

# New York State Unified Court System

私達は貴方の言葉を話します

우리도 한국말을 할 수 있습니다

Chúng tôi nói ngôn ngữ của quý vị

我們講 丁來話

我們講 普通話

Nagsasalita kami ng inyong wika

আমরা আপনার ভাষা বল

ਅਸੀਂ ਤੁਹਾਡੀ ਭਾਸ਼ਾ ਬੋਲਦੇ ਹਾਂ।

અમે તમારી ભાષા બોલીએ છીએ

हम आपकी भाषा बोलते हैं

ہم آپ کی زبان بولتے ہیں۔

ما زبان شما می گوئیم

نتكلد لغتاك

מיר רעדן אייער שפראך

Hablamos su idioma

We speak your language

## COURT INTERPRETING IN NEW YORK: A PLAN OF ACTION

МЫ ГОВОРИМ НА ВАШЕМ ЯЗЫКЕ

אנו מדברים בשפתך

МИ РОЗМОВЛЯЄМО ВАШОЮ МОВОЮ

Noi vorbim limba ta

MÓWIMY TWOIM JEZYKIEM

Govorimo vaš jezik

Ne e flasim gjuhen tuaj

ΜΙΛΑΜΕ ΤΗ ΓΛΩΣΣΑ ΣΑΣ

Parliamo la vostra lingua

Nous parlons votre langue

Nós falamos a sua lingua

Tá do theanga againn

Нou pale lang ou a

Déég nañu sa làkk



# New York State Unified Court System

## **COURT INTERPRETING IN NEW YORK: A PLAN OF ACTION**

**APRIL 2006**



# TABLE OF CONTENTS

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<b>PREFACE</b> .....	<b>i</b>
<b>I. INTRODUCTION</b> .....	<b>1</b>
<b>II. BACKGROUND: INTERPRETING SERVICES IN THE NEW YORK COURTS</b> .....	<b>5</b>
<b>A. Interpreter Recruitment</b> .....	<b>5</b>
1. Court-employed interpreters .....	<b>5</b>
2. Per diem interpreters .....	<b>7</b>
<b>B. Management and Assignment of Interpreters</b> .....	<b>8</b>
1. Management structure .....	<b>8</b>
2. Training .....	<b>9</b>
3. Registry of per diem interpreters .....	<b>9</b>
4. Assignments .....	<b>9</b>
5. Advances for the hearing impaired .....	<b>10</b>
6. Community outreach .....	<b>10</b>
<b>III. ACTION PLAN</b> .....	<b>13</b>
<b>A. Per Diem Interpreter Compensation</b> .....	<b>13</b>
1. Raise rates .....	<b>14</b>
2. Offer part-day engagements .....	<b>14</b>
3. Annually review per diem rates .....	<b>14</b>
4. Publicize the new rates .....	<b>14</b>
<b>B. Classification of Court-Employed Interpreters</b> .....	<b>14</b>
1. Review classification of the Court Interpreter title series .....	<b>15</b>
2. Review the structure of the Court Interpreter title series .....	<b>15</b>
3. Create a Senior Court Interpreter position for Sign Language .....	<b>15</b>
<b>C. Testing and Certification</b> .....	<b>15</b>
1. Require all per diem interpreters to pass the written English examination .....	<b>16</b>

2. Develop additional oral examinations for interpreters, both court-employed and per diem .....	16
3. Standardize, centralize and strengthen credential review .....	16
4. Recognize certifications from other states .....	17
<b>D. Training .....</b>	<b>17</b>
1. Establish training requirements for new court-employed interpreters .....	17
2. Require training for per diem interpreters .....	17
3. Implement continuing education for court-employed interpreters .....	18
4. Expand training for judges .....	18
5. Expand training for nonjudicial employees .....	18
<b>E. Management and Assignment .....</b>	<b>19</b>
1. Expand e-scheduling statewide .....	19
2. Monitor to ensure the use of qualified interpreters .....	19
3. Implement remote interpreting statewide. ....	20
4. Expand real-time reporting .....	20
5. Improve services in non-courtroom settings .....	20
6. Increase interpreter resources .....	21
7. Evaluate feasibility of team interpreting .....	21
8. Expedite translation of additional printed, on-line, and video materials .....	22
9. Strengthen quality control and program assessment protocols .....	22
10. Enhance community outreach and education .....	23
<b>F. Town and Village Justice Courts .....</b>	<b>24</b>
<b>IV. CONCLUSION .....</b>	<b>27</b>

## PREFACE

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**E**NSURING EQUAL ACCESS TO THE COURTS FOR INDIVIDUALS WITH LANGUAGE BARRIERS AND HEARING IMPAIRMENTS is a vitally important task. In New York, with its exceptional, if not unique, linguistic diversity, achieving this goal is a challenging undertaking, to say the least.

The New York State Unified Court System has devoted considerable attention to this effort in recent years, but more can be done. Toward that end, we have conducted a thorough analysis of existing court interpreting services. This paper summarizes those services, and lays out an Action Plan of new resources and initiatives for the future. It is our hope that this ambitious program will go a long way toward guaranteeing equal access to those who face these hurdles.

We would like to express our appreciation to the court system's Advisory Committee on Court Interpreting, which provided valuable assistance in identifying concerns and areas for improvement. We look forward to continuing to work with the Advisory Committee as we implement the initiatives outlined herein.

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*Chief of Operations  
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## I. INTRODUCTION

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**T**HE ENDURING PROMISE OF EQUAL JUSTICE UNDER LAW—the keystone of our justice system—demands effective exchange of information between our courts and the people they serve. This often requires courts to overcome language barriers and hearing impairments that can frustrate communication among participants in the judicial process.

For societies with linguistic minorities that are relatively few in number and relatively large in size, language barriers tend to pose fewer operational difficulties because, in general, the fewer the number of languages, the easier for courts to provide interpreter services. In New York’s environment of unparalleled linguistic diversity, however, the task of providing interpreting services may be more challenging than for any other judiciary in the nation, if not the world.

According to the most recent federal census, New Yorkers speak 168 distinct languages and countless dialects, including Cantonese, Czech, French, Greek, Haitian Creole, Hindi, Italian, Japanese, Korean, Mandarin, Polish, Russian, Spanish, Tagalog and Urdu. Nearly 30 percent of New Yorkers—almost five million people—primarily speak a language other than English at home, a rate more than 50 percent higher than the national average, and over two million New Yorkers are not fluent in English at all. Unlike many places with significant linguistic minorities, in New York no single country of origin dominates. As a result, New Yorkers in significant numbers—both in absolute terms and in percentage terms—speak a dozen of the world’s main languages and seek interpretation services in each of them. Many New Yorkers speaking over 150 other languages that are much less prevalent also require interpreting services that, owing to the vast number of languages and the relatively small numbers of people speaking them, are significantly more difficult to provide.

