the end of the case, that he wanted to tell the jury something, and his lawyer didn't let him.

Interpreter: . . . he does not want you to say at the end of the case that you wanted to say something and your lawyer told you not to. You have the right to give testimony. If your lawyer advises you . . . [indiscernible], so tell him what you want.

F.C.: Well, you see that the lawyer says that it seems like I understand, but it's fine like this.

Interpreter: He says, I want to do whatever my lawyer thinks is best.

Note: The interpreter and F.C. were speaking together in Spanish. Emphasis has been added. Full names have been replaced by initials. Case No. 3AN-595-6206 Cr.

Sexual Assaults in Anchorage

Information from four years of police files shows that the problem of sexual assault in Anchorage has discernible contours: most assaults take place indoors, between people who are not strangers to each other, with either or both parties having consumed alcohol. The attached tables, figures and map provide an overview of reported sexual assaults in the city from 2000 through 2003. The data come from a recently-completed report by the Justice Center that updates an earlier study released in 2003. The new study was undertaken by the Center in collaboration with the Anchorage Police Department.

The Justice Center study revealed that victims have tended to be young and female, with Native women victims in over 45 percent of reported sexual assaults. In a majority of the assaults—over 62 percent—the assailant was not a stranger to the victim.

A majority of the assaults occurred indoors, with 45 percent taking place at the residence of one or both of those involved. Over 65 percent of the victims had used alcohol prior to the assault and close to 74 percent of suspects had also. While assaults occurred all over the city, they happened with more frequency in certain areas of town—particularly in Spenard, Fairview, and Downtown.

The data presented here are already two years old, but figures released by the FBI's Uniform Crime Reporting (UCR) program indicate that the rate of reported forcible rape (a more tightly defined offense than that reflected in the tables presented here) in the Municipality of Anchorage

was 96.1 per 100,000 people in 2004. The national rate was only 32.2. These UCR figures are not directly comparable to those presented in the Justice Center study, but they show that the sexual assault rate in Anchorage continues to be extremely high.

Table 1. Race of Victims in Sexual Assaults Reported to Anchorage Police, 2000-2003

Race	Percentage of Anchorage population, 2001 ¹	Sexual assault victims		
		N	%	Rate per 1,000 population ²
White	77.6 %	556	45.5 %	2.77
Native	10.6	550	45.0	20.08
Black	7.2	75	6.1	4.04
Hispanic	6.0	17	1.4	1.10
Asian	7.3	22	1.8	1.17
Pacific Islander	1.3	1	0.1	0.30
Total		1221		

1 Includes both males and females (95.2% of victims were female), categories are not mutually exclusive

2 Rate is computed as a four-year rate. To obtain average annual rates, divide by four. Population estimates are 2001 estimates and include both males and females.

Source of data: Anchorage Police Department & U.S. Census Bureau

Table 2. Race of Suspects in Sexual Assaults Reported to Anchorage Police, 2000-2003

Race	Percentage of Anchorage population, 2001 ¹	Sexual assault suspects		
		N	%	Rate per 1,000 population ²
White	77.6 %	483	39.6 %	2.40
Native	10.6	272	22.3	9.93
Black	7.2	319	26.1	17.18
Hispanic	6.0	95	7.8	6.16
Asian	7.3	46	3.8	2.44
Pacific Islander	1.3	4	0.3	1.20
Total		1219		

1 Includes both males and females (99.5% of suspects were male), categories are not mutually exclusive.

2 Rate is computed as a four-year rate. To obtain average annual rates, divide by four. Population estimates are 2001 estimates and include both males and females.

