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# CURRENT DILEMMAS IN COURT INTERPRETING: IMPROVING QUALITY AND ACCESS THROUGH SMARTER TESTING AND ADMINISTRATION PROTOCOLS

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## Abstract

Court interpreting certifying bodies face a plethora of challenges in their quest to identify competent judicial interpreters so that speakers of all languages might be assured of due process under the law and equal access to justice. For the entities which develop and administer the oral certification exams which act as gateways to the profession of court interpreting, two such dilemmas are of particular interest: the first is high rates of exam failure, with a frustrating number of candidates not meeting minimum levels of qualification to practice in court. The second is an increasing need for qualified interpreters of languages of lesser diffusion. In the face of ubiquitous budget constraints, this article explores an abbreviated testing model as a mitigator of extreme exam failure at the same time as it reveals the results of a recent pilot project which focused on centralizing interpreting services protocols while prioritizing interpreter quality.

## Resumen

Los organismos oficiales que certifican a los intérpretes jurídicos se enfrentan a un gran número de desafíos a la hora de identificar a intérpretes competentes. Para las entidades que desarrollan y administran los exámenes orales de certificación, dos de estos dilemas son de especial interés. Uno de esos dilemas es el alto número de fracasos en los exámenes, ya que muchos de los candidatos no cumplen los requisitos mínimos en los exámenes de certificación. El segundo es una necesidad creciente de identificar a intérpretes cualificados en lenguas de menor difusión. A la vista de las limitaciones presupuestarias actuales, el presente artículo explora un modelo abreviado

de examen que pudiera ayudar a disminuir el número de postulantes que suspenden los exámenes de certificación. Al mismo tiempo se revelan los resultados de un estudio piloto enfocado en la centralización de servicios de interpretación cuya prioridad fue seleccionar intérpretes cualificados.

**Keywords:** Court interpreting. Certification exams. Assessment. Interpreters of languages of limited diffusion. Bifurcated testing models.

**Palabras clave:** Interpretación jurídica. Procesos de certificación de intérpretes. Evaluación. Interpretación de lenguas de menor difusión. Método bifurcado.

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## 1. Introduction: Defining the Dilemmas

Court interpreting credentialing bodies face a plethora of challenges in their quest to identify competent judicial interpreters so that speakers of all languages might be assured of due process under the law and equal access to justice. For the entities which develop and administer the oral certification exams which act as gateways to the profession of court interpreting, two such dilemmas are of especial interest: the first is high rates of exam failure, with a frustrating number of candidates not meeting minimum levels of qualification to practice in court. The second is an increasing need for qualified interpreters of languages of lesser diffusion<sup>1</sup> (LLD). In the face of ubiquitous budget constraints, how can the development of more oral certification exams in additional languages be feasibly accomplished in order to put such languages on equal footing with those for which full certification exams already exist?

Based on data from what was until very recently known in the United States as the Consortium for Language Access in the Courts<sup>2</sup> as well as on results of a pilot study carried out in a judicial district in the state of Wisconsin, this article contemplates these two dilemmas and aims to use study results in order to make recommendations to testing bodies and court interpreting program administrators. It aims to examine an alternative testing procedure as well as smarter protocols for contracting interpreting services in the courts, all with an eye towards improving interpreter quality and increasing language access to justice. The ideas and solutions discussed come from a

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1. Languages of lesser (or limited) diffusion are those with comparatively fewer speakers in any given geographical area. Logically, then, a language may be highly represented in one community and yet be considered an LLD in a neighboring region.

