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Court Interpreting: Complexities and Misunderstandings

Haydee Claus

Accurately interpreting to and from English in legal proceedings requires a language proficiency often misunderstood by participants in the judicial process, and a lack of proficient interpretation can give rise to errors which threaten the integrity of the justice process. As a certified interpreter for the federal court system and the California state system, I have observed some common patterns of misunderstanding among judges and attorneys regarding the nature of language interpretation.

It is common to encounter the misconception that if an individual is bilingual he can interpret and, by extension, can interpret in court and translate court documents. In reality, the demands of courtroom interpreting are particularly complex, requiring extensive knowledge of at least two languages and rigorous training in interpretation.

Bilingualism is relative rather than absolute. In other words, one can speak a foreign language, and be bilingual in it, to different degrees. In court, I frequently encounter people whose familiarity with a foreign language stems from being raised in this country by foreign-born parents, who may themselves have had a limited formal education. Such individuals may be able to perform simple tasks in the foreign language, such as asking someone's name and address in order to fill out a simple form, but may not be able to tell a person what he is being charged with, administer a field sobriety test, describe the details of a crime or interpret courtroom discourse.

These tasks require differing degrees of language proficiency. Yet, I have seen judges assume that if a person can do one, she can do the other. In addition, the problem can be compounded, because sometimes people do not easily admit they cannot do something perceived as simple, especially if they have already accepted the label "bilingual." To make matters worse, the non-English speaking defendant or witness may either be too intimidated by the proceedings or not want to seem ungrateful; therefore, he may never say he does not understand his interpreter.

The demands of courtroom discourse on a person's linguistic resources differ vastly from those of the environment in which many people in this country have become bilingual. In a typical family, whether immigrant or not, members usually don't discuss "indictments," "waivers," "felonies" or "conspiracies." Yet these are common terms in court discourse. Individuals may learn these terms in school, but only in English. It takes particular additional effort to learn them in another language. Soon after an individual begins school in this country, proficiency in the "native" language often stagnates or at least fails to develop at the same pace as skill in English, and the native language ceases to be the "dominant" or "primary" language. Thus, many "bilingual" attorneys, policemen, government agents and clerks with an excellent command of English can only speak the foreign language at the level of a child. Bilingualism, therefore, is a matter of degree.

The degree needed to communicate easily in various legal settings is very high. A depth of understanding may be required that encompasses the slang and profanity often heard in jail interviews or on the witness stand, the technical jargon of motions, the elegant and erudite language of closing statements, and the complex grammatical structures in jury instructions. A person who aspires to become a court interpreter must be comfortable at all these levels in at least two languages even before beginning training in the art of interpreting.

As part of her job, a court interpreter is required to interpret everything that transpires from English into the foreign language. She must understand everything she hears because interpreters render ideas, not just words. In a typical trial a judge may read the jury instructions at more than 120 words a minute. The interpreter must hear the English, grasp each idea, and transform the English ideas immediately into the words and grammar of the second language. She must do this continuously and almost simultaneously, usually lagging behind a few words. She must perform a careful balancing act of intense concentration. If she focuses too much on what she hears, she loses track of what is coming out of her mouth and she runs the risk of stuttering, making grammar errors or leaving sentences unfinished. If she focuses too much attention on her delivery, she can miss what is being said in court. She must have a broad enough educational background and language proficiency to understand and simultaneously interpret testimony, whether the witness is a forensic doctor, a fingerprint expert or a ballistics expert.

The demands of consecutive interpretation, usually done at the witness stand, are different but equally rigorous. The interpreter is required to retain long questions and answers (utterances as long as 50 words are not uncommon) and render them into the target language completely and accurately. This means no paraphrasing, no embellishment, no improving the grammar and no summarizing.

To grasp the nature of the skill required in consecutive interpretation, try reading the following sentence and simply repeating it in English to yourself, without looking at the text: "Well, uh, the thing is, like I told you, me and Joe and Rick had a couple, well maybe more than a couple, say four, I guess,

*Please see **Court Interpreting**, page 7*

HIGHLIGHTS INSIDE THIS ISSUE

A BJS Report

Noncitizens in the Federal Criminal Justice System

The number of noncitizens processed in the federal criminal justice system increased an average 10 per cent annually from 1984 to 1994. During 1984, 3,462 noncitizens were prosecuted in U.S. District Courts; during 1994, more than 10,000 were prosecuted. The greatest part of this increase occurred between 1986 and 1989. Since 1989 the number has remained fairly stable. Over the same decade, the number of noncitizens legally admitted to the U.S., including tourists, increased on average 8 per cent annually, from approximately 10 million during 1984 to 23 million in 1994.

Fifty-five per cent of the noncitizens prosecuted in U.S. District Courts were identified as legal aliens at the beginning of their prosecutions. Of the noncitizens adjudicated in U.S. District Courts in 1994, 87.3 per cent were convicted, with 92.3 per cent of these pleading guilty and 7.6 per cent convicted at trial.

In contrast to the substantial increase in the number of noncitizens prosecuted, the overall federal criminal caseload increased at a much slower rate between 1984 and 1994—an average of less than 2 per cent annually. During 1984 approximately 49,000 defendants were prosecuted in U.S. District Courts; during 1994 approximately 59,000 were prosecuted.