Source of data: Anchorage Police Department & U.S. Census Bureau

Figure 1. Locations of Sexual Assaults Reported to Anchorage Police, 2000-2003

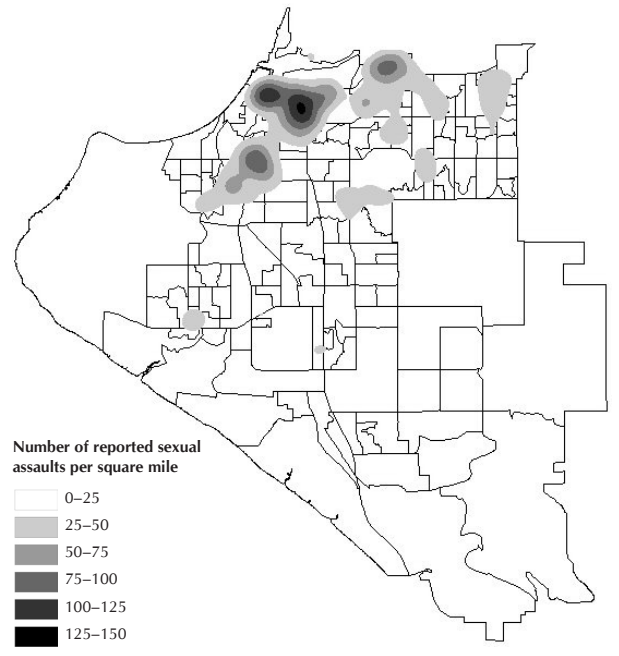


Table 3. Alcohol Use by Victims of Sexual Assaults Reported to Anchorage Police, by Year: 2001-2003

Year	Alcohol use		No alcohol use		Total
	N	%	N	%	
2001	167	62.3 %	101	37.7 %	268
2002	171	63.6	98	36.4	269
2003	194	69.8	84	30.2	278
Total	532	65.3 %	283	34.7 %	815

Source of data: Anchorage Police Department

Table 4. Alcohol Use by Suspects of Sexual Assaults Reported to Anchorage Police, by Year: 2001-2003

Year	Alcohol use		No alcohol use		Total
	N	%	N	%	
2001	157	76.2 %	49	23.8 %	206
2002	152	72.7	57	27.3	209
2003	136	72.0	53	28.0	189
Total	445	73.7 %	159	26.3 %	604

Source of data: Anchorage Police Department

With the problem of sexual assault, it is also important to note that national data show that many assaults are not reported to the police, so it is possible that the figures collected represent only a limited picture of the problem.

André Rosay of the Justice Center was the principal investigator for the study. The complete results from this recent update can be found at <http://justice.uaa.alaska.edu/research/2000/0107sxassaultupdate/index.html>. The earlier study is available at <http://justice.uaa.alaska.edu/research/2000/0107sxassault/>. A lengthier article on the 2003 study, "Forcible Rapes and Sexual Assaults in Anchorage," appeared in the Winter 2004 issue of the *Alaska Justice Forum*.

Table 5. Victim-Offender Relationship in Sexual Assaults Reported to Anchorage Police, 2001-2003

Relationship	N	% of total	% of non-stranger
Total non-stranger	645	62.2 %	100.0 %
Acquaintance	330	31.8	51.2
Friend	135	13.0	20.9
Family	83	8.0	12.9
Intimate	97	9.4	15.0
Stranger	392	37.8 %	--
Total	1037		

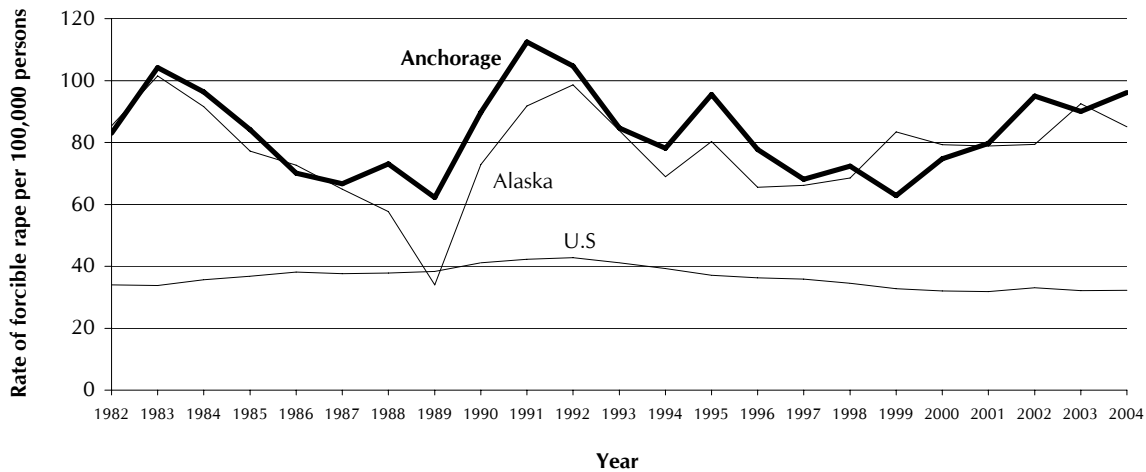
Source of data: Anchorage Police Department

Table 6. Assault Location Type for Sexual Assaults Reported to Anchorage Police, 2000-2003

Location	N	%
Victim's house	250	19.5 %
Suspect's house	256	20.0
Victim and suspect's house	75	5.9
Other's house	141	11.0
Hotel	102	8.0
Bar	13	1.0
Outdoors	250	19.5
Other	111	8.7
Unknown	83	6.5
Total	1281	