Providing court interpreting services can be especially difficult outside New York’s metropolitan areas. Immigrants arriving in New York City’s gateway spread across many parts of the state, bringing with them their cultures and their languages. Because fully one in five New Yorkers statewide (nearly four million people) were born abroad—nearly double the nation’s overall 11 percent foreign-birth rate—upstate New Yorkers also speak numerous languages and many are not fluent in English at all. Far removed from downstate’s urban areas, vibrant Spanish-speaking communities are growing in rural and suburban counties, a substantial minority of western New Yorkers speak central and eastern European languages, and residents of the state’s northern and western tiers speak Akwesasne and other Native American languages. Often, however, these less densely populated areas have fewer interpreting resources, and thus encounter special challenges in meeting the needs of New Yorkers whose first language is not English. Especially in these jurisdictions, the most common challenge is to provide services when needed interpreters may be located some distance from the courthouse.

In short, New York’s unparalleled diversity—while certainly among our state’s greatest strengths—creates a tremendous challenge to assure that New York’s diverse population can participate fully in our justice system regardless of language or hearing capacity. It is imper-



ative that qualified interpreters are available in the myriad languages, and in myriad locations, that require their services. The challenge for New York’s Judiciary, then, is to provide interpreting services in as many languages as possible in the most efficient manner possible, in every part of the state, and thus to ensure that all New Yorkers—regardless of language fluency or hearing impairment—can receive the equal justice to which the Constitution and laws of this State entitle them.

This challenge is all the more difficult because of the scope of proceedings for which New York provides interpreting services. Federal courts and many state judiciaries provide interpreters mainly to criminal defendants who do not speak English or who are hearing impaired, thus limiting the scope of proceedings for which interpreting or hearing-assistance services are required. Couple this limitation with the prevalence of only a few other languages in most jurisdictions, and the result for most judiciaries is that interpreting services can be provided relatively easily and with minimal cost. New York, by contrast, long ago made a policy choice to maximize participation in the justice system by providing interpreting services to the widest range of court users possible—not only criminal defendants but also parties in civil cases, witnesses, and crime victims. The combination of New York’s many languages and its policy to maximize access to justice makes the task of providing effective interpreting services in the New York courts perhaps the most complex among the nation’s judiciaries.

With this goal in mind—to provide court interpreter services to all who need them and to meet this challenge in the most effective manner possible—this paper assesses the status of interpreting and other communication assistance services in the New York courts, and concludes with an Action Plan to improve the efficient and effective delivery of these services for the over 100 languages for which the New York State Unified Court System provides interpreting. Key components of this Action Plan include:

- **Expanded recruitment and improved retention of interpreters**, including higher rates for private, per diem interpreters and review of the classification structure for court-employed interpreters;
- **Enhanced testing and assessment of prospective interpreters**, including development of examinations in more languages and strengthening assessments of interpreters in less prevalent languages;
- **Improved training for interpreters, judges and court personnel on interpreting issues**, including expanded ethics training for both per diem and court-employed interpreters, continuing education for interpreters, and programs for judges on conducting *voir dire* to assess interpreters’ qualifications;
- **Implementation of programs to maximize accuracy of court interpreting**, including a pilot project in “team interpreting” and a quality control program to identify problems and appropriate corrective action;
- **Statewide deployment of database and remote communication technologies**, including statewide expansion of e-scheduling for interpreters

and implementation of secure courtroom links to provide real-time interpreting from remote locations; and

- **Expanded assistance to Justice Courts**, to enhance interpreting capacities for locally-funded and operated Town and Village Courts.

These initiatives will help ensure that New York's courts fulfill the promise of equal justice that is all New Yorkers' birthright, regardless of nationality, and that the New York courts can meet these obligations in the most effective and efficient manner possible.



## II. BACKGROUND: INTERPRETING SERVICES IN THE NEW YORK COURTS

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**I**N THE ABSTRACT, THE TASK OF PROVIDING INTERPRETING SERVICES IN THE COURTS IS RELATIVELY STRAIGHT-FORWARD. The court must identify the need for interpreting services and the language or languages requiring interpreting to and from spoken English, a qualified interpreter must be identified, and then the interpreter must be assigned. In practice, however, the task is operationally complex not only because of the volume of cases requiring interpreting but also because of the sheer number of languages for which court proceedings must be interpreted, and the frequently short notice of need for interpreter services.

Experience has shown that court proceedings require interpreting in certain languages so frequently that the goals of efficient court administration are best served by the courts directly employing interpreters for them (e.g. Spanish, American Sign Language). By contrast, other languages (e.g. Malayalam, Mixteco, Tagalog) must be interpreted less frequently, and while these services are essential in the proceedings that require them, the goals of efficient administration are best served not by the courts directly employing interpreters but by identifying and retaining private interpreters to serve on an as-needed basis.

### A. INTERPRETER RECRUITMENT

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The operational necessity of hiring some interpreters and retaining private interpreters to serve on an as-needed basis requires parallel tracks to recruit interpreters for the courts. The Judiciary recruits court-employed interpreters through the civil service process, and recruits per diem interpreters as independent contractors.<sup>1</sup> Because recruitment of these types of interpreters differs significantly, this paper addresses each in turn:

#### 1. Court-employed interpreters

The New York State courts employ over 300 full- and part-time court interpreters in over 30 foreign languages and Sign Language. Among the most prevalent languages for the 300 court employees in Court Interpreter positions are Spanish, Mandarin, Russian, French, Haitian Creole and Sign Language.<sup>2</sup> Court Interpreters may be eligible for promotion to serve as Senior Court Interpreters who, in addition to providing these interpreting services, supervise, assign and evaluate the Court Interpreters.

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<sup>1</sup> Per diem interpreters are paid upon submission of vouchers for their services, and thus are sometimes referred to as voucher-paid interpreters. Depending upon local needs, some courts use both court-employed and per diem interpreters for certain languages.

<sup>2</sup> The New York courts also employ court interpreters in the following 26 foreign languages: Arabic, Bambara, Bengali, Cantonese, Croatian, Dutch, Fulani, Greek, Gujarati, Hebrew, Hindi, Italian, Japanese, Korean, Malinke, Mandingo, Polish, Punjabi, Romanian, Serbian, Shanghainese, Toisan, Twi, Urdu, Wolof and Yiddish.

Owing to demographic and caseload changes, over the last 20 years the New York court system has significantly increased its resources to assist court users who do not speak English fluently or who are hearing impaired. In the last five years alone, the courts increased the corps of court-employed interpreters by approximately 30 percent. Since 2000, 69 new Court Interpreter positions have been created, of which approximately one-third are based outside New York City. These expansions closely follow the growth of linguistic minorities in suburban regions. For instance, in the Ninth Judicial District (the lower Hudson Valley counties of Dutchess, Orange, Putnam, Rockland and Westchester), where Spanish-speaking populations are growing quickly, the courts have more than quintupled the number of Spanish language interpreters from two to 11 since 2000.

Like most other court employees, the 300 court-employed interpreters are subject to statutory civil service requirements and collective bargaining agreements with their public-employee unions. These statutory requirements and agreements govern the recruitment, testing and compensation of court interpreters, and thus influence many of the initiatives of this Action Plan.

