



Talking the Talk: A National Study of Court Interpreters

Preliminary Data and Recommendations on Language Access in NYS Courts

Introduction

Our courts should be open and accessible to all, especially to the most vulnerable members of society who lack experience with the judicial system but are in greatest need of its services. Our 19 years of work at Sakhi for South Asian Women have demonstrated the significant role court interpreters play in the quest for justice for many immigrant survivors of domestic violence.

Helping illustrate the need for greater access is the 2000 United States Census, which provides a breakdown of how many individuals have some difficulty with the English language. The national census data shows that 8.1% of the population five years and over speak English less than “very well.” In New York State, that percentage is even greater, showing that 13% of the population 5 years and over speak English less than “very well.”

With this reality in mind, Sakhi for South Asian Women, in conjunction with the members of the Justice Speaks Initiative¹, is pleased to present its policy recommendations following the completion of our landmark national survey—the first of its kind conducted with court interpreters. We sincerely hope that these findings will serve as a guide and standard of reference for improving the court system’s accessibility to Limited English Proficient (LEP) individuals in the United States.

Methodology

As a leading member of Justice Speaks: Initiative on Ensuring Language Access in the Justice System, Sakhi crafted the survey in 2006 with key collaborators including Justice Speaks Co-chair Catherine Shugrue dos Santos of Sanctuary for Families, Susan Shah of the Vera Institute of Justice, former Sakhi Legal Advocate Saveen Kaushal, and members of the Initiative.

The survey received an Institutional Review Board exemption through the Vera Institute. A pilot survey was conducted at the 2006 National Association of Judiciary Interpreters and Translators conference. The data were then used to fine tune the survey to its final format. To see a copy of the survey, please visit www.sakhi.org/about/Survey.php.

We acquired contact information for court interpreters through several public databases. Sakhi policy intern Pooja Faldu reached out to an estimated 2,000 interpreters, and inputted and aggregated data

from surveys from 157 respondents from May 2007 to April 2008, including 20 from New York State.

Sakhi maintained a record of e-mail addresses and contact information for the purposes of publicizing survey results. The interpreters received notification of our intention to contact them about the survey results. Their contact information was not linked to their completion of the survey, thus ensuring anonymity.

Survey results were inputted manually into Zoomerang, a web-based survey software tool. Through Zoomerang, we disaggregated the data and conducted data analysis based on the results. From these results we compiled a series of key findings and recommendations, included in the following pages of this preliminary report.

General Overview

Our survey sample represents court interpreters who are highly-educated professionals who strive to perform their jobs well. Survey data show they aim to improve their performance as well as others' understanding of their role in the courts. We hope their existing efforts and interest in making further improvements to the system will serve as a critical motor in spearheading needed enhancements.

Our survey further shows that courts generally do a good job of ensuring proper scheduling for interpreters, and that court users in New York State receive interpreting services within 12 hours more than 80% of the time.

The data also illustrate that there are three broad categories where critical gaps and flaws must be addressed. Interpreters are in need of more consistent and rigorous training, especially in sensitive matters. Attorneys and judges must also do a better job of both understanding interpreters' roles and explaining this role to the public. Finally, non-Spanish language interpreters require greater resources in order to bring all court users' experiences up to par with that of Spanish-speaking individuals.

What is Working

The court interpreters who responded to the survey are a highly-educated group of individuals. Almost half of surveyed interpreters at least attended a two to four-year college, and a further 45% hold post-graduate degrees. Additionally, almost three-quarters of surveyed court interpreters have been judicial interpreters for at least five years.

In New York State, the interpreter sample pool reflected a higher number of interpreters in their first year of work (15% compared to 8% nationally) and fewer interpreters with post-graduate degrees (15% compared to 45% nationally). While 70% also had worked as interpreters for five or more years, the New York State pool may indicate a need for the courts to enhance job training and quality in order to compete for workers in the state's highly-competitive labor market and reach the national standing.

In addition to employing a resource pool of significant education achievement, the courts generally enable efficient scheduling: 79% of interpreters revealed that the courts rarely or never made errors

regarding their schedules. For New York State, the findings are even stronger, as 83% of court interpreters said the courts rarely or never made errors regarding their schedules.