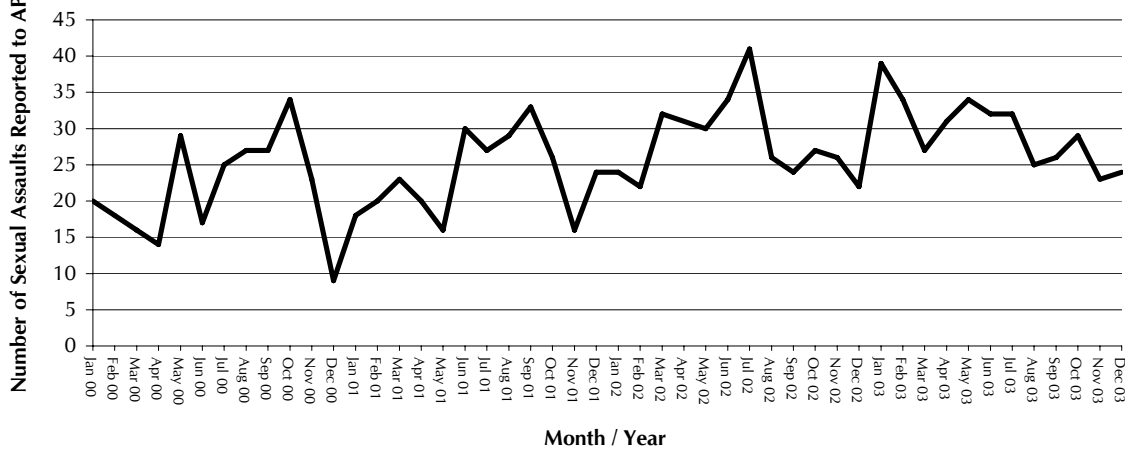
Source of data: Anchorage Police Department

Figure 2. Rates of Forcible Rape in the U.S., Alaska, and Anchorage: 1982 - 2004



Source of data: Uniform Crime Reports, Federal Bureau of Investigation

Figure 3. Number of Sexual Assaults Reported to the Anchorage Police Department by Month: January 2000 to December 2003



Source of data: Anchorage Police Department

Alaska Justice System Operating Expenditures

Alaska justice system operating expenditures have increased 69 percent since FY 1990. The rise in expenditures is dominated by the increase in the budget of the Department of Corrections, which almost doubled between FY 1990 and FY 2006 (Table 1 and Figure 1).

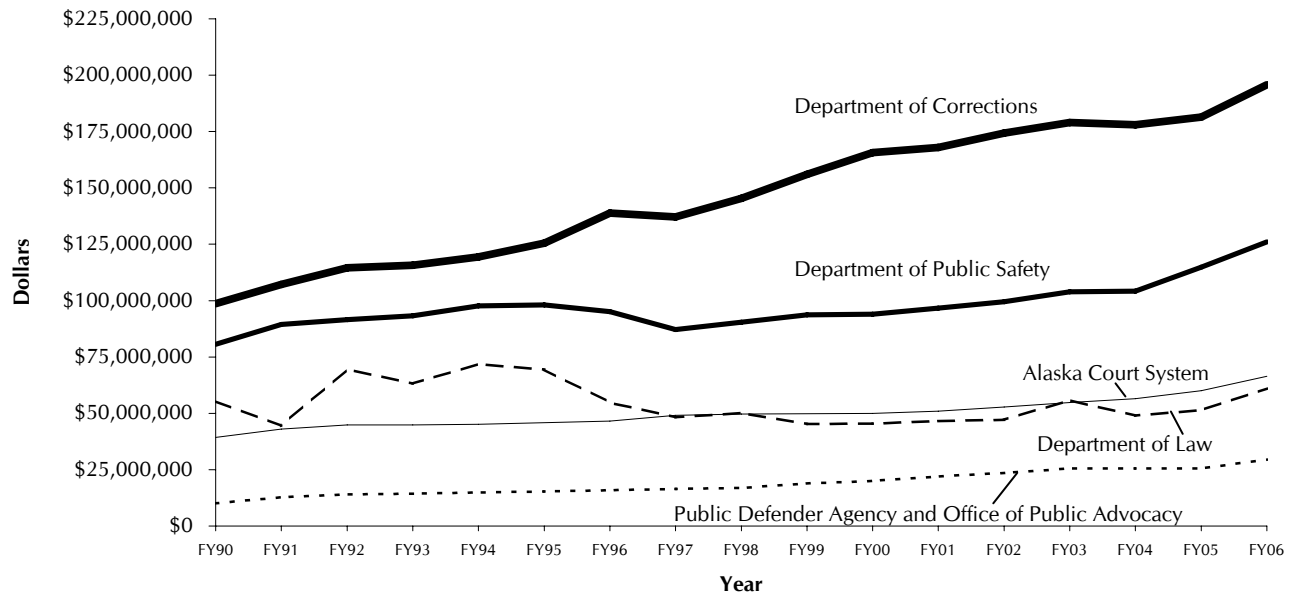
In FY 1990, the total operating budget for