Developing tools and methods for assessing competency in more than 20 different languages has been the most challenging aspect of interpreter recruitment. Currently, three different methods are used for assessing the qualifications of prospective interpreters, depending on language. For Spanish, which accounts for more than 200 of the 300 court-employed interpreters, the Office of Court Administration (OCA) has developed a comprehensive civil service examination that tests competency in both English and Spanish and yields a ranked list of candidates. For 11 other languages, OCA has developed examinations that test competency in English and the foreign language, but that do not produce a ranking of candidates. For the remaining foreign languages for which the court system hires court interpreters, a written English proficiency test is used. Briefly, these assessment procedures for foreign language interpreters are as follows:

**COMPETITIVE EXAMINATION FOR SPANISH.** Since 1980, the court system has conducted its own civil service testing for the Court Interpreter (Spanish) title, the earliest employee title in the interpreter series. The two-part examination first requires candidates to pass a three-hour, multiple-choice test of their bilingual skills, probing candidates' grammar, vocabulary, word usage, sentence structure and reading comprehension in both Spanish and English. The written test also assesses candidates' ability to translate from English to Spanish and Spanish to English. Candidates who pass this written examination qualify to take a one-hour oral examination. The oral examination requires the candidates to interpret a document from English to Spanish and another document from Spanish to English. It also requires candidates to view a video and interpret everything spoken in Spanish to English and everything spoken in English to Spanish both in simultaneous and consecutive modes as directed. All responses are audio-taped, and sent to a professional bilingual expert who rates them anonymously based on accuracy, completeness, fluency and clarity of interpretation in both languages. Final grades are based on performance on both the written and oral components, and successful examinees are ranked in order of highest grades to establish the eligible list from which new employees are drawn.

**NON-COMPETITIVE EXAMINATIONS.** For 11 other prominent languages spoken in the New York courts—Arabic, Cantonese, Greek, Haitian Creole, Italian, Korean, Mandarin, Polish, Portuguese, Russian and Vietnamese—OCA has developed examinations that assess qualifications without yielding a ranking of candidates. These examinations, modeled on the Spanish civil service examination, include a multiple-choice examination to test English proficiency and a two-part oral test. The oral interpretations are audio-taped, and the tapes are sent to outside bilingual experts, generally interpreters certified by the federal government, for objective evaluation. OCA is currently developing non-competitive examinations for three additional languages (Albanian, Bengali and French). The Action Plan sets forth a scheme to expedite the development of oral examinations for additional languages.

**ASSESSMENT WITHOUT ORAL EXAMINATION.** The New York courts currently employ court interpreters in over 20 languages (Arabic, Bambara, Bengali, Cantonese, Croatian, Dutch, Fulani, Greek, Gujarati, Hebrew, Hindi, Italian, Japanese, Korean, Malinke, Mandingo, Polish, Punjabi, Romanian, Serbian, Shanghainese, Toisan, Twi, Urdu, Wolof and Yiddish) for which oral examinations have not yet been developed. Candidates for positions in these languages take the multiple-choice English proficiency examination discussed above. In the absence of formal oral examinations to test interpreting competency with respect to these languages, the courts require a combination of interviews, resume reviews and reference checks to assess interpreter credentials.

The qualifications of Sign Language interpreters employed by the court system are assessed by yet a different process. By statute, the Chief Administrative Judge must name one or more credentialing authorities to certify interpreters in Sign Language to serve in the New York courts.<sup>3</sup> The Registry of Interpreters for the Deaf (RID), a nationally recognized certification group that offers rigorous credentialing examinations in Certified Deaf Interpreting, has been named as the credentialing authority for the New York courts.

In addition to the foregoing means of assessing the professional competence of foreign language and Sign Language interpreters, prospective interpreters must pass a criminal background check before commencing employment in the courts.

## 2. Per diem interpreters

Besides the approximately 300 court-employed interpreters, the court system has developed a network of over 1,300 private interpreters who provide services on an as-needed basis. These per diem interpreters provide interpreting services in over 100 languages; some interpret one or more of the dominant languages for which court-employed interpreters serve in the courts (e.g. Spanish, Sign Language), but most interpret less prevalent languages for which full-time interpreter services are neither necessary nor cost-effective to provide but for which individual cases require these services. Given New York's linguistic diversity and geo-

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<sup>3</sup> See Judiciary Law § 390. That statute also requires that the State provide interpreter services in all proceedings where a party or a witness is deaf, and in all criminal proceedings in State-paid courts where the crime victim or any member of the immediate family is deaf.

graphic breadth, it is evident that the court system could not meet its interpreting challenges without these per diem interpreters.

Important as per diem interpreters are, the court system's annual spending on private interpreters has been declining in recent years. In Fiscal Year 1999-2000, OCA spent \$4.3 million on per diem interpreter services; by Fiscal Year 2004-2005, spending declined by nearly 50%, to \$2.4 million. This decline reflects a policy decision to shift interpreter personnel to court-employment status whenever feasible, thus allowing more effective training and supervision.<sup>4</sup> At the same time, however, per diem interpreter spending allocated to courts outside New York City has remained nearly constant (\$1.2 million in Fiscal Year 1999-2000, \$1 million in Fiscal Year 2004-2005).

As is the case with court-employed interpreters, the process of assessing the qualifications of per diem interpreters depends upon language. For the 12 languages for which OCA has developed examinations for court-employed interpreters,<sup>5</sup> per diem interpreters must pass both the written English language proficiency examination and the foreign language oral examination, as well as undergo a criminal background investigation, to qualify for listing on the Registry of per diem court interpreters. Courts use the Registry, which was instituted in 1994, to identify interpreters when a court-employed interpreter is not available. The Action Plan sets forth a number of initiatives with respect to the Registry, including the expansion of languages covered by the Registry and the implementation of management safeguards to limit the use of per diem interpreters who have not been assessed and listed on the Registry.

For those languages in which no oral examination has yet been developed, court managers conduct informal assessments of the qualifications of per diem interpreters, typically consisting of a review of education and prior experience. The Action Plan sets forth steps to strengthen and standardize the assessment of per diem interpreter qualifications pending the development of formal examinations.

## **B. MANAGEMENT AND ASSIGNMENT OF INTERPRETERS**

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### **1. Management structure**

In 1994, OCA created the Office of Court Interpreting Services to develop professional standards for court interpreting, recommend and implement new policies, assess courts' interpreting needs, evaluate translation services, and maintain the Registry of per diem interpreters. Court Interpreting Services also develops and implements training programs for interpreters, helps develop interpreter examinations, and oversees outreach efforts to recruit new interpreters and ensure that interested communities are familiar with services available in the courts.

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<sup>4</sup> This shift has been driven, in part, by the settlement of a proceeding brought before the State Public Employee Relations Board in which the Unified Court System agreed to offer a court-employed position to per diem interpreters who over the course of a year work at least 30% of the hours of a full-time court employee.

<sup>5</sup> Arabic, Cantonese, Greek, Haitian Creole, Italian, Korean, Mandarin, Polish, Portuguese, Russian, Spanish and Vietnamese.

## 2. Training

Like all professionals, court interpreters require ongoing training to build skills. Court-employed interpreters must complete an introductory program on court ethics; they also participate in OCA programs to enhance simultaneous and consecutive interpreting skills, build listening and memory skills and enhance vocabulary. All interpreters, both court-employed and per diem, also receive the Unified Court System Court Interpreter Manual, first introduced in 1992 and periodically updated, which provides interpreters with guidance on professional standards. In 2005, a committee of court administrators and interpreters revised the manual to heighten emphasis on ethical standards; the newly published UCS Court Interpreter Manual and Code of Ethics, distributed in January 2006, contains the Code of Ethics for Nonjudicial Employees and the Canons of Professional Responsibility for Court Interpreters. The Canons require interpreters, among other things, to accurately, objectively and impartially interpret and to inform the court of any impediment to observing the Code.