2. In April of 2012 the Consortium was reconfigured and renamed. It is now known as the Council of Language Access Coordinators. Nonetheless, the Consortium / Council continues to function as a multi-state partnership dedicated to “address(ing) resource shortages by defining and implementing standards for identifying proficient, qualified interpreters. Without those standards, state courts risk employing unqualified interpreters, leaving equal access to justice for linguistic minorities an unfulfilled obligation” (*Increasing Access* 2007: 27). Furthermore, the certification exams administered by this entity are still referred to as Consortium exams.

variety of stakeholders and have been supported by quantitative research and / or field testing. They have been backed by the judiciary and, in the case of the abbreviated testing model to be discussed, they have been sanctioned for use in three states<sup>3</sup> by their respective Language Access Coordinators.<sup>4</sup> What is particularly compelling about the research presented here is that it stems from a variety of real-world sources. In other words, the solutions explored here are industry-driven and yet field-tested and methodologically sound. Empirical research drove the study which explores testing mechanisms which help to diminish exam failure; in tandem, the centralized interpreter service protocols discussed herein were put into practice by stakeholders in the judiciary through innovative policy experiments with notable results. Much of the data discussed comes from internal court documents, discussions which took place at meetings of a state Supreme Court committee for one U.S. state, and from my own personal experience as an interpreter in the judicial district in which the pilot project occurred.

Because the protocols for administering state-level oral certification exams are at the core of the dilemmas discussed in this article, contextualization of current examination practices is essential. Until very recently in the United States there have been three credentials available to court interpreters: the FCICE (Federal Court Interpreter Certification Exam), the state-level certification administered by the Consortium for Language Access in the Courts, and the credential offered by the National Association of Judiciary Interpreters and Translators (NAJIT), which is called the National Judiciary Interpreter and Translator Certification (NJITCE).<sup>5</sup> All three of these oral exams in their full versions include, at the very least, exercises in simultaneous interpreting, consecutive interpreting, and sight translation both into and out of the non-English language (Wallace 2010: 46). The Consortium exams, when administered in their full versions, consist of four parts based on actual transcripts or other court documents, including sight translation of a document

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3. See a discussion of the use of the bifurcated testing method in New Jersey, New Mexico and Idaho in section 4.3.3 of Wallace 2012, a doctoral dissertation available at [http://rua.ua.es/dspace/bitstream/10045/28364/1/tesis\\_melissawallace.pdf](http://rua.ua.es/dspace/bitstream/10045/28364/1/tesis_melissawallace.pdf).

4. Since the 2012 reconfiguration of the Consortium (see note 2), all U.S. states and territories have a Language Access Coordinator. Formerly referred to as Court Interpreter Program (CIP) Managers, each of these representatives is charged with developing policies and programs that facilitate linguistic access and promote competent and professional interpreting in the courts. For the purposes of this article, the titles Language Access Coordinator and Court Interpreter Program (CIP) Manager will be used interchangeably.

5. The NAJIT certification exam was discontinued in 2012.

written in English interpreted orally into the non-English language, sight translation of a document written in the non-English language interpreted into oral English, consecutive interpreting from English into the non-English language and from the non-English language into English, and simultaneous interpreting from English into the non-English language (National Center for State Courts 2012: 2-3).<sup>6</sup>

### *1.1 Widespread oral exam failure*

Before discussing bifurcated testing and centralized interpreting services protocols, it will be useful to empirically establish the severity of the first dilemma discussed in this article: widespread exam failure on oral certification exams for court interpreters. Contextualizing such failure both on statewide and on nationwide levels will help to situate the importance of the results of the studies to be discussed. As an appointed member of the state Supreme Court Committee for the Improvement of Translation and Interpretation in the Wisconsin Courts,<sup>7</sup> I was privy to internal statistics for the state of Wisconsin which document extremely high levels of oral exam failure. The state's Court Interpreter Program (CIP) Manager, Attorney Carmel Capati, consistently reports extremely low pass rates for each oral exam testing cycle, most especially in languages of lesser diffusion. As a case in point, consider that in 2011 in the study site of the state of Wisconsin 42 candidates sat for the final oral certification exam. Examinees needed to score at least 70% on each of the four sections of the test (sight translation into and out of the non-English language, consecutive, and simultaneous) in order to pass it and earn certification. While some scores from the September round of testing were not available at the time the data were disseminated to members of the Committee to Improve Translation and Interpretation in the Wisconsin Courts, the table below reflects that a mere 9.5% of all candidates attempting the oral exam passed. These consisted of four Spanish-language examinees and not a single one from any other language.