The growth in the number of noncitizens prosecuted was generally attributable to an increase in the number of noncitizens charged with drug and immigration offenses.

Types of Noncitizens

Federal law identifies three major types of noncitizens:

(1) *immigrants*—persons who migrate to the United States and who are granted legal permanent residence;

(2) *refugees* and *asylees*—persons who are outside of their country of nationality and are unable or unwilling to return to that country for fear of persecution;

(3) *nonimmigrants*—persons who are admitted to the United States for a temporary period but not for permanent residence—for example, tourists, students, foreigners working in the United States, and Mexican and Canadian citizens with Border Crossing Cards.

The vast majority of noncitizens legally admitted to the United States are nonimmigrants. Excluding border crossers, many of whom make numerous entries annually, about 23 million noncitizens were admitted during 1994: approximately 804,000 were immigrants, 126,000 were refugees and asylees, and more than 22 million were nonimmigrants (Table 1). The majority (78%) of nonimmigrants admitted to the United States were tourists.

Status of Noncitizens

The U.S. Immigration and Naturalization Service (INS) assigns a status to identify the legality of a noncitizen's presence in the United States. The two statuses used include:

(1) *legal aliens*—noncitizens who enter the United States after inspection and have not violated the terms of their admission;

(2) *illegal aliens*—noncitizens who (a) enter the United States without having been admitted after inspection or without presenting themselves for inspection, or (b) legally enter the United States but who subsequently violate a condition of their visa, for example, by remaining in the United States beyond the period authorized or by committing a criminal offense.

Criminal aliens are noncitizens who have been convicted of certain felonies, such as, for example, crimes of moral turpitude (like murder, manslaughter, rape), drug trafficking offenses, certain firearms offenses, or certain offenses relating to national security.

By law, noncitizens classified as criminal aliens are deportable once criminal proceedings against them have been terminated or after they have completed serving their sentence.

Fifty-five percent of the noncitizens prosecuted in U.S. District Courts were identified by pretrial service officers as legal aliens at the beginning of their prosecution.

Processing Illegal Aliens

The vast majority of noncitizens entering the United States from 1984 to 1994 were legal aliens— primarily tourists. While

Table 2. Country of Citizenship of Noncitizens Convicted of an Offense in U.S. District Courts, 1994

Country of citizenship	Number	Per cent
Mexico	4,178	48.6 %
Columbia	879	10.2
Dominican Republic	493	5.7
Nigeria	340	4.0
Cuba	337	3.9
Jamaica	284	3.3
Canada	188	2.2
China	84	1.0
El Salvador	82	1.0
Vietnam	77	0.9
Great Britain	77	0.9
Guyana	64	0.7
Philippines	59	0.7
Venezuela	56	0.7
Korea	54	0.6
Trinidad	52	0.6
Other	1,290	15.0
Total	**8,594**	

Note: Of the 8,784 noncitizens convicted in U.S. District Courts during 1994, some were excluded due to missing data describing country of origin.

Source: *U.S. Sentencing Commission, monitoring data file, annual.*

Table 1. Number of Noncitizens Admitted to the United States, 1984-1994

	1984	1985	1986	1987	1988	1989	1990	1991[c]	1992[c]	1993[c]	1994
Immigrants	**544,000**	**570,000**	**602,000**	**602,000**	**643,000**	**1,091,000**	**1,536,000**	**1,827,000**	**974,000**	**904,000**	**804,000**
Refugees and asylees	**80,000**	**69,000**	**62,000**	**72,000**	**87,000**	**110,000**	**116,000**	**103,000**	**127,000**	**120,000**	**126,000**
Refugees[a]	68,000	62,000	58,000	67,000	80,000	101,000	110,000	100,000	123,000	113,000	114,000
Asylees[b]	12,000	7,000	4,000	5,000	7,000	9,000	6,000	3,000	4,000	7,000	12,000
Nonimmigrants	**9,293,000**	**9,540,000**	**10,471,000**	**12,273,000**	**14,592,000**	**16,145,000**	**17,574,000**	**18,920,000**	**20,911,000**	**21,556,000**	**22,118,000**
Tourists	6,595,000	6,609,000	7,342,000	8,887,000	10,821,000	12,115,000	13,418,000	14,618,000	16,441,000	16,918,000	17,154,000
Business	1,623,000	1,797,000	1,938,000	2,132,000	2,376,000	2,553,000	2,661,000	2,616,000	2,788,000	2,961,000	3,164,000
Other	1,075,000	1,134,000	1,191,000	1,254,000	1,395,000	1,477,000	1,495,000	1,686,000	1,682,000	1,677,000	1,800,000
Total	**9,917,000**	**10,179,000**	**11,135,000**	**12,947,000**	**15,322,000**	**17,346,000**	**19,226,000**	**20,850,000**	**22,012,000**	**22,580,000**	**23,048,000**

a. The number of refugees reported represents the number admitted.
b. The number of asylees reported represents the number of individuals granted asylum by Immigration and Naturalization Service directors and asylum officers.
c. The number of nonimmigrants admitted during 1991-93 reflects the revised numbers published by the Immigration and Naturalization Service in the 1994 Statistical Yearbook.