the major justice system agencies (Law, Corrections, Public Safety, the Court System, the Public Defender and the Office of Public Advocacy) was just over \$284 million; in FY 2006, it was close to \$479 million. The growth in the budget for the Department of Corrections accounts for half of this total increase. From FY 1990 to FY 2006, the

DOC operating budget grew from nearly \$99 million to just under \$196 million.

These figures for justice system expenditures do not include capital expenses or local costs, such as for a municipal police agency; nor do they include the costs for the administration of juvenile justice functions. They have not been adjusted for inflation.

Figure 1. Alaska Justice Agencies, Operating Budgets, FY 1990 to FY 2006



Note: Figures given for FY90–FY04 are for actual operating budgets; for FY05–FY06, figures given represent appropriated operating budgets.

Source of data: Alaska Legislative Information Office

Table 1. Alaska Justice Agencies, Operating Budgets, FY 1990 to FY 2006

	Department of Corrections	Department of Public Safety	Department of Law	Alaska Court System	Public Defender Agency/Office of Public Advocacy
FY90	\$98,693,900	\$80,587,400	\$55,431,900	\$39,348,300	\$10,095,500
FY91	\$107,138,800	\$89,470,100	\$44,401,900	\$43,024,200	\$12,758,100
FY92	\$114,592,100	\$91,541,100	\$69,530,900	\$44,885,500	\$14,040,400
FY93	\$115,740,200	\$93,241,700	\$63,220,100	\$44,897,200	\$14,290,000
FY94	\$119,359,000	\$97,634,000	\$71,814,300	\$45,128,600	\$14,867,800
FY95	\$125,531,500	\$98,109,900	\$69,447,900	\$45,856,300 *	\$15,330,300
FY96	\$138,823,000	\$95,147,500	\$54,862,600	\$46,560,500	\$15,868,000 *
FY97	\$137,121,300	\$87,128,300	\$48,281,500	\$49,124,700	\$16,521,500
FY98	\$145,295,000	\$90,452,200	\$50,149,300	\$49,699,500	\$16,843,400
FY99	\$156,023,300	\$93,736,100	\$45,325,900	\$49,871,100	\$18,939,400
FY00	\$165,615,500	\$93,957,500	\$45,447,300	\$49,960,400 *	\$20,002,800
FY01	\$167,928,500	\$96,667,400	\$46,522,500	\$50,918,800	\$22,041,900
FY02	\$174,253,200	\$99,490,900	\$47,082,300	\$52,740,700	\$23,501,200
FY03	\$179,002,400	\$103,939,600	\$55,809,200	\$54,776,500	\$25,497,100
FY04	\$177,967,900	\$104,140,200	\$48,967,800	\$56,460,000	\$25,603,700
FY05	\$181,459,700	\$114,816,600	\$51,326,800	\$60,108,300	\$25,574,600
FY06	\$195,809,700	\$126,029,400	\$61,012,600	\$66,415,500	\$29,561,800

Note: Figures given for FY90–FY04 are for actual operating budgets; for FY05–FY06, figures given represent appropriated operating budgets.

* This figure has been corrected from an earlier version of this table published in the Summer 2004 issue of the *Forum*.

Source of data: Alaska Legislative Information Office

Interpretation (continued from page 1)

As his attorneys pursued F.C.'s legal options, the second man arrested and convicted for the same drug sale acknowledged in a sworn affidavit that F.C. had not been involved in the sale for which he was arrested.

It also became evident that F.C. had not been properly informed of his right to testify in his own defense at his trial. On this basis, the judge awarded post-conviction relief. The original conviction was reversed and F.C. awarded a new trial—which the state declined to pursue. With the conviction reversed, F.C. was not subject to deportation. The case spanned more than five years.