Within New York State, court interpreters noted that 83% of the time, individuals received court interpreting services within 12 hours, which compares very favorably with the national average of 60%. The continued implementation of Rule 217, which obligates New York courts to ensure an interpreter, will enable even more improvement in this area.

Recommendations

In addition to the positive findings, the survey data also point to areas in need of targeted systemic enhancements. Key areas include:

:: Interpreter Training and Continuing Education

1. Court interpreters should be given training on matters they interpret for routinely, including domestic violence, sexual assault, and child abuse.

While 80% of respondents had interpreted in order of protection hearings in the criminal justice system, and 74% had interpreted in similar hearings for the civil justice system, a vast majority received no training in at least one of these three critically-sensitive types of cases (35% in domestic violence, 24% in sexual assault, and 17% in child abuse). Furthermore, a solid majority of court interpreters expressed interest in getting training in these areas (59%, 64%, and 67%, respectively).

New York State data mirror the patterns prevalent nationwide. Of those surveyed, 70% have served in order of protection/restraining order hearings for the criminal justice system and 68% have served in such cases for the civil justice system. However, only 17% of interpreters received training in both sexual assault sensitivity and child abuse sensitivity, and just 33% of court interpreters received training in domestic violence sensitivity.

Furthermore, the New York State sample shows order of protection/restraining order hearings are the second-highest category in which court interpreters have worked for in the criminal and civil justice systems.

These data point to the need for more training in areas where interpreters routinely interface with these critical life-changing issues.

2. Courts should sponsor regular and continuing education for court interpreters so interpreters can stay updated on developments in the field and advance their skills.

Court interpreters expressed interest in obtaining additional training in areas where they have already received it. More than half (56%) said that confidentiality training would make them more effective, even though over nine out of ten (91%) already received training in this area. Solid majorities also said they wanted more training in developing a legal glossary (63%), learning legal procedures and terminology (70%), and understanding an interpreter's role (61%).

For New York State, 72% of court interpreters received training in developing a legal glossary. And yet, 63% nonetheless wanted to receive more training in this area. While 89% received training in legal procedures and terminology, 74% wanted more training in this area in order to make their work more effective. Almost all interpreters working in New York State received training in the role of an interpreter. Despite this figure, 63% believed that further training in this area would make their work more effective.

These data emphasize the desire of court interpreters to receive continuing education and professional development in order to perform their jobs more effectively.

Overall, almost one-fifth of court interpreters who have worked for at least five years noted that difficulty in translating particular legal and non-legal terms served as a barrier to their ability to interpret effectively. About twice as many court interpreters with less than five years experience reported the same problem. Investing in continuing education will enable interpreters new to the field learn from seasoned peers.

3. Court interpreters require a more consistent and effective certification and evaluation process in order to perform their role properly.

Only one-third of certified court interpreters were given written English proficiency exams and less than two-fifths were given written bilingual exams. Almost a quarter of certified interpreters cited difficulty in translating specific legal and non-legal terms as a barrier to effective interpretation, and almost three quarters of non-certified interpreters said inappropriate compensation was an impediment to effective translation.

:: Training for Attorneys and Judges, and Increasing Public Awareness

1. Attorneys and judges should receive training on how to use court interpreters in order to ensure cohesion between the role of an interpreter in proceedings and what attorneys and judges should expect from a court interpreter.

Most court interpreters indicated that attorneys and judges need more training on how to use interpreters' services, with two-fifths disagreeing with the view that judges were trained on how to best use their services, and more than half disagreeing with the view that attorneys were trained to use their services. Half the respondents also said court personnel created barriers for effective job performance. These data demonstrate a lack of systemic court support for interpreters to do their jobs well.

2. Attorneys and judges should explain the role of the court interpreters to court users.

More than half of respondents said judges rarely or never explain the role of a court interpreter to the parties in the court room, and that attorneys rarely or never explain the role of a court interpreter to their clients. Transparency and a clear-cut understanding are essential for individuals who are already in a new and unfamiliar environment facing a stressful situation.