6. Some states opt to oblige candidates to pass a written test before being allowed to sit for the oral exam. The written exams are not Consortium-sanctioned and no empirical studies have proven their predictive validity.

7. The Committee to Improve Translation and Interpretation in the Wisconsin Courts is a state Supreme Court advisory committee that provides policy and guidance on interpretation and translation issues to the Director of State Courts. I was an appointed member of this committee for two terms (from November 2010 to March 2013).

Table 1. 2011 Oral Examination Results

| Oral Examination | How Many Took Test | How Many Passed | Pass Rate   |
|------------------|--------------------|-----------------|-------------|
| Spanish          | 32                 | 4*              | pending     |
| Russian          | 3                  | 0               | 0%          |
| Hmong            | 2                  | 0*              | pending     |
| Polish           | 1                  | 0               | 0%          |
| French           | 1                  | 0               | 0%          |
| Mandarin         | 1                  | 0*              | pending     |
| Vietnamese       | 1                  | 0*              | pending     |
| Portuguese       | 1                  | 0               | 0%          |
| <b>TOTAL</b>     | <b>42</b>          | <b>4*</b>       | <b>9.5%</b> |

(\*September 2011 test results not available. Adapted from Capati 2011: 1).

Similarly, exam failure rates on a national level were quantified in a 2012 study which examined 5,916 raw oral exam scores in the Spanish / English language pair – the most frequent language combination for examinees in the United States. Scores provided by the Consortium for Language Access in the Courts covered a fifteen year period, from 1995 to 2010, and reflected the results of more and more participating states over time as more of them voluntarily joined the Consortium through the years. Significantly, the data extrapolated from the Consortium data set analysis represents an entire population, not a sample. In other words, the numbers discussed are actual values and are not subject to sample variability. In the absence of demographic factors associated with the scores, the sizeable Consortium data set was analyzed on three distinct levels, focusing on:

1. Those examinees who passed examinations on all three modes of interpreting on the oral certification exam and thus met a minimal standard to practice in court (referred to as full-pass examinees);
2. Those who passed two exercises and thus could feasibly train to re-take the exam, often with a reasonable chance to pass (partial-pass examinees); and
3. Those who met a minimal standard of interpreting performance in only one mode of interpreting tested (low-pass examinees) (Wallace 2012: 235).

Finally, those interpreters who did not pass a single mode of interpreting (referred to as no-pass examinees) were identified as well. Table 2 depicts the

overall categorization of the 5,916 examinees whose scores are reflected in the Consortium data set:

Table 2. Overall Classification of Examinees

| Categorization  | Number of examinees | Percentage of examinees |
|---|---------------------|-------------------------|
| Full-pass examinees (passed all 3 exercises and thus entire certification exam) | 1,059               | 17.90%                  |
| Partial-pass examinees (passed 2 of 3 exercises)                                | 707                 | 11.95%                  |
| Low-pass examinees (passed 1 of 3 exercises)                                    | 1,021               | 17.26%                  |
| No-pass examinees (failed all 3 exercises)                                      | 3,129               | 52.89%                  |
| <b>TOTAL</b>  | <b>5,916</b>        | <b>100%</b>             |

Table 2 depicts a striking number of examinees who failed all three exercises. In fact, over half of all examinees (52.89%) were unable to pass even a single mode of interpreting at the minimum level of 70%, which was the cut-off score for all of the exercises: simultaneous, consecutive, and sight translation in each direction (English to foreign language and foreign language to English). The number of no-pass examinees stands in notable contrast to all of the other categories. To be sure, exam failure by over half of all Spanish / English examinees is one of the salient features of the overall categorization of the test-takers, with a nationwide overall pass rate of 17.9% over the fifteen year period. While the reasons for such high levels of exam failure are beyond the scope of this article, the problem of how to mitigate the impact of high failure rates is addressed, that impact being twofold: first, failing examinees absorb staff time and court interpreter program (CIP) resources. Second, this excessive use of staff time, infrastructure and rating expenses are especially burdensome when the goal of identifying qualified court interpreters is simply not being met.