## 3. Registry of per diem interpreters

In 1994, OCA established a Registry of per diem interpreters. Currently the Registry includes approximately 500 interpreters in the 12 languages for which formal language assessment examinations have been developed. To qualify for listing in the Registry, an interpreter must have passed a language assessment examination and undergone a criminal background check. As described in more detail below, the Registry speeds identification and assignment of qualified interpreters—benefits that will increase when the Registry goes on-line later in 2006.

## 4. Assignments

A great challenge of providing interpreting services in the courts is connecting a qualified interpreter with the court that requires his or her services, and then using the interpreter's time as efficiently as possible. In the past, each court was primarily responsible for identifying and contacting interpreters on its own, with little coordination and thus little efficiency. Over time, the Registry has improved access to interpreters. Under current practice, court proceedings requiring interpreting services in the same language and in the same geographic area now are scheduled for the same day whenever possible, and proceedings are scheduled as far in advance as possible to maximize access to qualified interpreters. Recognizing that efficient use of the court system's interpreters often requires central deployment, 37 interpreters were assigned to OCA (rather than to a specific court) for assignment throughout the New York City courts, and 21 were assigned to OCA for assignment to courts outside of New York City. The result has been more efficient deployment of interpreters to courts that need them, and thus significant improvement in interpreter availability.

Despite these innovations, however, the State's geographic and linguistic diversity still challenges courts to provide interpreting services efficiently. This is especially true in less prevalent languages, for which interpreters must be scheduled efficiently, particularly when they are located some distance from the court requiring their services. In recent years, technology has helped bridge the gap:

- **E-scheduling.** In June 2005, OCA began experimenting with real-time on-line scheduling and oversight of interpreter assignments in



New York City Civil Court, Queens Supreme Court and the Seventh Judicial District. The e-scheduling system gives court administrators a single up-to-date database of all court-employed and per diem interpreters, whether included in the Registry or not. The system can be queried to identify every interpreter available to provide services in a particular court part at a particular time, allowing courts to avoid scheduling conflicts and make the most efficient use of interpreters on a local and regional basis. The system also allows verification of any individual interpreter's workload, tracks trends throughout the courts and thus helps pinpoint unmet needs and project demand for interpreting resources.

- **Remote interpreting.** While physical presence is ideal for any interpreter, sometimes time and distance make physical courtroom presence impractical, especially for less common languages for which the court system may have few qualified interpreters. Under a pilot project led by the Seventh Judicial District, closed-circuit video-conference technology permits qualified interpreters to remain at their remote location and provide interpreting services in any court that requires their services. This system has proved especially effective for assignments of short duration and last-minute needs, and has avoided numerous trial delays that would have occurred for lack of proper interpreting services.

Both of these technological approaches offer significant potential to assign interpreters more cost-effectively throughout the courts, and thus to expand access to interpreters. The Action Plan builds on these initial successes.

## 5. Advances for the hearing impaired

Of seven Sign Language interpreters, six are assigned to the New York City courts and one to the Monroe County courts.<sup>6</sup> In addition to these interpreting services, rapid advances in real-time reporting now allow specially-trained court reporters to take down court testimony and present the testimony on a screen or monitor instantaneously, enabling hearing-impaired individuals to fully participate in court proceedings, sometimes without need for a Sign Language interpreter.

## 6. Community outreach

Providing qualified, professional interpreters fulfills only part of the Judiciary's duty to ensure equal access to all court users. Before they ever enter a courtroom, litigants and witnesses should know that they are entitled to have an interpreter present, understand the interpreter's role and realize that an interpreter also can assist them to translate documents and communicate with the court clerk's office and other court personnel. To these ends, in 2005

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<sup>6</sup> Monroe County is the home to the Rochester School for the Deaf and thus has a significant population of hearing-impaired New Yorkers.

the Judiciary began the *We Speak Your Language* initiative, using the Internet and print materials to alert the public to translation services available to them. *We Speak Your Language* posters (containing those words in 29 frequently requested languages and the universal symbol for Sign Language) were placed in conspicuous locations in all courthouses, and OCA prepared and delivered postcard-sized versions of the poster to advocacy and community organizations to distribute to individuals who may require interpreting services.

The court system has also undertaken the translation of some of the voluminous written materials that it provides to the public. For example, a Handbook on Criminal Law is available in Spanish, French and Korean, has been distributed widely in print and is also available on the court system's web site. Other translated materials include Spanish language publications dealing with Civil, Small Claims and Housing Courts, as well as information guides on the Family Court in Russian, Haitian Creole, and Chinese (also now being prepared in Bengali, Hindi and a number of other languages). These, and other similar translated materials, are both distributed in print and posted on the court system web site to enhance availability. In addition, CourtHelp, the court system's on-line site for self-represented litigants, is available in Spanish, as is the web site for the New York City Civil Court, which includes both the Housing Court and the Small Claims Part (a Chinese language version is being developed for launch in 2007). There are also two Spanish language videos on the web site that explain various court procedures, including a video for tenants that explains how to obtain a court order requiring a landlord to make repairs. The Action Plan establishes a process for the expedited expansion of materials, both print and on-line, available in foreign languages, as well as other community outreach initiatives.



### III. ACTION PLAN ---

**S**INCE OCA CREATED THE OFFICE OF COURT INTERPRETING SERVICES IN 1994, the Judiciary's attention and dedication of resources to effective interpreting has grown exponentially. For example, with the tripling of the number of court-employed interpreters during this period, court interpreters are the fastest-growing job category in the New York State court system. In addition, recent managerial and technological innovations have expanded access to interpreting services statewide and made increasingly more effective use of interpreter resources. Still, there is much more to do. New York needs to improve recruitment of interpreters, better assess interpreters' qualifications and—reflecting the reality that the State's geographic and linguistic diversity will continue to present challenges far greater than for most if not all other state judiciaries—continue to improve the efficiency with which the court system manages its limited interpreter resources. This Action Plan offers initiatives in each of these areas.

#### A. PER DIEM INTERPRETER COMPENSATION ---

Even as demand for interpreter services continues to rise, the New York courts must compete for interpreters with the federal courts, the judiciaries of nearby states and New York's diplomatic and international business communities. New York's striking and increasing linguistic diversity requires its court system continually to recruit more interpreters qualified to interpret more languages, and because 1,300 of the courts' 1,600 interpreters are per diem interpreters, New York especially must compete for per diem interpreters. However, not even the most aggressive and efficient recruitment initiative will succeed without adequate levels of compensation for qualified interpreters, demand for whose services has steadily increased here and in surrounding states. The confluence of rising demand and increasing competition has raised prevailing wages paid to interpreters, especially for languages for which there are relatively few interpreters available. The result is that the New York courts are experiencing increasing difficulty recruiting qualified per diem interpreters.