Source: *U.S. Department of Justice, Immigration and Naturalization Service, Statistical Yearbook, annual.*

Table 3. Noncitizens Prosecuted in U.S. District Courts, 1984-1994

Most serious offense charged	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
Violent offenses	**88**	**108**	**92**	**116**	**111**	**120**	*	**142**	**114**	**150**	**144**
Property offenses	**564**	**697**	**744**	**1,152**	**1,274**	**1,541**	*	**1,172**	**1,263**	**1,463**	**1,378**
Fraudulent	431	558	594	1,009	1,102	1,356	*	1,024	1,112	1,279	1,163
Other	133	139	150	143	172	185	*	148	151	184	215
Drug offenses	**1,204**	**1,799**	**1,805**	**3,287**	**3,980**	**4,473**	*	**4,182**	**4,506**	**5,274**	**4,633**
Public order offenses	**1,406**	**1,935**	**1,589**	**1,660**	**3,054**	**3,953**	*	**4,087**	**3,878**	**3,789**	**4,177**
Regulatory	49	96	138	178	212	256	*	207	185	197	173
Other	1,357	1,839	1,451	1,482	2,842	3,697	*	3,880	3,693	3,592	4,004
Immigration[a]	1,186	1,636	1,240	1,166	2,474	3,309	*	3,453	3,183	3,022	3,477
Total[b]	**3,462**	**4,539**	**4,230**	**6,215**	**8,419**	**10,087**	*	**9,583**	**9,761**	**10,679**	**10,352**

* Because of changes in the structure of the Pretrial Services Agency database during 1990, data describing defendants processed during 1990 were unavailable.

a. Includes only those noncitizens charged with felonies and class A misdemeanors. Approximately 7,000 noncitizens are prosecuted annually for class B and C immigration violations — primarily illegal entry.

b. Total includes cases for which data describing offense charge were unavailable.

Source: *Administrative Office of the U.S. Courts, Pretrial Services Agency, data file, annual.*

the exact number of illegal aliens in the United States is not known, INS estimates their number to be between 3 and 4 million. During a 4-year period beginning October 1988, the estimated number of illegal aliens in the United States increased approximately 299,000 per year. INS apprehends and expels more than 1 million illegal aliens annually. Approximately 97 per cent of those apprehended during 1994 were Mexican nationals intercepted at the border attempting to enter without inspection. Additionally, approximately 5,500 persons were denied entry into the United States for cause: 47 per cent for prior criminal convictions and 47 per cent for entry without inspection.

INS has several options for removing an illegal alien from the United States. Fewer than 3 per cent of those apprehended are actually deported. The most commonly used method for removing an illegal alien is voluntary return with safeguards. Under this method, aliens admit to their illegal status and agree to leave the United States voluntarily. Unlike deportation, voluntary departure does not require adjudication by an immigration judge. Aliens who are voluntarily returned at no expense to the United States are not prohibited from legally entering at a later time. During 1994 more than 39,000 aliens were deported and more than 1 million voluntarily departed.

Under federal law a deported alien may not be admitted to the United States for 5 years after deportation. Entry by a previously deported alien within 5 years of deportation is a criminal offense subject to a maximum imprisonment term of 2 years. Entry by a previously deported alien with a criminal history including a drug offense is a criminal offense subject to a maximum term of 10 years. Entry by a previously deported alien with a criminal history including an aggravated felony is a criminal offense subject to a maximum term of 20 years. During 1994, 1,450 noncitizens were convicted for illegal entry into the United States after a previous deportation: 54.8 per cent of these noncitizens had a criminal history including a drug offense but not including an aggravated felony, and 23.8 per cent, a criminal history including an aggravated felony.

Characteristics of Noncitizens Prosecuted in U.S. District Courts

Country of citizenship

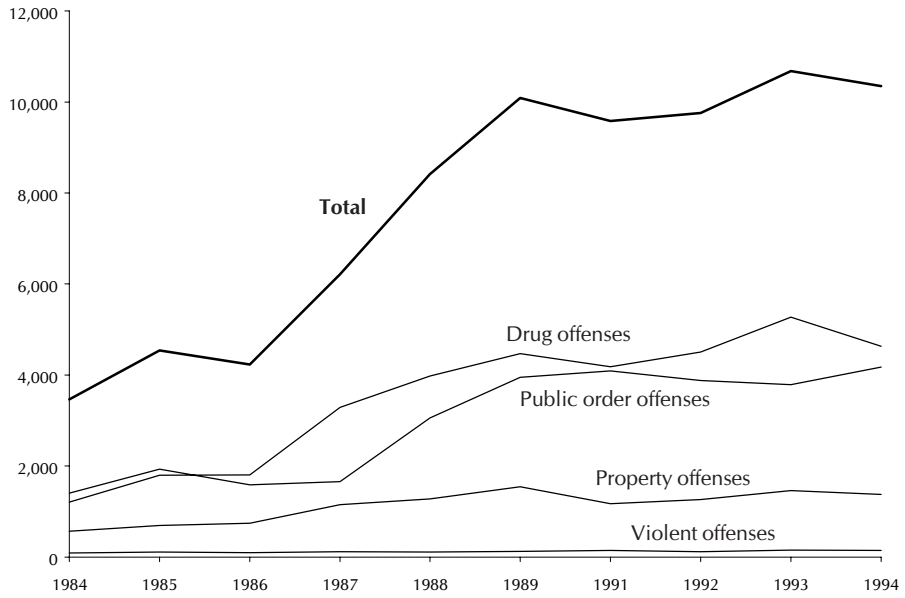
Noncitizens convicted of a federal offense during 1994 were from more than 75 countries. Nearly half (48.6%) of all noncitizens convicted were from Mexico (Table 2). Additionally, 14.6 per cent of the noncitizens convicted were from South America; 14.2 per cent were from the Caribbean Islands; and 2.2 per cent were from Canada.