### *1.2 Unqualified practitioners*

The second current dilemma in court interpreting under examination is the prolific use of unqualified interpreters in court, a problem which varies in the United States from state to state but which is considered to be a pervasive challenge in the judiciary even for the Spanish / English language pair – the language pair for which the U.S. has the most certified court interpreters both at the state and federal levels. In other words, the challenges posed by



unqualified practitioners are even more acute for LOTS, an acronym of common usage in the United States that denotes “languages other than Spanish.”

While there are no data available which quantify the use of uncertified (let alone unqualified) interpreters in the United States as a whole, traditionally judges have had the authority to contract with any interpreter at their discretion, and at times community relationships are known to trump good judgment when it comes to the selection of a qualified interpreter. Furthermore, agencies are reputed to be unreliable in providing certified or even qualified interpreters, especially in very remote or rural areas. For languages of lesser diffusion, many CIP managers agree that there has been little success in identifying, training and certifying LLD interpreters, and many identify this as one of their most urgent priorities.<sup>8</sup> Overall, as a result of hiring practices that are conditioned by habit, personal relationships, convenience or low cost, certified interpreters lose work to unqualified practitioners and, more egregiously, court users experience diminished access to due process in their dealings with the court.

## 2. Solutions from the Field

This article proposes two solutions to the dilemmas of expensive exam failure and to difficulty in identifying, training and certifying more qualified LLD interpreters for the courts. The first solution represents smarter testing by means of an abbreviated method which eliminates vastly incompetent candidates while absorbing fewer state CIP resources. The second proposed solution represents smarter interpreting services protocols through the use of a field-tested model which creates standards for the hiring and contracting of interpreters. In tandem, the two proposed solutions offer the potential to improve the quality of interpreting in the courts (in commonly used as well as more exotic languages) while increasing access for limited English proficient (LEP) court users.

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8. Nearly 300 judicial leaders from 49 states, 3 territories and the District of Columbia gathered in Houston, Texas on October 1-3, 2012 for the first National Summit on Language Access in the Courts. The Summit was sponsored by the Conference of Chief Justices (CCJ), the Conference of State Court Administrators (COSCA) and the National Center for State Courts (NCSC). For a more detailed analysis of language access priorities in the judiciary, see the results of the pre-summit assessment (National Center for State Courts 2013: 2-10) as well as a series of proposed “individual state action steps” (19-41).

## 2.1 *Smarter testing*

The alternative testing solution stems from results of a 2012 study in which the previously-referenced Consortium data set was analyzed with an eye to seeing whether or not success in one mode of interpreting could potentially predict successful performance in the other two modes. In other words, one of the main research questions was whether or not the utilization of an abbreviated testing model, positing the mode that appears to predict overall success as a screening exercise, could be statistically justified. This type of testing is known as the bifurcated method. A bifurcated certification testing method tests simultaneous interpreting, consecutive interpreting and sight translation exactly as a traditional, full-length performance-based exam does, but it simply does it in two phases. The 2012 study reveals substantial data supporting the relationship between success in the simultaneous mode and overall success on Consortium certification exams.<sup>9</sup> Hence, the implementation of a bifurcated model (with the simultaneous exercise used as an initial screening exercise, to be followed with exercises in the consecutive and sight translation modes for those who pass simultaneous) appears to be a promising key component of newly developed abbreviated oral exams for languages of lesser diffusion, the reason being that current costs for developing exams for additional languages, costing upwards of \$30,000 each, represent a staggering responsibility both for U.S. states with shifting immigrant populations as well as EU stakeholders charged with developing court interpreting certification protocols for all member states. Put quite simply, testing first in one phase in the simultaneous mode greatly reduces the use of personnel, CIP office resources, time and, most significantly, it reduces the expense of hiring qualified exam raters while at the same time eliminating many unprepared or unqualified examinees. A bifurcated testing approach has the potential to identify those candidates who are most likely to perform successfully in all three modes of interpreting in the certification testing context, saving time and money in the process.