The court records of the F.C. case make clear that a large part of the legal and procedural tangle arose because F.C. did not speak or understand English well enough to grasp what was happening to him. Although a Spanish interpreter was present in the original trial, the interpretation was inadequate to the situation. F.C. himself later stated in an affidavit that he had not understood the interpreter well during his trial. The events of the trial and subsequent legal actions as well as the documents, including the judge's

notes, reveal his regular confusion about what was being said.

The post-conviction relief turned on the fact that he was not properly informed of his right to testify in his own defense. His post-conviction counsel proved this by getting an independent translation of the trial tape. (See "Translated Transcript from F.C. Case.") As the translation submitted during the post-conviction relief indicates, the interpretation at the trial was inaccurate at several crucial points.

In discussing the grounds for the PCR, the judge noted that the interpreter had deviated from F.C.'s actual responses, making it impossible for the court to probe his indecisiveness thoroughly enough. When asked in reference to his decision not to testify, "Is that what Mr. C. wants to do?" the interpreter replied "Yes," when in reality F.C. had been less certain – saying, "Well, I think so." When asked if he understood that he had a right to give testimony even if his lawyer advised him not to, F.C. had said, "I think I want to give testimony . . . I think so"—words the interpreter did not interpret to the court at all. When F.C. said, "Well, you see that the lawyer says that it seems like I understand, but it's fine like this," the interpreter presented his words as, "He says, I want to do whatever my lawyer thinks is best."

The F.C. case illustrates how the absence of accurate and reliable language interpretation in legal situations can result in serious mistakes. The interpretation given at the F.C. trial was inaccurate and misguided, working to the detriment of the defendant.

The problems raised by the absence of effective interpretation and translation in the courts, and in other criminal and civil justice situations, seem to be growing, both here and throughout the country. The problem is not limited to criminal cases: civil cases—child custody, domestic violence restraining order petitions, child-in-need-of-aid—also often require interpreters.

The Alaska Supreme Court Fairness and Access Study, released in 1997, noted the widespread need for better interpretation services in Alaska courts and with other agencies. The court system is now leading efforts to establish a language interpretation center to forestall problems such as those that arose in the F.C. case.

A National Problem

The problem posed by non-English speakers in justice proceedings is not unique to Alaska. William Hewitt, a writer and researcher with the National Center for State Courts (NCSC), has worked extensively on this issue. In a concept paper written in

2004 for NCSC, "Interpreting Resources for the Justice System and Other Public Agencies," he notes, "Improve interpretation services' has been a central recurring theme in published studies of commissions and task forces across the country charged with evaluating the extent of racial and ethnic bias in our courts."

An article by Peter Aronson in the March 22, 2004 issue of the *National Law Journal* presents a national overview of the problem based on interviews with more than 50 attorneys, judges and court administrators from jurisdictions across the country.

The basic problem is that the English used in legal and court situations is highly specialized and precise, with concepts and meanings particular to legal thought and procedure. By extension, the demands on an interpreter are equally specialized. Fluency in a given language is not in itself necessarily adequate for accurate interpretation in legal contexts. Unfortunately, day-to-day exigencies often result in dependence on an interpreter with inadequate skills. The cases discussed in Aronson's article illustrate the range of problems that arise in the absence of adequate interpretation, the most serious resulting in wrongful convictions on major felonies—including murder.

Aronson also notes that appeals in criminal cases where the underlying problem was inaccurate interpretation are difficult "because there rarely is a record of the communication between the defendant and the interpreter, and defense counsel don't know what is being said between the two because typically they don't speak the language involved." (In the Alaska case summarized at the beginning of this article, the tape of the original trial proceedings made it possible for an independent review of the exchanges among the defendant and the interpreter and the judge. This review revealed the problems with the in-court interpretation.)

An article in the Spring 2004 issue of the *Harvard Latino Law Review*, "The Changing Face of Justice: A Survey of Recent Cases Involving Courtroom Interpretation," notes that ". . . attorneys are not sufficiently educated in this area of jurisprudence to object in a timely manner and preserve a record for appeal," but, also, that "some judges, now dealing with a deluge of court interpreter cases, are beginning to appreciate the difficulties involved in courtroom interpretation."

Federal courts have required the use of qualified interpreters in federal criminal cases since the late 1970s and have developed a system of certification in several languages, with certified interpreters in Spanish being

Please see Interpretation, page 6



Alaska Justice Forum

Editor: Antonia Moras

Editorial Board: Allan Barnes, Sharon Chamard, Ron Everett, Pamela Kelley, Robert Langworthy, Alan McKelvie, Brad Myrskog, Deborah Periman, John Riley, André Rosay, Lawrence Trostle, Darryl Wood

Typesetting and Layout: Melissa Green

Justice Center, Robert Langworthy, Director

Published quarterly by the

Justice Center
University of Alaska Anchorage
3211 Providence Drive
Anchorage, AK 99508
(907) 786-1810
(907) 786-7777 fax
ajjust@uaa.alaska.edu
<http://www.uaa.alaska.edu/just/>

© 2006 Justice Center,
University of Alaska Anchorage
ISSN 0893-8903

The opinions expressed are those of individual authors and may not be those of the Justice Center.