The primary reason is that prevailing rates for per diem interpreters have risen far above what New York courts pay. New York's going rate of \$125 per day is the same rate paid in 1994, based on the salary of court-employed interpreters hired at that time. By contrast, federal courts pay certified interpreters \$355/day, New Jersey pays its court interpreters up to \$318.50/day, and Massachusetts pays up to \$250/day. Meanwhile, New York's private sector and diplomatic corps competing for interpreters often can afford to pay even more. While the New York courts always must protect the public fisc, clearly compensation rates must be reviewed when even other public-sector employers pay double or nearly triple New York's rates for comparable jobs.

Furthermore, these private and public employers utilize a more diverse pay structure that allows them both to reward more highly qualified interpreters and to attract interpreters able

or willing to serve only for discrete parts of a day. The federal, New Jersey and Massachusetts judiciaries, for example, all offer half-day engagements. This provides flexibility judiciaries need to provide services in languages for which there may be few if any officially certified interpreters available. Because many engagements require significantly less than a full day, it appears that half-day rates also make more efficient use of limited interpreter funds.

Because other jurisdictions' higher rates and half-day engagements enhance interpreter recruitment and put the New York courts at a competitive disadvantage, New York must adapt to market realities to ensure that its courts can recruit and retain the per diem interpreters that foreign-language and hearing-impaired litigants, witnesses and court observers require. To that end, the following steps are being taken:

1. **RAISE RATES.** New York will raise rates for per diem interpreters to levels competitive with neighboring jurisdictions. Effective May 1, 2006, per diem interpreters will be paid \$250/day.
2. **OFFER PART-DAY ENGAGEMENTS.** OCA will offer half-day engagements for per diem interpreters. Effective immediately, half-day service will be compensated at the rate of \$140. OCA also will conduct a six-month study to monitor the duration of per diem assignments in designated courts to determine whether hourly rates may promise more efficient use of resources and, if so, whether to begin a pilot project using hourly rather than full- or half-day rates.
3. **ANNUALLY REVIEW PER DIEM RATES.** To avoid recurrence of the 12-year stagnation in per diem rates, OCA will review per diem rates annually to determine competitiveness with rates paid by regional court systems and other major employers of per diem interpreters.
4. **PUBLICIZE THE NEW RATES.** These changes in the per diem compensation scheme should greatly enhance the ability of the New York courts to attract qualified interpreters. The Office of Court Interpreting Services and OCA's Office of Workforce Diversity will jointly develop an outreach campaign to ensure that the interpreter community is aware of these new rates and changes. The campaign will also publicize career opportunities for interpreters in the New York courts.

## **B. CLASSIFICATION OF COURT-EMPLOYED INTERPRETERS**

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Just as per diem wages must remain competitive, so too must salaries for court-employed interpreters keep up with market forces. Unlike for per diem interpreters, the present system for court-employed interpreters provides some assurance of competitive salaries because their collective bargaining agreements mandate promotional increments and annual inflation adjustments. This system also encourages recruitment and retention of more experienced interpreters by promoting some Court Interpreters to serve as Senior Court Interpreters, with supervisory and managerial responsibilities. As of April 1, 2006, the range of compensation

paid to court-employed interpreters is as follows:

<b>COURT INTERPRETER (GRADE 18):</b>	<b>\$43,002 TO \$58,570</b>
<b>SENIOR COURT INTERPRETER (GRADE 21):</b>	<b>\$50,498 TO \$68,243</b>

Despite its advantages, this system, established in 1994, warrants a thorough review, to determine if this salary range remains competitive with prevailing wages in the regional market, and to ensure that the structure continues to meet the needs of the courts. To address these issues, the following steps will be taken:

- 1. REVIEW CLASSIFICATION OF THE COURT INTERPRETER TITLE SERIES.** OCA's Division of Human Resources will review the grade levels of the Court Interpreter title series and compare the series with other court titles to determine if adjustments are necessary. A report and recommendations will be issued by June 1, 2006.
- 2. REVIEW THE STRUCTURE OF THE COURT INTERPRETER TITLE SERIES.** The Court Interpreter series currently includes titles in two grades, a Court Interpreter title at grade 18 and the supervisory title of Senior Court Interpreter at grade 21. The Division of Human Resources will review the structure of this series and recommend any appropriate adjustments. In particular, the Division will examine whether the series should be expanded to include a new lower-grade Interpreter Trainee title in which to recruit and train new interpreters, and a new higher-grade title for non-supervisory interpreters.
- 3. CREATE A SENIOR COURT INTERPRETER POSITION FOR SIGN LANGUAGE.** While OCA employs numerous Senior Court Interpreters for spoken languages, it currently has no Sign Language interpreter in a supervisory position. Because this frustrates effective supervision of Sign Language interpreters, OCA will establish an additional Senior Court Interpreter position in the Office of Court Interpreting Services. The incumbent will help coordinate assignment of Sign Language interpreters and evaluate their performance on the job.

### **C. TESTING AND CERTIFICATION**

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As discussed above, OCA has developed examinations for interpreters in 12 of the foreign languages most commonly encountered in the New York courts, and is currently developing tests in three other languages. These examinations include both a written assessment of English proficiency and an oral component that tests ability to accurately interpret between English and the foreign language. While these 12 languages account for the majority of interpreting needs in the State's courts, there are over 100 other languages for which only an informal assessment of competency is currently performed.

Expanding and strengthening the testing program, which is so vital to ensuring interpreter quality, must continue to be a high priority. For that reason, last year the New York court system joined the National Consortium for State Court Interpreter Certification, an affiliate of the National Center for State Courts, in which over 30 state judiciaries collaborate to develop tests

and uniform certification standards. The court system is now taking the following steps to expand and bolster its testing program for both court-employed and per diem interpreters:

- 1. REQUIRE ALL PER DIEM INTERPRETERS TO PASS THE WRITTEN ENGLISH EXAMINATION.** A written examination testing basic English language proficiency is available, but has been required only of interpreters in the 12 languages for which oral foreign language examinations are also available. While the written English examination, standing alone, does not verify a person's ability to interpret between English and another language, it does provide some evidence of skills critical to interpreting. Pending development of formal oral examinations in additional foreign languages, as discussed below, there is no reason that the available written English language examination should not be required of all interpreters. Therefore, passing the written English language examination is now required for all per diem interpreters. Failure to pass this exam by January 1, 2007 will disqualify an individual from providing interpreting services in the courts.
- 2. DEVELOP ADDITIONAL ORAL EXAMINATIONS FOR INTERPRETERS, BOTH COURT-EMPLOYED AND PER DIEM.** The sheer number of languages spoken in the New York courts makes the task of developing, administering, and grading interpreter examinations a daunting one. The development of examinations in 12 of the most prominent foreign languages is a significant achievement, and means that in approximately 85 percent of the proceedings in which court interpreter services are provided, the court interpreter has passed a formal examination. Yet the goal of equal access to justice makes it imperative that we ensure a high level of interpreter competency, regardless of language. OCA will therefore develop and implement oral examinations in additional languages. As noted, oral examinations will be instituted this year for three additional languages (Albanian, Bengali and French). During 2007, examinations in five additional languages (Farsi, Fuzhou, Japanese, Turkish and Urdu) will be developed and instituted. With the introduction of these additional examinations, in over 95 percent of the proceedings in which court interpreter services are provided, the interpreter will have passed a formal written and oral examination.
- 3. STANDARDIZE, CENTRALIZE AND STRENGTHEN CREDENTIAL REVIEW.** With these new testing initiatives the need for alternate, less formal assessments of per diem interpreters will significantly decline. There will, however, continue to be a need in the less common languages for informal evaluation of interpreter qualifications, as well as a need to verify the credentials of all per diem interpreters, even those who pass an examination. The current informal evaluation process, however, relies on local court administrators to assess each candidate's qualifications, without benefit of uniform standards to guide these assessments. To correct this deficiency, the Office of Court Interpreting Services will issue standard protocols for candidate screening. The protocols will require interviews, by Court Interpreting Services personnel to the extent possible, to verify interpreters' credentials and will require immediate participation in court interpreter ethics training.