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9. For more exhaustive discussion of the 2012 study, see Wallace 2013.

Table 3. LOTS Exam Rating Costs in Relation to Passing Candidates

| Language Tested (full-length exams)                                     | Number of Candidates | Cost to Candidate to Take Exam | Cost to CIP to Rate Exam | Number of Candidates Certified |
|---|----------------------|--------------------------------|--------------------------|--------------------------------|
| Hmong   | 1                    | \$225.00                       | \$480.00                 | 0                              |
| Somali  | 1                    | \$400.00                       | \$710.00                 | 0                              |
| Korean  | 1                    | \$225.00                       | \$250.00                 | 0                              |
| Total number of LOTS candidates certified in June 2012 testing cycle: 0 |                      |                                |                          |                                |

(adapted from Capati 2012: 8-9).

The bifurcated testing method is already currently in place in three U.S. states and, in spite of the fact that it has proven to be valid and reliable from a testing theory perspective (Wallace 2012: 188-207), it has traditionally met resistance due to the supposition that candidates should take all three interpreting exercises in one sitting in order to prove that they have both the skills and the requisite stamina to interpret on the job (Wallace 2012: 218-220).

Issues of feasibility and cost savings may be compelling, however. As depicted by Table 3, for languages other than Spanish (LOTS) tested during the June 2012 testing cycle for the state of Wisconsin, the expense of rating exams in LOTS languages represented a loss from an economic standpoint: not even a single non-Spanish interpreter attained certification.<sup>10</sup> While inevitably more qualified Spanish-language candidates are identified than those of LOTS languages, with across-the-board fail rates even for Spanish hovering around 80%, high exam failure rates continue to represent a significant outpouring of funds when few qualified candidates are identified.

## 2.2 Smarter interpreting services protocols

Indeed, identifying and certifying qualified candidates, especially in languages of lesser diffusion, is a constant challenge. One bold policy initiative, nonetheless, represents an initiative that was fueled by the desire to contract the most qualified interpreters available for all interpreted events for

10. Meeting notes of the October 26<sup>th</sup>, 2012 gathering of the Committee to Improve Translation and Interpretation in the Wisconsin Courts indicated that “Ms. Capati said the cost to rate the oral and written tests varies across languages and that it is always less expensive to rate Spanish tests because there are many raters to choose (from)” (Capati 2012: 8-9).

all languages. The District 7 Court Interpreter Pilot Program was authorized in Wisconsin 2009 Act 28, the Biennial Budget, as a two-year project under which the director of state courts could schedule and make payments to court interpreters who provided court interpretive services for the circuit courts in the 7<sup>th</sup> Judicial District. The Act further provided that the director of state courts could pay for circuit court interpreter services if the counties in the 7<sup>th</sup> Judicial District agreed to forego reimbursement for those services. The pilot project, then, radically changed standard operating procedure for identifying and contracting court interpreters in several significant ways on an administrative level: first of all, by taking the power to hire interpreters out of the hands of local judges and clerks of court, some of whom had the practice of hiring interpreters who were not certified even when certified interpreters were available. Furthermore, as counties have traditionally been reimbursed by the state for their court interpreting expenses, relinquishing this reimbursement also meant relinquishing the burden of negotiating interpreter fees and dealing with other money-related aspects of hiring interpreters.