The University of Alaska provides equal education and employment opportunities for all, regardless of race, color, religion, national origin, sex, age, disability, or status as a Vietnam-era or disabled veteran.

Interpretation

(continued from page 5)

the most common. In addition, under Title VI of the Civil Rights Act and an executive order issued during the Clinton administration, all agencies receiving federal funds are now required to develop plans to meet the needs of those with limited proficiency in English, as appropriate to the mission of the agency.

Since the mid-1990s, state court systems throughout the country, working largely through the NCSC, have begun to devise programs to at least temper the problem of inadequate interpretation. One program in particular—the State Court Interpretation Certification Consortium—is advancing an approach based on professional testing for would-be interpreters.

Alaska

In Alaska, how extensive is the problem of non-English speakers coming into contact with the justice system? Since agency case management programs do not currently permit tracking this issue, hard numbers on actual cases are not easily assembled, but one more distant measure is the growth in the number of non-English speakers in the general population. The number of Alaskans who are less than fluent in English rose between 1990 and 2000—the years for which the most solid comparable figures are available. Table 1 presents figures from the 1990 and 2000 censuses on English fluency. In 2000, close to 31,000 Alaskans—just under 5 percent of the total state population—spoke English “less than very well”—up from 22,480 in 1990. In certain areas of the state—notably, the Bethel region, Unalaska and Kodiak—those who do not speak English fluently are a much higher percentage of the population. In addition, there are an unknown number of undocumented aliens residing in the state, most of whom probably do not speak English.

Another measure of the state’s language diversity can be found in the list of language backgrounds for students in the Anchorage School District (Table 2). According to figures published in the *Anchorage Daily News* in autumn 2005, 12 percent of district students speak a language other than English at home.

Yet another suggestive figure is the number of inmates within the state’s prisons who were born in another country. In January 2005, the Department of Corrections reported 206 offenders born outside the United States. Another 227 were on probation or parole.

These figures give some idea of what

Table 1. Alaska Residents Not Proficient in English

	2000		1990	
	N	Percent of total population 5 years and older	N	Percent of total population 5 years and older
Population speaking language other than English at home	82,758	14.3 %	60,165	12.1 %
Population speaking English less than very well	30,842	5.3	22,480	4.5
Alaska population 5 years and older	579,740		495,425	

Source of data: U.S. Census, 1990 and 2000

the impact on the justice system, and other government agencies, may be.

Oral Language Interpreter Needs Assessment

A study recently conducted by Catholic Social Services, the Foraker Group, and the University of Alaska Family Services Training Academy, under contract with the court system, provides additional data on the current use of interpreters and translators by government agencies, schools, medical institutions and other organizations throughout the state.

The study—“Oral Language Interpreter Needs Assessment Project”—comprised two separate surveys. The first gathered information on the current use of interpret-

ers from a wide variety of respondents. In addition to the court system and other justice agencies, targeted respondents included school systems; state, municipal and borough administrations; public health institutions; social service and other non-profit agencies; libraries; real estate agencies; and banks. The second survey, sent to the same wide selection of institutions, sought to obtain information on the costs currently being incurred for interpretation services.

Responses to the user survey indicated that interpreters are most generally needed for Spanish, Russian, Tagalog, and Yup’ik, and, to a slightly lesser extent, Korean, Hmong, Samoan, Inupiaq and Ukrainian. Responses indicated an occasional need for interpreters in twenty-three other languages.

Table 2. Languages Other than English Reported as "Home" Languages by Students in Anchorage Schools, 2004-2005