With New York's wealth of educational and commercial resources and its status as an international capital of diplomacy and finance, the State has at its disposal a wide array of outside experts in foreign language and interpreter testing. Until now, however, the court system has not fully capitalized on opportunities to consult broadly with these experts, who potentially could provide invaluable assistance in evaluating per diem interpreters. Thus, the court system will immediately explore relationships with nonprofit, educational and commercial language experts that can provide expert assistance in this regard.

4. **RECOGNIZE CERTIFICATIONS FROM OTHER STATES.** Until now, New York has maintained its own certification process: candidates must possess federal certification or pass New York examinations. This policy often is counterproductive because candidates certified by other states may be qualified to serve in New York's courts but are dissuaded from applying because of the application process. To enhance recruitment, by July 1, 2006, the Office of Court Interpreting Services and OCA's Division of Human Resources will jointly develop standards for recognizing court interpreters certified by other states.

#### **D. TRAINING**

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While the foregoing initiatives will greatly enhance recruitment and retention of qualified interpreters, there is no better assurance of professionalism than ongoing training—both for interpreters and for all other participants in the justice system. Because interpreters are hired individually rather than as part of a group, however, there is little capacity for consistent training, and even the current training protocol for full-time interpreters is cursory at best. The current process requires new interpreters to receive a copy of the UCS Court Interpreter Manual and Code of Ethics, then “shadow” a more senior interpreter for several weeks. Ideally, new interpreters commence work on shorter, less complex engagements, and veteran interpreters continue to observe and assist the new employee as needed. In practice, however, the volume of interpreting needs does not always permit this “ideal” situation. To address these concerns, the following initiatives will be implemented:

1. **ESTABLISH TRAINING REQUIREMENTS FOR NEW COURT-EMPLOYED INTERPRETERS.** OCA will finalize a new training system for new court-employed interpreters by September 2006. Each new court-employed interpreter will complete a training program in Manual contents and expectations, including standards of ethics and professionalism. New interpreters—some of whom have no prior experience with the courts and the judicial process—will receive an introduction to the court system, the types of matters likely to be heard, and the professional and ethical responsibilities of an interpreter in the justice system. New recruits also will watch several training videos, which also will be made available on-line for use by current court-employed and per diem interpreters.
2. **REQUIRE TRAINING FOR PER DIEM INTERPRETERS.** Owing to per diem interpreters' sheer number of languages and geographic diversity, the court system has not mandated



training for per diem interpreters. Recognizing that reliance on per diem interpreters is likely to remain an important fixture of the court system's access-to-justice efforts, OCA will begin mandatory training of all prospective and current per diem interpreters. The training program, which is now being prepared, will include a full-day program on interpreter ethics, focusing on the Canons of Professional Responsibility for Court Interpreters, during which per diem interpreters will receive the revised Manual. The program will be offered starting spring 2006 in at least six locations throughout the state.

3. **IMPLEMENT CONTINUING EDUCATION FOR COURT-EMPLOYED INTERPRETERS.** Like lawyers and other justice professionals, court interpreters benefit from continuing education to enhance skills. The module on ethics and professionalism that the Office of Court Interpreting Services is developing will be adapted for use by current court-employed interpreters. These adaptations will reflect current issues germane to problem-solving courts, courtroom decorum and interpreting in judicial venues outside the courtroom. Like the ethics program for per diem interpreters, these programs will be offered at least six times annually across the state. Because verbatim interpreting can be a special challenge for Sign Language court interpreters, special continuing education programs for Sign Language interpreters also will be developed and instituted statewide.
4. **EXPAND TRAINING FOR JUDGES.** Overcoming access-to-justice implications of language barriers and hearing impairments requires, at minimum, judicial sensitivity to these challenges, and sometimes direct judicial intervention to assure that participants in the justice process receive the assistance and services to which they are entitled. Such judicial intervention requires that judges know that parties are entitled to an interpreter at each stage of proceedings, have the tools to determine whether a party needs an interpreter, and can determine that a particular interpreter can communicate effectively both with that party and with the court. To these ends, training programs for judges, and especially for new judges, will be expanded to emphasize interpreting issues, including *voir dire* of prospective interpreters at the commencement of proceedings to ensure that the interpreter is competent, properly qualified,<sup>7</sup> knows the nature of the case and states his or her appearance on the record. This *voir dire* also should reiterate the interpreter's role, admonishing that interpreters cannot advise, offer suggestions or formulate additional questions. Curricula also will review the court system's obligations under the federal Americans with Disabilities Act to ensure equal access to the courts regardless of hearing impairment.
5. **EXPAND TRAINING FOR NONJUDICIAL EMPLOYEES.** Because language barriers and hearing impairments can permeate every aspect of the judicial process and every part of a courthouse, not just the courtroom, it is critical that all court employees are trained properly to meet these challenges. Whether the court officer at a security check-

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<sup>7</sup> For instance, each per diem interpreter serving in the courts must file an oath of office with OCA, and must verify that he or she has received and is familiar with the provisions of the interpreters' *Manual*.

point or a clerk at a counter window, each court employee must be able to summon assistance for members of the public using the courts who cannot communicate effectively in English. To this end, OCA will ensure that interpreting issues are included in all new-employee orientation sessions and programs for nonjudicial associations' annual meetings, and will work with the Court Officers Academy to sensitize officer trainees, who participate in several training modules on the subject.

## **E. MANAGEMENT AND ASSIGNMENT**

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Beyond challenges in recruiting and retaining interpreters in the many languages in which the courts require interpreting services, perhaps the most complex challenge is connecting a qualified interpreter with a particular case requiring his or her services. This challenge is considerable given the combination of geographic and linguistic diversity: many languages have few interpreters qualified to assist, these interpreters may be located some distance from the court and/or may be previously scheduled. Couple these dynamics with the sheer number of cases for which interpreting services are necessary and the hundreds of court facilities around the state, and the administrative challenge of providing interpreting services in New York's courts becomes extraordinarily complex. Technological advances in data management and secure communications have provided court administrators potent tools to address these complexities, and pilot projects have demonstrated the effectiveness of these tools to provide better interpreting services more quickly and at lower cost.

At the same time, it is important—as in other areas of court administration—to provide effective oversight of interpreters on the job. Invariably, such oversight is best exercised by other interpreters, which requires that interpreters work together in some contexts. Under current practice, however, the volume of interpreting assignments and the operational difficulty of making these assignments efficiently often have made such group efforts impracticable. A combination of the recruitment enhancements and technological improvements discussed above promise to make these group efforts possible on increasingly large scales.