The two-year project had the following objectives:

1. Improve the quality of court interpretation in District 7 by providing counties where no certified interpreters reside access to quality interpretation and reducing the use of uncertified interpreters;
2. Make better use of certified Spanish interpreters by scheduling them for remote interpreting assignments when appropriate;
3. Reduce costs associated with interpreter travel time through increased use of remote interpretation;
4. Determine whether state administration of interpreter assignments is feasible, provides for better quality interpretation and is cost effective; and
5. Provide actual cost data for state-managed certified interpreting services (Brummond & Mikshowsky 2012: 3).

The ambitious project transferred responsibility for locating, scheduling and providing interpreters in the entire judicial district to the District 7 Court Administrator's office. Scheduling, recordkeeping, invoicing and communication systems were developed to administer the pilot; memoranda of understanding were drafted for all circuit court judges in the entire district comprised of twelve counties, and all judges agreed to participate. Interpreter contracts were created. The District Court Administrator, Patrick Brummond, and Karen Mikshowsky, the District Administrative Assistant,

identified four key aspects to the pilot that would govern its functioning. First, the roles and responsibilities for all participants were clarified and documented. Second, block scheduling was implemented. In other words, counties with large Spanish-speaking populations at their traffic and criminal intake sessions would begin to schedule all of their interpreted events at the same time, thus making better use of the interpreter's time and availability. Next, interpreter hiring was centralized and was placed under the authority of the District Court Administrator's office. Finally, Brummond and Mikshowsky developed a series of "quality of interpreter standards" which guided every interpreter scheduling decision throughout the pilot. The standards were:

1. Wisconsin court certified interpreters would be used for all court interpreting.
2. The pilot would execute contracts with only court interpreters certified in Wisconsin.
3. If no Wisconsin certified court interpreter could be scheduled, certified court interpreters from neighboring states would be contacted.
4. If a court certified interpreter could not be scheduled, a qualified interpreter would be contacted.
5. Certified interpreters would be provided either on-site or remotely (telephone).
6. A certified interpreter would be provided remotely over a qualified or uncertified on-site interpreter.
7. Notwithstanding block schedules or special circumstances, court hearings of 30 minutes or fewer would be covered by a certified remote interpreter.
8. Trials or complex and longer hearings of two hours or less would be covered by a certified on-site interpreter.
9. Complex or longer trials lasting more than two hours would be covered by two certified on-site interpreters.
10. Late notice or emergency interpreter needs would be covered remotely by one interpreter agency with a certified interpreter for Spanish and the most qualified interpreter for other spoken languages.
11. Court needs and special circumstances would always be considered when scheduling the number of interpreters used or the method of providing those services (on-site vs. remote) (Brummond & Mikshowsky 2012: 4).

The standards reflect a profound commitment to quality language access for LEP court users which is rarely evidenced on the policy level. The use of certified interpreters (more expensive than “qualified” interpreters<sup>11</sup>) is privileged and is preferred both on-site and for remote interpreting. Interpreted encounters expected to last more than two hours would be covered by two certified on-site interpreters. In none of these considerations did we see cost, geographic distance, convenience or seniority trump the use of the most qualified interpreters on the roster.

### *2.3 Shifts in quality, shifts in culture*

Interpreter quality was one of the main driving forces of the pilot project. Nonetheless, at least some of its success must be attributed to the fair and comprehensive conditions built into the contract which was offered to all District 7 court interpreters regardless of their language pair. Based on a common template used for freelance court reporters, the District 7 administrators developed a common contract for participating interpreters that paid by the half day, in four hour increments. In total, “19 Spanish interpreters and two Russian interpreters agreed to the contract and two Hmong interpreters agreed to provide services under the Minnesota court interpreter rate structure” (Brummond & Mikshowsky 2012: 5). Certified on-site interpreters earned the most at \$160 per half-day and \$320 per full day; qualified on-site interpreters earned \$120 per half-day and \$240 per full day.<sup>12</sup> Remote interpreters were paid in 30-minute increments at \$20 per increment for certified interpreters and \$15 for qualified. The minimum guarantee of four hours of