Demographic characteristics

Most noncitizens prosecuted in U.S. District Courts were from Latin America. Hispanics comprised 75.7 per cent of noncitizens prosecuted. Eleven percent of the noncitizens prosecuted were black non-Hispanic; 7.9 per cent were white non-Hispanic; and 5.3 per cent were Asian. Those noncitizens identified as black were primarily from Nigeria (31.3%) and Jamaica (29.9%), and those noncitizens identified as Asian were primarily from China (16.5%), Vietnam (15.3%), Korea (11.1%), and the

*Please see **BJS**, page 4*

Figure 1. Noncitizens Prosecuted in U.S. District Courts, 1984-1994



* Because of changes in the structure of the Pretrial Services Agency database during 1990, data describing defendants processed during 1990 were unavailable.

Source of data: *Administrative Office of the U.S. Courts, Pretrial Services Agency, data file, annual.*

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(continued from page 3)

Philippines (10.3%).

Among defendants prosecuted in U.S. District Courts, noncitizens tended to be younger and less educated than citizens: 51 per cent of noncitizens were under age 30, compared with 42 per cent of citizens. (The median age of noncitizens prosecuted was 30 years; the median age of citizens was 33 years.) Almost 60 per cent of noncitizens did not have a high school education, or its equivalent, in contrast to less than 30 per cent of citizens.

Criminal history

Noncitizens prosecuted in U.S. District Courts are less likely to have a known criminal history than U.S. citizens. Approximately 44 per cent of noncitizens and 60 per cent of U.S. citizens prosecuted had a known criminal history.

To determine if a noncitizen has had a foreign arrest and/or conviction, federal probation officers are instructed to request an arrest check from INTERPOL—the coordinating group for international law enforcement.

Of the noncitizens prosecuted, the majority, 56.3 per cent, had no known criminal history; 30.7 per cent had a prior conviction for a nonviolent felony; 9.3 per cent had a prior conviction for a violent felony; and 13 per cent had a prior conviction for a misdemeanor.

Prosecution of Noncitizens in U.S. District Courts

The number of noncitizens whose cases were terminated in U.S. District Courts tripled from 1984 to 1994 (Table 3). Between 1984 and 1994, the number of noncitizens increased an average 10 per cent annually—from 3,462 to 10,352. The number of noncitizens prosecuted increased at a faster rate than the overall federal caseload. Over the same period the overall federal caseload (both citizens and noncitizens) increased an average 2 per cent annually—from approximately 49,000 during 1984 to more than 59,000 during 1994.

The greatest part of the increase in the number of noncitizens prosecuted occurred between 1986 and 1989, when the number increased by almost 6,000. Since 1989 the number of noncitizens prosecuted has remained fairly stable. The growth in the number of noncitizens prosecuted between 1986 and 1989 was generally attributable to an increase in the number of noncitizens charged with drug and immigration offenses. Drug and immigration offenses account for the majority of the offenses for which noncitizens are prosecuted.

During 1984 drug and immigration offenses accounted for 69 per cent of the offenses for which noncitizens were prosecuted. By 1994 these two offenses accounted for over 78 per cent of the offenses for which noncitizens were prosecuted.

Noncitizens prosecuted in U.S. District Courts were primarily concentrated in the judicial districts near the southwestern border.

The District of Arizona (15.3 per cent of all noncitizens prosecuted), the Southern District of California (10.0%), the Southern District of Texas (9.4%), the Western District of Texas (7.2%), the Central District of California (7.1%), and the District of New Mexico (4.0%) together accounted for more than half of the total noncitizen federal caseload during 1994. The other judicial districts where a substantial number of noncitizens were prosecuted included the following: the Southern District of Florida (6.8%), the Eastern District of New York (3.5%), the Southern District of New York (2.9%), the Eastern District of California (2.2%), and the District of Oregon (2.0%).