Taking these management tools together, the court system will undertake taking the following:

- 1. EXPAND E-SCHEDULING STATEWIDE.** As discussed above, a pilot has shown on-line e-scheduling to be an effective management tool for identifying and scheduling interpreters. The court system will now expand the program statewide. Starting immediately, court administrators in the Ninth Judicial District, Bronx Criminal Division, Suffolk County, New York City Family Court and Kings County Supreme Court will use e-scheduling, and the system will be available statewide by summer 2006.
- 2. MONITOR TO ENSURE THE USE OF QUALIFIED INTERPRETERS.** While the primary purpose of the e-scheduling system is to assist court managers in identifying and scheduling available interpreters, the program will also help ensure that only the most qualified interpreters are used. The automated program requires that a court manager enter an explanation whenever an available qualified interpreter who has passed a formal

examination is passed over and another interpreter is used instead. The Office of Court Interpreting Services will receive reports of each such occurrence, and follow-up with individual courts whenever it appears that available certified interpreters are not being utilized.

3. **IMPLEMENT REMOTE INTERPRETING STATEWIDE.** While on-site interpreting is preferred, the Seventh Judicial District's experiment with remote interpreting (by which interpreters provide interpreting services by video conference or telephone from a remote location) has demonstrated that remote interpreting can prevent trial delays by making effective interpreting possible when an interpreter cannot come to court—a common occurrence for less prevalent languages and relatively short engagements. Other states also have successfully used remote interpreting for short engagements. In view of these successes, OCA will expand remote interpreting to all New York courts by September 2006. After developing proper training programs and operational protocols, including procedures to assure confidentiality in cases that require it, this initiative will significantly improve access-to-justice, especially in rural areas and for parties speaking relatively infrequently requested languages, and recruitment of per diem interpreters who henceforth will be able to do their jobs from remote locations.<sup>8</sup>
4. **EXPAND REAL-TIME REPORTING.** Recognizing that real-time court reporting is sometimes an appropriate substitute for Sign Language interpretation for hearing-impaired participants in the judicial process, OCA will explore expansion of real-time reporting, including the use of remote real-time reporting.
5. **IMPROVE SERVICES IN NON-COURTROOM SETTINGS.** Providing interpreting services in non-courtroom settings poses challenges different from those in the courtroom, in that the need outside the courtroom almost always arises with little or no advance notice, the exchanges are typically brief and often occur at high-volume public counters, and services may be needed at a variety of locations throughout a courthouse, including the information desk, a cashier's window, the record room, or the office of the self-represented. While in some circumstances a staff interpreter who speaks the required language may be available on site, all too often that is not the case. To ensure that interpreting services are available when needed for these important interactions outside the courtroom, the following steps will be taken:
  - Remote interpreting is particularly well-suited for non-courtroom settings, and, by September 2006, will be made available at public counters, offices of the self-represented and other non-courtroom settings where the public seeks services or information.

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<sup>8</sup> With the statewide expansion of remote interpreting, the current practice in some New York courts of retaining private interpreting firms to provide court interpreting services should be substantially curtailed, if not eliminated. Use of private interpreting firms, although perhaps occasionally necessary when no other viable alternative is available, is expensive and provides no assurance that the interpreter is competent to perform the needed interpreting services or aware of the unique nature of interpreting in the courts.

- For hearing-impaired court users, Interpretype machines offer an effective means of communicating in non-courtroom settings. OCA has purchased 20 of these machines, each with two laptop-style computer devices that allow hearing-impaired persons and court staff to communicate in real-time. Such devices already are available at the Monroe County Family Court information counter, allowing effective communication between hearing-impaired court users and court staff. The additional machines will be immediately deployed in every judicial district of the state.
- The availability of booklets, forms, instructions, web pages, and other materials in a variety of foreign languages provides another means of communicating with non-English speaking court users. As discussed below, the translation of additional materials will be expedited.
- Here, as in all aspects of interpreting services, training is crucial to success. A training program will be implemented so that, by September 2006, when remote interpreting will be available in non-courtroom settings statewide, all appropriate non-judicial staff will have been trained and fully prepared to assist court users obtain interpreting services.

**6. INCREASE INTERPRETER RESOURCES.** In addition to reviewing and in many cases increasing interpreter compensation, and in addition to expanding technological resources available for remote interpreting, OCA will expand other resources available to interpreters to assist them in their day-to-day jobs. For instance, because court testimony often requires interpreting legal, medical and other technical terms, it is important that interpreters have access to specialized multilingual dictionaries and glossaries. While these materials presently vary from court to court, the Office of Court Interpreting Services is surveying courts and senior court interpreters to identify materials that should form a basic, consistent toolkit for all court interpreters. It also will determine whether to obtain these materials centrally to facilitate efficient procurement. In addition, recognizing that the Internet can help interpreters do their jobs, it will develop and publicize appropriate web-based resources.

**7. EVALUATE FEASIBILITY OF TEAM INTERPRETING.** One inherent challenge of effectively managing court interpreters is that because no court administrator ever speaks all the languages interpreted in the courts, traditional mechanisms to supervise, assess and assist staff tend to be impractical in this important area. At the same time, however, there must be some mechanism to assure that interpreters perform their function accurately—it cannot be overstated that due process itself requires complete and accurate interpretation, without embellishment or coaching. Likewise, simultaneous interpretation can be an arduous task, especially for lengthy testimony, and even the most veteran interpreters can tire. Because only another person speaking the interpreter’s language can provide assistance and confirm accuracy of interpreting, some judiciaries have allowed interpreters to work together in select cases. By def-

inition, this option requires assigning two interpreters to a single engagement instead of one—an initiative that has been impracticable in New York owing to the volume of interpreting needs.

With enhancements to recruitment and more efficient management of interpreter resources, however, so-called “team interpreting” may be possible. Accordingly, a team interpreting pilot project will be undertaken in which select Spanish-language interpreters in the New York City courts will work together in longer court proceedings. This initiative, which will begin in summer 2006, will allow interpreters to:

- relieve each other periodically, thus minimizing interpreter fatigue in long proceedings;
- confirm each other’s accuracy; and
- assist each other with technical or otherwise complex interpreting.

OCA will monitor this pilot project and, based on feedback from interpreters, judges and other court staff, determine whether “team interpreting” should be expanded in the New York courts, subject to resource availability.

**8. EXPEDITE TRANSLATION OF ADDITIONAL PRINTED, ON-LINE, AND VIDEO MATERIALS.** The court system has produced an array of handbooks, court guides, forms, instructions and other materials to help the public better understand and navigate the legal system. Some of these materials have been translated into foreign languages, principally Spanish. A Working Group on Translation will be established to develop and oversee implementation of a plan for the translation and publication, in print and on-line, of additional materials. Among the charges of the Working Group will be a review of the court system’s public web site to determine what pages should be translated into foreign languages, and to recommend changes to make the web site more accessible and helpful to non-English speaking users. The Working Group will present its plan by July 1, 2006, and will thereafter report, on a quarterly basis, on the status of plan implementation.

**9. STRENGTHEN QUALITY CONTROL AND PROGRAM ASSESSMENT PROTOCOLS.** The goal of court interpreting is to enable accurate and effective exchange of information, regardless of hearing impairments or language barriers, so that everyone involved in a judicial proceeding can participate meaningfully, so that judges and juries receive the information that they need to reach an informed decision, and so that the official record accurately reflects what was said, regardless of the language in which it was first spoken.