11. According to the Wisconsin legislature (<http://docs.legis.wisconsin.gov/statutes/statutes/885/1/38>), “Qualified interpreter” means a person who is able to do all of the following: (1) Readily communicate with a person who has limited English proficiency; (2) Orally transfer the meaning of statements to and from English and the language spoken by a person who has limited English proficiency in the context of a court proceeding; and (3) Readily and accurately interpret for a person who has limited English proficiency, without omissions or additions, in a manner that conserves the meaning, tone, and style of the original statement, including dialect, slang, and specialized vocabulary. The pilot project’s final report did not provide guidelines for how the District Court Administrator’s office would determine which interpreters met the criteria of “qualified”.

12. Hard data are not available for interpreter remuneration rates in District 7 courts, although Assistant to the District Court Administrator Karen Mikshowsky reported on May 18<sup>th</sup>, 2010 in a private communication that she estimated the range for LOTS languages to range from \$50 - \$85 per hour (Wallace 2010: 71). By way of disclosure, as a certified Spanish interpreter in the judicial district in question, I charged \$45 per hour, although with only a one-hour required minimum fee.

paid work, even though the contract did not compensate for travel time, was appreciated by interpreters because it did contemplate reimbursement for mileage and a cancellation policy of 24 hours.

On the heels of a discussion of *how* the District 7 Pilot Project worked, District Court Administrator Patrick Brummond discussed the crux of *why* it worked at the October 26<sup>th</sup>, 2012 meeting of the Committee to Improve Translation and Interpreting in the Wisconsin Courts. He indicated that all judges agreed to give up authority for choosing interpreters, and emphasized that “the willingness of District 7 judges to use telephone interpreting provided the single greatest impact on the increase in interpreting quality, certified interpreter use, and cost efficiency” (Brummond, personal communication, October 26, 2012). Furthermore, many counties began to embrace the idea of block scheduling as recommended by Brummond – conscientiously grouping together interpreted events on the court calendar – and this markedly decreased the cost of interpreter cancellation fees. A common contract with all participating interpreters provided local jurisdictions with a stable service and billing structure, and relatedly, the fact that the burden of hiring interpreters was lifted from many clerks of court (and centralized in the District Court Administrator’s office) led not only to consistency and full compliance with the standards of interpreter quality but, most importantly, centralizing interpreter hiring translated into a tangible change of culture within the judiciary in the 7<sup>th</sup> district. By taking hiring out of the hands of local judges, bonds between them and uncertified interpreters were broken out of necessity.

Indeed, this culture shift had a direct impact on the district’s consistent hiring of certified interpreters and thus on the quality of the interpreting services provided to LEP users. As a result of the standards implemented, overall use of certified interpreters in the district increased dramatically. For the year 2007-2008, certified interpreters were used in 47% of interpreted proceedings in District 7 counties overall. During the pilot study, certified interpreter use for all languages sat at a robust 95%, with the top three languages being accounted for as follows:

Table 4. Percentage of Interpreted Events at which Certified Interpreters were used in District 7 Courts during Pilot Project

| Language              | Percentage of Interpreted Events with Certified Interpreters |
|-----------------------|--|
| Spanish               | 99%  |
| Hmong                 | 81%  |
| ASL/CDI <sup>12</sup> | 100%   |

(adapted from Brummond & Mikshowsky 2012: 11).

With Spanish being the language for which interpreters are most often needed in court in the study site, 99% use of certified interpreters is an impressive improvement over previous years for which statistics were kept.<sup>14</sup> The use of Hmong interpreters at 81%, however, also represents a drastic improvement, especially in consideration of the fact that Wisconsin had no certified Hmong interpreters at the time the pilot project was carried out, and that these interpreted events in Hmong were covered by two interpreters from the neighboring state of Minnesota.