Offense Committed

Drug offenses

Between 1984 and 1994 the number of noncitizens who were charged with drug offenses and whose cases were terminated increased at an average 13 per cent annually—from 1,204 to 4,633 (Table 3). Over the same period, the overall number of federal drug prosecutions increased 7 per cent annually—from approximately 10,000

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Editor: Antonia Moras
Editorial Board: Cassie Atwell, Allan Barnes, Robert Congdon, Richard Curtis, Lisa Rieger, John Riley, Nancy Schafer, Lawrence Trostle, Darryl Wood
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Alaska Justice Statistical Analysis Unit, Allan Barnes, Director
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Table 4. Noncitizens Serving a Sentence of Imprisonment in a Federal Prison, 1984-1994

Most serious offense charged	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
Violent offenses	**290**	**298**	**329**	**349**	**338**	**313**	**298**	**270**	**295**	**316**	**343**
Property offenses	**228**	**357**	**483**	**507**	**497**	**509**	**541**	**592**	**622**	**622**	**658**
Fraudulent	144	245	327	363	369	376	411	459	482	479	522
Other	84	112	156	144	128	133	130	133	140	143	136
Drug offenses	**2,270**	**3,111**	**4,099**	**4,978**	**5,948**	**7,647**	**9,284**	**10,817**	**12,706**	**14,012**	**14,226**
Public order offenses	**1,251**	**1,740**	**2,003**	**1,967**	**2,049**	**2,125**	**2,154**	**2,285**	**2,431**	**3,197**	**3,614**
Regulatory	69	82	95	118	109	96	104	110	100	108	95
Other	1,182	1,658	1,908	1,849	1,940	2,029	2,050	2,175	2,331	3,089	3,519
Immigration[a]	872	1,275	1,469	1,345	1,363	1,542	1,515	1,549	1,568	2,118	2,478
Total[b]	**4,088**	**5,561**	**6,966**	**7,851**	**8,871**	**10,658**	**12,349**	**14,046**	**16,117**	**18,218**	**18,929**

Note: Data represent the federal prison population on December 31.

* Total includes cases for which the offense category could not be determined.

Source: *U.S. Department of Justice, Bureau of Prisons, SENTRY System data file, annual.*

Apprehending and Deporting Criminal Aliens

The Immigration and Nationality Act of 1990 authorizes the INS to apprehend and deport criminal aliens (8 USC § 1252(h)). The number of criminal aliens living in the United States is unknown. Identification of criminal aliens who are deportable requires cooperation between the INS and federal, state, and local law enforcement agencies. INS generally relies upon these other law enforcement agencies to identify individuals who have come in contact with the criminal justice system and whom the agencies believe to be aliens.

While aliens can be identified at different stages of the criminal justice process, INS tends to concentrate attention on those aliens who have been charged with, or convicted of, a deportable crime. Once a deportable alien is identified, INS issues a detainer. An alien under an INS detainer is deported after the criminal proceeding or sentence has been completed. INS reported that nearly 32,000 criminal aliens were deported during 1995.

To address what is perceived as an increasing number of criminal aliens, INS developed a comprehensive strategy. INS's Criminal Alien Apprehension Program, implemented in 1991, was designed (1) to improve INS's reactive approach to identifying aliens charged with, or convicted of, a crime, and (2) to develop a more proactive approach for identifying criminals who are aliens by focusing law enforcement resources in areas of criminal activity with high concentrations of alien participants.

In addition, INS submits information to the Federal Bureau of Investigation's National Crime Information Center (NCIC). NCIC is a national database for information on crime, particularly whether a person is wanted by law enforcement. INS reports information to NCIC on aliens under deportation orders for previous criminal activity as well as aliens who have entered the United States without inspection and for whom a warrant of deportation has been issued. Because these aliens are included in the NCIC system, many apprehensions result from routine traffic stops or relatively minor offenses. As of March 1994, INS had entered 2,640 aliens into the NCIC database. Of these 2,640 aliens, 344 were arrested by state and local police officers—199 were deported and 8 were placed under an INS detainer.

during 1984 to more than 20,000 during 1994.

Noncitizens convicted of a drug offense were primarily involved with the distribution or importation of cocaine powder (35.7%), marijuana (34.6%), and heroin (17.7%). Few (6%) noncitizens were involved with crack cocaine.

Among noncitizens convicted of drug offenses, about 41 per cent involved with cocaine powder were sentenced for having less than 5 kilograms; 62 per cent involved with heroin, having less than 1 kilogram; and 72 per cent involved with marijuana, less than 100 kilograms.

These drug quantities correspond to the minimum quantity necessary to invoke a 10-year mandatory minimum sentence.

However, the available data indicate that noncitizens were more likely than citizens to have played a minor role in drug offenses. Approximately 29 per cent of the noncitizen federal drug defendants who were convicted received a downward sentencing adjustment for a "mitigating role," compared with 14 per cent of U.S. citizen drug defendants.

Additionally, noncitizen federal inmates identifying themselves as being involved in drug conspiracies were more likely than citizens to describe their role as low-level: approximately 69 per cent of noncitizens, compared with 56 per cent of U.S. citizens, identified their role in the drug offense as low-level.

Immigration offenses

Between 1984 and 1994 the number of noncitizens who were charged with an immigration offense and whose cases were terminated increased an average 10 per cent annually—from 1,186 to 3,477 (Table 3).

Noncitizens prosecuted for an immigration offense are typically charged with illegally reentering the United States. Although any illegal entry into the United States is a criminal offense, illegal entry cases are rarely prosecuted unless the noncitizens had made multiple illegal entries.

Illegal reentry into the United States is a criminal offense if the noncitizen was previously deported by INS for illegally entering the United States or for being a criminal alien. Illegal reentry by a noncitizen previously deported is a criminal offense subject to a maximum penalty of 2 years' imprisonment. Illegal entry by a noncitizen who is a criminal alien (as defined by statute) is a criminal offense subject to a maximum penalty of 10 years' imprisonment, or 20 years' imprisonment if the noncitizen was previously convicted of an aggravated felony. Approximately 67 per cent of noncitizens convicted of an immigration offense were convicted of illegally entering the United States or reentering after deportation.