Spanish	Arabic	Greek	Nepali
Tagalog	Athabaskan	Hebrew	Malay
Samoan	Serb Croat	Yoruba	Pueblo Indian
Hmong	Ukrainian	Pashto	Zuni
Korean	Siberian Yup’ik	Cantonese	Catalan
Lao	Palau	Holikachuk	Malayalam
Yup’ik	Punjabi	Czech	Kanarese
Mien	Portuguese	Macedonian	Sinhalese
Russian	Creole (African)	Bengali	Arabic (Syrian)
Inupiaq	Dutch	Lingala	Swiss German
Albanian	Amharic	Armenian	Mandinka
Vietnamese	Wolof	Twi	Basque
Chinese	Tlingit	Bosnian	Ibo
Thai	Turkish	Icelandic	Lithuanian
Tongan	Rumanian	Tamil	Hungarian
Japanese	Creole (French)	Romany	Gujariti
Khmer Cambodian	Hindi	Sugpiaq	Sioux
German	Italian	Telegu	Tshimshian
Aleut	Norwegian	Navajo	Han
Hawaiian	Indonesian	Persian Irani	East Indian
French	Chamorro	Patois	Persian
Eskimo	Afrikaans	Swedish	Danish
Cupik	Urdu Pakistani	Denaina	Marati
Polish	Urdu	Bulgarian	

Source: Anchorage Daily News, December 7, 2005

The cost survey elicited useable responses from only 71 participants, but, as a group, these indicated annual expenditures of over \$1 million for interpretation services. According to the study, a conservative estimate of actual expenditures statewide would be around \$4 million.

A majority of respondents to both surveys expected the number of clients needing help with language interpretation to grow.

In response to the question "What means do you use to facilitate interactions with clients?" respondents revealed a mix of arrangements: some depend on client friends, family, or volunteers; some have staff interpreters; some use bilingual staff who are not officially interpreters; and a few use a telephone service or other contractual arrangement. Others make do with no interpreters or do not serve the client.

From the perspective of the justice system in particular, one of the more troubling findings of the survey was that the qualifications of most interpreters being employed are probably not sufficient for legal and court contexts. Very few seem to have the training necessary to interpret accurately in legal situations and it does not seem that many have been formally trained in the ethics of interpretation. Very few have passed a legal interpretation test.

Individual Agencies

The needs assessment report presents responses as statewide totals, rather than breaking down the details of needs by location or type of agency. Interviews conducted by the *Alaska Justice Forum* with a selection of individual justice agencies indicate that at present most find interpreters through informal networking, sometimes using lists of names that have been compiled by one agency or another—including a website list developed by the court system. As the study discussed above indicates, some agencies, such as Alaska Legal Services, also make use of bi-lingual staff.

The federal public defender has telephonic access to the federal system of court-certified interpreters, which covers several languages, and can occasionally bring one of these interpreters to the state, but otherwise is dependent on the local resources.

Most of the agencies contacted, including the state and federal public defenders, Alaska Legal Services, and the court system express dissatisfaction with the current situation. Their major concerns are with the accuracy and reliability of interpretations, since the justice personnel themselves are usually unable to judge a particular interpreter's qualifications. They express concern about having sometimes

to use interpreters who may be too close to the situation—for example, using a family member to interpret when arranging for a will clearly would be problematic. Acquaintances, family members or others from a particular language community may or may not be able to detach from their own beliefs and ideas during the interpreting.

The state public defender summarized the major concerns of those handling criminal defense. First, there is often a delay in obtaining an interpreter. Public defenders usually do not assume a case until after a defendant has been before a judge and allowed to make a plea. Second, the available interpreters are not trained for legal situations. A defense attorney needs to have confidence that interpretation is accurate and transparent enough for a true conversation to occur with the client, so that informed consent is possible at all stages of the process.

AT&T Language Line

A number of agencies, including the courts, use the AT&T Language Line for interpretation in some situations. The service offers telephonic interpretation in over 150 languages and dialects. (Alaska Native language interpreters are not available.) A client can call an operator and be connected with an interpreter within a relatively short time.

Those who have used the service in Alaska give mixed reviews. Its availability has been welcomed by masters handling juvenile hearings, where previously, parents sometimes were dependent on their children to interpret. Those hearing domestic violence restraining order petitions have also

found the service useful. (Grants awarded under the Violence Against Women Act contained money for interpretation and translation needs.) The Anchorage Police Department also expresses satisfaction with the service, which, in fact was originally developed to assist law enforcement. Others, including both the state and federal public defenders, express more reservations about its reliability. In its promotional material, the Language Line states that it has interpreters certified for legal matters, but the nature of the certification is not clear.

The service is expensive. In November 2005, court records show expenditures of \$2523.60 for a total 900 minutes of interpretation. (Interpreters in five languages were utilized in that month: Spanish, Russian, Mandarin Chinese, Korean and Tagalog). At close to three dollars per minute, the service is probably prohibitively expensive for extended use, such as is sometimes necessary at a trial. It seems to be most suited for brief conversations. It is, however, the only option currently available in some situations and for many languages.