Within New York State, 37% of respondents said judges never or rarely explain the role of a court interpreter to parties in the courtroom. Another 27% said that attorneys rarely or never explain the role of an interpreter to their clients.

3. The public should have greater access to information regarding the use of a court interpreter in order to ensure proper delivery of court interpreter services.

More than half of those surveyed said the public rarely or never understands the role of interpreters. Documents should be made available to fully explain the role of interpreters to those who require their services.

In New York State, 39% of court interpreters said that the general public rarely or never understood the role of a court interpreter. Although this figure is lower than the national sample, the high concentration of an immigrant population makes improvement in this area imperative.

:: Need to Increase Attention to Languages Other Than Spanish

1. Non-Spanish language interpreters face additional hurdles to providing effective service that must be lowered.

More than nine out of ten Spanish language court interpreters are certified in the states they are currently working in, but only a little more than six out of ten non-Spanish interpreters are certified. Spanish language interpreters also reported being trained in legal procedures and terminology at a higher rate than other interpreters. Court users needing Spanish interpretation also typically endure shorter waiting periods: almost half of non-Spanish language interpreters said those using their services had to wait more than 24 hours to receive interpreting services, while a little over one-tenth of Spanish language interpreters reported the same problems.

Further Areas to Explore

Three additional areas of note also warrant our attention: interpreter preparedness, potential conflict of interest, and problems with the court room set-up faced by New York State interpreters in particular.

Court interpreters expressed needing more information prior to performing their duties: 39% of respondents said they rarely have adequate information about a case before entering the courtroom, with a further 10% saying they never do. In New York State, 28% of respondents said they are rarely prepared and 22% said they are never prepared ahead of time adequately. These numbers indicate a clear and pressing need for more cooperation and communication between court staff, attorneys, judges, and interpreters.

The data also demonstrate the potential for conflicts of interest: 24% of respondents rarely interpreted for someone they know personally, with 4% doing so somewhat frequently. In New York State, 16% said they rarely ran into this scenario with 21% saying they did so somewhat frequently. The high New York State percentage, combined with the serious potential for ethical violations or conflicts of interest, make this area worthy of the court administration's consideration.

Court interpreters from New York State experienced more resistance from court personnel in removing barriers to interpretation than interpreters in other states by a margin of eight percentage points. More than a fifth of these interpreters also encountered a poor courtroom setup very frequently - almost double the number of interpreters outside the state.

Work Ahead

Over the next year, in conjunction with members of the Justice Speaks Initiative, Sakhi will further analyze data, conduct focus groups, and produce a final report on language access in the courts. We hope these activities will form a base for enhancing interpreter services in New York and nationally so that everyone can access justice.

For questions or further information on our work, please contact either our Executive Director Purvi Shah (212-714-9153 x101, Purvi.shah@sakhi.org), or our Communications Coordinator Mohammad Alam (212-714-9153 x100, mohammad.alam@sakhi.org).

Notes:

1. The following individuals are members of the Justice Speaks Initiative; the organizations they are affiliated with are included for reference purposes only: Co-Chair Purvi Shah, Sakhi for South Asian Women; Co-Chair Catherine Shugrue dos Santos, Sanctuary for Families; Noele Aabye, inMotion; Laura K. Abel, Brennan Center for Justice at NYU School of Law; Shelly Agarwala, Safe Horizon Domestic Violence Law Project; Pui Chi Cheng, New York City Bar Association; Tony Christopher, NY Foundling; Kalima DeSuze, Voices of Women Organizing Project; Rodolfo Estrada, Vera Institute of Justice; Pooja Faldu, Sakhi for South Asian Women; Peter Glick, Court Attorney; Alice Ho, Brennan Center for Justice at NYU School of Law; Saveen Kaushal, formerly of Sakhi for South Asian Women; Joe Lamport, City Wide Task Force on Housing Court; Jaye Miller, Voices of Women Organizing Project; Sarah Riffat, The Center for Court Innovation; Amy Taylor, Legal Services for New York City; Insha Rahman, Vera Institute of Justice; Adélia Ramos de Almeida, Court Interpreter; Susan Shah, Vera Institute of Justice; Josiris Ureña, City Wide Task Force on Housing Court.

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