Of those noncitizens convicted of illegally entering the United States, 78.6 per cent had a prior criminal conviction: 54.8 per cent had a prior conviction for a criminal offense other than an aggravated felony, and 23.8 per cent had a prior conviction for an aggravated felony.

Smuggling, transporting, or harboring illegal aliens is a criminal offense subject to a maximum penalty of 10 years' imprisonment for each alien smuggled. During 1994, 18.7 per cent of the noncitizens convicted of an immigration offense were convicted of alien smuggling. Of those noncitizens convicted of alien smuggling, 26.4 per cent were sentenced for smuggling fewer than 6 aliens; 49.2 per cent, for smuggling between 6 and 24 aliens; 16.8 per cent, for between 25 and 99 aliens; and 7.7 per cent, for 100 or more aliens.

Other offenses

During 1994, 1.4 per cent, 13.3 per cent, and 6.8 per cent of noncitizens were prosecuted for violent offenses, property offenses, and public-order offenses other than immigration offenses, respectively (Table 3).

Disposition

Of the noncitizens adjudicated in U.S. District Courts during 1994, 87.3 per cent were convicted. Of those noncitizens convicted, 92.3 per cent pleaded guilty to the offense charged and 7.6 per cent were convicted at trial. Of the 12.7 per cent who were not convicted, the charges were dismissed in 91.3 per cent of the cases, and the defendant was acquitted at trial in 8.7 per cent of the cases.

Sentencing

During 1994, 4,322 noncitizens convicted of a federal drug offense received a prison sentence with an average term of 69.9 months. U.S. citizens convicted of a federal drug offense received prison sentences with an average term of 85.2 months. By law, federal prisoners must serve at least 85 per cent of the sentence before being released. Therefore, a noncitizen convicted of a drug offense and sentenced to the average term of imprisonment could expect to serve 61 months before being released and deported.

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Because of the increases both in the number of noncitizens convicted and in time served by offenders, the number of noncitizens serving a sentence in federal prison increased an average 15 per cent annually between 1984 and 1994. During 1984, 4,088 noncitizens were serving a sentence of imprisonment—56 per cent for a drug offense; during 1994, 18,929 were incarcerated—75 per cent for a drug offense.

The number of noncitizens serving a sentence of imprisonment increased at a faster rate than the overall federal prison population. While the number of noncitizens incarcerated increased an average 15 per cent annually, the overall population increased by 10 per cent annually—from 31,105 during 1984 to 87,437 during 1994.

The average cost to incarcerate an inmate in a federal correctional institution during 1994 was approximately $21,300. Therefore, the U.S. Government expended an estimated $400 million during 1994 to incarcerate 18,929 noncitizens who were convicted of a federal offense.

The preceding article was derived from Bureau of Justice Statistics report "Noncitizens in the Federal Criminal Justice System," NCJ-160934. Copies of the entire report may be obtained from the Alaska Justice Statistical Analysis Unit or on the World Wide Web from the Bureau of Justice Statistics at http://www.ojp. usdoj.gov/bjs/.

Angell Retires

Professor John Angell has retired from his position as Director of the Justice Center at the University of Alaska Anchorage. Dr. Angell received his Ph.D. from Michigan State University and joined the University of Alaska in 1975. He served as Assistant Director of the Justice Center from 1975 to 1979 and in 1979 became Director. In 1988 Dr. Angell accepted an appointment as Executive Director of the Department of Justice Services for Multnomah County, Oregon. He returned to the position of Director of the Justice Center in 1990.

Dr. Angell is the author of numerous publications and papers concerning crime, the administration of justice and community policing, including *Police Administration* (New York: McGraw Hill, 1991) and *Public Safety and the Justice System in Alaskan Native Villages* (Cincinnati: Anderson Publishing, 1982). He has been a member and officer of many professional and community organizations, including the Executive Board of the Academy of Criminal Justice Sciences and the NAACP.

Noncitizens in Alaska

The following list presents general background figures and information on noncitizens in Alaska. The data, some estimated, come from government agencies and government publications.

- According to the 1990 U.S. Census, between 1980 and 1990 the foreign-born population entering Alaska to live totaled 10,813.
- According to the Alaska Department of Commerce and Economic Development, an estimated 175,000 tourists from other countries entered Alaska over one year, from spring 1995 through winter 1996.
- The Alaska Department of Labor performs certification searches for work permits for noncitizens. (The work visas themselves are actually issued by the Immigration and Naturalization Service.) DOL estimates that 1,000 to 1,200 certification searches are performed each year for temporary positions and 150-300 for permanent positions. The searches are specific to each position. For an alien to receive a work permit the department must certify that no American citizen is available in the particular location who is willing and able to fill the position.
- According to the Alaska Department of Health and Social Services, 1,943 legal and sponsored aliens received some type of public assistance in June 1996. The types of assistance include: Aid to Families with Dependent Children, food stamps, adult public assistance, and Medicaid. (Federal legislation passed in fall 1996 will affect noncitizen eligibility for many types of public assistance.)
- The Alaska Department of Corrections reported 139 aliens incarcerated in January 1997. (The figure does not include those detained temporarily by Immigration and Naturalization.)