By its very nature, interpreting provides opportunity for loss of nuance, misunderstanding, and even error. With the growing use of remote interpreting and real-time reporting, the failure can now also be technical.

To address these issues, OCA will develop and implement a comprehensive quality control program. This will not be an employee evaluation program—court-

employed interpreters are already covered by the existing employee performance evaluation procedures. This program will have a much broader objective: to identify problems in the delivery of interpreting services, so that corrective action can be promptly taken through such measures as additional training, the purchase of new equipment, or improved procedures. OCA's Division of Court Operations will develop standards and protocols for this program by September 1, 2006, which will include a mechanism for fielding and responding to complaints. It will thereafter deploy its staff to monitor practices and procedures and take appropriate corrective action. The monitoring protocols may include the recording and reviewing of randomly selected samples of court proceedings for the purpose of assessing the quality of interpreting services provided and identifying any problems in the delivery of services.

The Division of Court Operations will also develop procedures for the systematic collection of data on court interpreting, to provide a quantitative basis for assessing the program and identifying necessary changes. Reports that can be generated by the e-scheduling system will provide some of this data. In addition, the court system is in the process of developing and implementing various components of a Universal Case Management System, which will have the ability to generate data and reports about the use of court interpreting services, including information about the provision of services in individual cases.

**10. ENHANCE COMMUNITY OUTREACH AND EDUCATION.** A court interpreting program cannot be successful unless the intended beneficiaries are aware of and know how to access the available services. The language barriers themselves, of course, complicate this even more. An ongoing and multi-faceted outreach program is therefore essential.

The *We Speak Your Language* initiative begun in 2005 will continue and OCA will attempt to provide all appropriate community and advocacy groups with the promotional and educational materials. The translation of additional publications and web pages into foreign languages, discussed above, will also foster awareness of the program. Other steps that will be taken to ensure broad community awareness of the court interpreting services available are:

- Beginning in May 2006, the Office of Court Interpreting Services will host regular meetings with community and advocacy groups to ensure that these groups understand and can help publicize to their constituents the available services, and so that the court system learns of problems and concerns about those services;
- The Office of Court Interpreting Services will meet regularly with representatives of the Offices of the Self-Represented, to ensure that these offices, which serve many of the same court users, coordinate their efforts effectively; and
- A Working Group on Court Interpreting Outreach will be established to develop and implement a plan for community outreach and education.

The Working Group, which will include representatives of the Office of Court Interpreting Services and the Office of the Deputy Chief Administrative Judge for Justice Initiatives, will present a plan by November 1, 2006, and will thereafter report on a quarterly basis on plan implementation.

## **F. TOWN AND VILLAGE JUSTICE COURTS**

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While constitutionally part of the Unified Court System, Town and Village Justice Courts are operated, financed and administered by their local governments, with limited financial and technical assistance from the State. OCA provides guidance and other assistance through the Town and Village Court Resource Center.

As with the State-paid courts, the need for interpreters varies widely among the Justice Courts, based on the specific court's location and the demographics of the community; statewide, Justice Court needs for interpreters are focused on Spanish, French, Russian and Sign Language interpreters. What tends not to vary is the Justice Court system's lack of interpreter resources: Justice Courts have no interpreters of their own, no guidelines for interpreter credentials, no training systems, and no coordination to harmonize their independent administration in this important area. While each Justice Court can contact the Resource Center for assistance on interpreter issues, many do not, and thus there is no institutional way for the court system or the Office of Court Interpreting Services to learn of interpreter issues in the Justice Courts or how those issues are being addressed.

Of particular concern are Justice Court arraignments conducted late at night or on weekends, with no effective means of contacting an independent interpreter. While a defendant in a post-arraignment proceeding receives proper interpreting assistance in a State-paid court, the same defendant may lack proper interpreting assistance at arraignment in a locally-paid court in the very same case. Given the due process and access-to-justice implications, anecdotal reports that relatives or arresting officers serve as interpreters for arraigned defendants are especially troubling.

The Office of Court Interpreting Services and the Resource Center have begun collaborating with the Justice Courts to identify their interpreting needs, provide guidance and share resources. To facilitate speedy and efficient Justice Court access to qualified interpreters, the Registry of per diem interpreters will be made available to Justice Courts immediately both on-line and in hard copy. OCA also will provide Justice Courts with a Court Interpreter Resource Package that will include –

- the list of dictionaries and other interpreting materials OCA identifies for standard use in the State-paid courts;
- the interpreter voir dire questions; and
- the Court Interpreter Manual and Code of Ethics.

OCA also will expand assistance to Justice Courts in the area of training. In July 2005, the Coordinator of Court Interpreting Services addressed a group of Town and Village Judges

on issues including interpreter ethics, interpreter credentials and interpreter voir dire. Based on the success of this limited effort, interpreting issues will become a standard part of the training program for Town and Village Judges.

Perhaps the most important contribution the State Judiciary can make, however, is to help promote circumstances under which all hearing-impaired or non-English speaking persons facing criminal charges in Town and Village Justice Courts can obtain the assistance of independent and qualified interpreters. Sharing with Town and Village Courts the Registry of per diem interpreters may help, but only if local justices and court administrators faithfully use it.

Recognizing that independent and effective interpretation is essential both to the appearance and reality of due process, the Judiciary will establish a Task Force on Justice Court Interpreting to work with Justice Courts and other justice stakeholders on improving access to interpreting services for Justice Court defendants. The Task Force's first responsibility will be comprehensively to assess parties' access to qualified interpreters in the Justice Courts and any barriers to securing the language assistance they require. The Task Force will be asked to complete this assessment by January 1, 2007. Based on the results of this study, the Task Force will also be asked to formulate options—whether operational changes, court rules or legislative initiatives—to ensure proper access to interpreter services and to assist local governments in meeting this critically important responsibility.

One proposal the Task Force will be asked to consider is a court rule requiring Justice Courts to assess each defendant's communication capacity before arraignment, and where a court concludes that a defendant is not fluent in English or is hearing impaired, the court must make good-faith efforts to locate a qualified Registry interpreter to provide interpreting services either live or by telephone. Such a rule, which would supplement the recent amendment to the Uniform Rules for Trial Courts governing Justice Court designation of indigent defendants in certain criminal cases, presumably would require Registry interpreters to indicate that they would be willing to be called for service at off-hours, and also presumes financial protocols to ensure proper payment of these interpreters. Whether the Task Force embraces this approach or another, what is clear is that especially when defendants are both indigent and not fluent in English, the due process implications of conducting Justice Court proceedings against such persons without independent, competent and publicly-paid interpreters are inconsistent with New York's commitment to fair and unfettered access to justice.





## IV. CONCLUSION \_\_\_\_\_

**T**HE JUDICIARY IS COMMITTED, ABOVE ALL ELSE, to making real the promise of equal justice under law. Especially in so diverse a state as New York, that commitment must rise above hurdles that language differences and hearing impairments present. The initiatives unveiled in this Action Plan, and the future initiatives that will follow in its wake, will continue to ensure that New York is second to none in ensuring that all parties to our justice system have the complete and unfettered access to the courts that our Constitution and laws require.