Court System Effort

The Alaska Court System has been spearheading efforts to better the situation. The court system is now a member of the State Court Interpreter Certification Consortium mentioned above. In addition, court administrators have been drafting a code of ethics for court interpreters that will be submitted to the supreme court for approval later this year.

Please see Interpretation, page 8

Other Alaska Justice Forum Articles on Language Interpretation in the Alaska Criminal Justice System

Claus, Haydee. (Winter 1997). "Court Interpreting: Complexities and Misunderstandings." *Alaska Justice Forum* 13(4): 1, 7-8. (http://justice.uaa.alaska.edu/forum/13/4winter1997/a_interp.html).

Justice Center, University of Alaska Anchorage. (Winter 1997). "Committees Examine Interpretation." *Alaska Justice Forum* 13(4): 6. (http://justice.uaa.alaska.edu/forum/13/4winter1997/c_interp.html).

———. (Winter 1997). "Language Interpretation and the Alaska Justice System." *Alaska Justice Forum* 13(4): 7. (http://justice.uaa.alaska.edu/forum/13/4winter1997/a_interp.html).

Morrow, Phyllis. (Summer 1993). "A Sociolinguistic Mismatch: Central Alaskan Yup'iks and the Legal System." *Alaska Justice Forum* 10(2): 1, 5-8. (http://justice.uaa.alaska.edu/forum/10/2summer1993/a_socio.html).

———. (Winter 1994). "Legal Interpreting in Alaska." *Alaska Justice Forum* 10(4): 1, 3-6. (http://justice.uaa.alaska.edu/forum/10/4winter1994/a_interp.html).

Interpretation (continued from page 7)

The most ambitious effort has been the planning for an oral language interpreter referral center, that will provide services to government agencies, non-profits and others. Two statewide summit meetings organized by court administrators have led to the formation of a working group focused on establishing this center, which is now close to start-up.

The projected center will be administratively separate from the court system. It will be housed in the newly established Immigra-

tion Project. The estimated start-up cost is \$250,000. The initial staff will include a director, training director and administrative assistant. The working group is approaching several foundations and granting sources for the funds.

To alleviate one of the major concerns of almost everyone employing interpreters, the center will focus on establishing a framework for testing the skills of those who wish to interpret in the courts and other justice system settings. It will focus first on the languages for which there is the greatest need. (There will be an Alaska Native language component to the program.)

The center will probably establish a tiered process that identifies skill levels and then provides guidance and training to advance an individual's competency.

Another role of the center will be to serve as a resource clearinghouse and facilitate connections between Alaska and expertise and resources elsewhere. In addition, the center will be able to conduct public education and continuing education for the bar and judiciary so that awareness of the complexities of translation and interpretation issues continues to grow.

Antonia Moras is editor of the Alaska Justice Forum.

Justice Center Evaluates SCRAM

Two and a half years of data on the Secure Remote Alcohol Monitoring (SCRAM) project show that the technology of ankle bracelet alcohol monitoring can function effectively in Alaska. The monitoring devices, which monitor the wearer's consumption of alcohol through transdermal analysis, have been used by the Department of Corrections for probation supervision with chronic alcohol abuse offenders, by the Wellness Court, and by the juvenile justice system.

The Alaska Justice Statistical Analysis Center (SAC) at the UAA Justice Center analyzed monitoring data from 2003 through mid-2005 for 319 users of the bracelets

in Anchorage, Palmer, Fairbanks, Bethel and Kotzebue and conducted structured interviews with personnel from the various state agencies involved with the project to determine problems, ease of use, and failures with the devices. Results from the analysis and interviews were very consistent, indicating no problems with the technology.

At the onset of the project, there was some concern that the devices and system might not work effectively under arctic weather conditions or within the limited technological infra-structure of more remote parts of the state. The Center evaluation, "An Implementation of Remote Alcohol

Monitoring in Alaska," concluded that the SCRAM devices function well with the rural Alaska satellite telecommunications network. The system operated even under extreme cold and other inclement conditions, and there were no reports of failures with the bracelets, modems or network. The devices worked with clients who held jobs on the North Slope as well as some who were doing outdoor construction work. In one instance, with a client fishing in a cold river, the analysis of the readouts was able to identify the conditions accurately.

Alan McKelvie, Director of the Statistical Analysis Center at the UAA Justice Center, conducted the study.



**Alaska Justice Forum
Justice Center
University of Alaska Anchorage
3211 Providence Drive
Anchorage, AK 99508**

Return service requested

**Non-Profit Organization
U.S. Postage
PAID
Anchorage, Alaska
Permit No. 107**