Committees Examine Interpretation

At least two committees are now examining the problems presented by language interpretation and court proceedings. Current Alaska Administrative Rules of Court place responsibility for obtaining interpreters on the parties to a case. However, the Advisory Committee on Fairness and Access established by the Alaska Supreme Court in December 1995 is looking at the interpreter issue through the work of its Subcommittee on Language and Culture. The subcommittee is assembling information through research and public hearings in response to the following charge: How does a person's primary language and cultural identity affect the person's experience with the courts? The subcommittee contains representatives from the Alaska Court System, the Alaska Public Defender, the Office of Employment and Equal Opportunity, Catholic Social Services, the Native American Rights Fund, and the community. It is anticipated that a final report with recommendations will be completed in autumn 1997.

A second committee, established through the efforts of federal court personnel, is also examining the interpreter situation in Alaska and initiating a project to address interpreter certification needs. The project is seeking grant funding initially to evaluate the skill and training of those already interpreting in Alaska courts. This committee includes representatives from U.S. District Court, U.S. Probation and Pretrial Services, the U.S. Marshal, the Alaska Office of the Public Defender, the Alaska District Attorney, the Federal Public Defender, the Department of Languages at the University of Alaska Anchorage, and the Justice Center at the University of Alaska Anchorage.

Federal statutes require qualified interpreters in the simultaneous mode for any party to federal judicial proceedings and in the consecutive mode for witnesses. (In *simultaneous* mode the interpreter renders the interpretation continuously at the same time as the speaker. In *consecutive* mode the interpreter renders statements intermittently when the speaker completes a statement and pauses.) The federal court system has a national program for certification of court interpreters, which was established under the Court Interpreter's Act of 1978 and the Court Interpreter Amendment Act of 1988. The program currently certifies interpreters in Spanish, Haitian Creole and Navajo. In the absence of federally certified interpreters the federal courts may use state certified interpreters or those otherwise qualified. At the present time, no federally certified interpreters are available in Alaska. The state itself has no system for certifying interpreters or evaluating the competency of those who appear as interpreters in state courts. The federal system here relies upon telephonic arrangements or brings in interpreters from other states.

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beers apiece before the cops got there but that was after we had had two scotch and sodas and two, no one, or was it two, well, a couple of Margaritas at the bar on 5th and Folsom."

In order to train one's brain to do two things at once—listen and speak—aspiring students of interpretation practice exercises. They may first listen to a tape in one language and repeat what they hear in the same language, lagging a few words behind. If they can do that easily, they are asked to lag a few more words behind and attempt to do that continuously, without skipping anything. Then they are asked to perform the same task while writing numbers backwards, from 100 to 1. The next step is to perform the repetition while writing numbers backwards in two's: 100, 98, 96, 94..., and after that, by three's. Then the speed in which the text is delivered is increased, and then the complexity of the text. Before using two languages, students work on analysis of complex sentence structures, text paraphrasing, vocabulary development and memory exercises.

Another common misconception concerning the nature of interpreting is that an interpreter provides word by word equivalency between the languages. In reality, accurate interpretation does not proceed on such a literal basis.

Spanish	Literal translation	Correct translation
Andaba bien pedo.	He walked real fart.	He was smashed.
Las utilidades se dispararon cuando la oferta aumentó.	The utilities shot themselves when the offer increased.	The profits sky-rocketed when the supply increased.
Es que yo a ella no la conozco.	Is that I to her don't know her.	The thing is, I don't know her.
El hombre del pelo chino dijo que lo había hecho para pagar una droga.	The man with the Chinese hair said he had done it to pay off a drug.	The curly-haired man said he had done it to pay off a debt.

If you insist on a literal translation (written) or a literal interpretation (oral) you may end up with sentences such as the ones in the box above.

A good interpretation conveys the meaning of the original accurately and completely, at the same level of language or register as the source language. In the first example above, therefore, the meaning could be conveyed fairly accurately by saying, "He was very intoxicated." Since the register in the original is much lower, however, a good interpreter would match that register and choose "smashed" rather than the more formal "very intoxicated." By the same token, if the judge states, "You are remanded to the custody of the Marshal...," the interpreter cannot take it upon herself to say, "The Marshals are gonna take you to jail now," because that is not the register the judge chose to use. A professional interpreter must also be familiar with the more common slang terms and regionalisms used in the languages she interprets. In the first example above, "pedo" (literally "fart" in standard Spanish) is also common Mexican slang for "drunk."

There are other reasons why literalness is not something to aspire to in interpretation. For example, in many Latin American countries, boys are often called "papá" (literally "dad"); friends are often called

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Language Interpretation and the Alaska Justice System

In general, most of the various agencies and departments which constitute the Alaska justice system have no established policies or systems for handling needs for language interpretation, and no agency has formal procedures for evaluating the competency of interpreters. The lack of a formal system for assuring accurate language interpretation is particularly problematic in courtroom proceedings, both federal and state. At least two committees with representatives of various departments are now examining the issue of language interpretation in the courts. (See article on page 6).

Precise data on the need for and use of interpreters can be difficult to obtain because some of the justice system departments lack the computer management capability to maintain and assemble such information readily. Individual state agencies describe their situations and approaches as follows:

The Alaska Office of the Public Defender estimates that in 1996 it spent over $20,000 for language interpreters. Already in 1997 it has expended almost the same amount, with language interpretation of some kind being required on an almost daily basis in the department's various offices throughout the state. The Public Defender maintains an informal list of interpreters available in over twenty-five languages. Individual attorneys are responsible for deciding to use an interpreter and for selecting one. Often interpreters are found in the ethnic or church community of the defendant. Names are added to or deleted from the list based on experience and word of mouth.

The District Attorney expends less for interpreters than the Public Defender—an estimated $6000 in 1996. This office also uses an informal list of available interpreters, which was obtained from the Public Defender.

The Department of Corrections has no established formal system for providing for interpreters. Staff members, volunteers or paid interpreters are used when a need arises. Individual institutions are responsible for the necessary expenditures, with no way to track amounts spent. Under the terms of the Cleary settlement DOC has an obligation to ensure that prisoners understand their situation; this includes meeting language interpretation needs. In January 1997, 139 aliens from at least 35 countries, speaking more than 20 languages, were incarcerated by DOC. This figure does not include the non-English speaking *citizens* incarcerated by DOC.

The Anchorage Police Department uses both paid interpreters and department personnel when the need arises. Various employees of APD have some knowledge of Spanish, Korean and Russian. In addition the department utilizes an AT&T telephonic service available in 140 languages. For in-depth investigative interviews they also draw upon community resources.

The Alaska State Troopers have no formal procedures for hiring interpreters. They also draw upon community resources, including a list maintained by the Anchorage Convention and Visitors Bureau.

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"cuñado" (literally "brother-in-law"); and children are often addressed as "mi hijo" or "mi hija" ("my son" or "my daughter") by adults who are not their parents. A good interpreter must choose the equivalent term in this country that preserves the connotation and is appropriate to the situation, perhaps "honey" for children, or "bro" for a friend, because those terms best convey the intended meaning in the source language. After all, the Spanish speaker who calls a little boy "papa" uses the word as a term of endearment and certainly does not mean to convey the meaning that "dad" conveys to an English speaker.

Accuracy, therefore, requires communicating the same meaning, connotation, level of intensity and register—but not necessarily exactly the same words.

Suggestions for Judges and Attorneys

Use court certified interpreters whenever possible. Such a person has passed a test that demonstrates that she is minimally qualified to interpret in court. The federal courts currently certify in Spanish, Navajo and Haitian Creole. Some states have also established certification procedures. California, for example, currently certifies court interpreters in Chinese, Arabic, Vietnamese, Japanese, Korean, and Portuguese, in addition to Spanish.

Speak to the defendant or witness directly, using the first person. For example, ask: "Is this your first appearance in this court, Mr. Martinez?" rather than saying to the interpreter, "Ask him if this is his first appearance in this court." Interpreters are trained to act as the voice of the speakers, not as intermediaries who paraphrase. Using the third person throws the interpreter off track, and the use of pronouns can create confusion and ambiguity.

Interpreters should not be asked to explain legal concepts or procedures or to fill out forms without an attorney present. Legal explanations must be left to attorneys.

Beware of asking Spanish speakers to spell words, even their own names. Spanish is a very phonetic, regular language so Latin Americans are not routinely drilled in school in spelling aloud, as students are in this country. As a result, even highly educated Spanish speakers will have difficulty spelling aloud with ease. If they see their names written, they can readily confirm the spelling. Alternatively, interpreters can be asked to confirm with the person the spelling of a name.

Concepts of time and distance vary from culture to culture. It should not be assumed that a witness is trying to be evasive or vague when he doesn't answer questions with the same precision expected from someone in this culture.

Interpreters should be permitted to ask questions, since they may need to clarify concepts. In some Asian languages, for example, the word "uncle" may be used to mean "neighbor, "friend," "uncle," or it may be used as a term of respect for an older man. If a witness uses the word and the interpreter is unsure of the intended meaning, some clarification may be needed to insure accuracy.

Accents are a very superficial reflection of mastery in a foreign language. If an interpreter's accent in English interferes with comprehension, it becomes a problem. However, many good interpreters have slight accents simply because they learned English as teenagers or adults; they may have an otherwise excellent command of the language.

Interpreter Training

The educational level necessary for proficient court interpreting can be underestimated. Most interpreters who pass either Federal Court Certification Examination or the California State Certification Examination possess at least an undergraduate college degree and often a graduate degree.

Both the federal test and the California state test have a passing rate of less than ten per cent. Many applicants attempt the tests without sufficient preparation. The passing rate increases substantively for graduates of court interpreting programs.

At present only a few institutions in the Ninth Circuit are offer comprehensive training for court interpreters. These include: San Francisco State University, Extended Education; Monterey Institute of International Studies; University of California at Los Angeles; California State University at Los Angeles and San Diego; and University of Arizona, Tucson.

Haydee Claus is a federally-certified interpreter and the academic advisor for the legal interpretation program at San Francisco State University. She is a native of El Salvador. This article has been adapted from a longer piece.

Alaska Justice Forum
Justice Center
University of Alaska Anchorage
3211 Providence Drive
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