Another revealing result of the pilot project was the increase in the use of remote or telephonic interpreting, which in the end was utilized by every single judge in all twelve counties of the judicial district at some point during the pilot. In fact, 81% of interpreted events held during the pilot were via telephone (Brummond & Mikshowsky 2012: 11). According to the standards delimited at the beginning of the pilot, remote interpreting was only to be used for very short hearings (lasting under fifteen minutes) which were non-evidentiary in nature. It was revealing to many that so much of the court's business (excluding trials and other complicated matters) could be expedited so quickly and at considerably less expense while still maintaining high standards of interpreter quality. For these short matters, a certified interpreter appearing by telephone would always be chosen over an uncertified interpreter on-site. While no pre-pilot travel time, per diem and other costs were documented, the increased use of remote interpreting reduced expenses by eliminating travel time costs and aided in avoiding many cancellation fees, especially in tandem with block scheduling on the court calendar. Brummond

13. American Sign Language / Certified Deaf Interpreter. Most CDIs are deaf or hard of hearing members of the deaf community who have undergone training and are certified by the Registry of Interpreters for the Deaf (RID).

14. In addition to the previously cited rate of 47% usage of certified interpreters in 2007-2008, the rate for 2010 had risen to 73% (Capati 2011: 1).



and Mikshowsky go on to say in their final report that “Another measure to consider is average per interpreter event for on-site vs. remote interpreting. The average cost of the on-site interpreter events held was \$315.76 and the average cost per interpret (*sic*) event held remotely was \$36.47” (2012: 16). One cannot help but notice that an interpreted event staffed with an on-site interpreter is nearly ten times as expensive as a telephonically-staffed interpreted event, although it must be emphasized that telephonic interpreting was used only for short, non-evidentiary hearings.

Finally, and probably most significantly, the two-year pilot project led to a marked change in court culture regarding interpreter use. Well after the ending of the pilot project, all counties in District 7 courts “continue to use the certified interpreters that were used during the pilot rather than uncertified pre-pilot interpreters” (Brummond & Mikshowsky 2012: 17). All counties continue to use telephonic interpreting for short hearings. Nearly half of District 7 counties have either maintained or created a block calendar for interpreter events, leading to an optimized use of interpreter time and thus state and county resources (Brummond, personal communication, October 26, 2012).

### 3. Conclusions and Discussion

The results of the predictor mode study, which statistically supports the use of bifurcated testing in court interpreter certification exams, and centralized interpreter services protocols such as those enacted in the District 7 pilot study, suggest several useful possibilities for cost savings and the conservation of quality interpretation in courts. If we agree that data confirms that interpreters who possess the skills to pass simultaneous exercises have statistically higher chances of passing the consecutive and sight translation exercises, then further studies should be carried out which confirm or deny the benefits on the level of cost savings. Currently,

41 out of the 44 Consortium member states require their candidates for whom full exam versions exist to test in all three modes of interpreting at the same time. Testing bodies must decide whether or not predictor mode studies are convincing enough in order to contemplate using a simultaneous exercise as a preliminary exam, with the consecutive and sight translation portions to be administered later if they exist. These concerns should also be balanced by a realistic and data-driven analysis of the real cost-saving measures enjoyed by states using the bifurcated approach; in other words, the perceived benefits of savings and use of personnel should be scrutinized and weighed in order to determine whether or not the benefits constitute a possible model that could or should be imported to other states. (Wallace 2012: 81)

Similarly, and of utmost concern to U.S. Consortium member states as well as European Union nations, the reliability and predictability of bifurcated certification testing may prove to be an excellent way to at least qualify, if not fully certify, interpreters for languages of lesser diffusion. Even though full oral exams containing exercises in the three modes of interpreting may be the most highly desirable option,

the reality is that even abbreviated exams do not exist for a plethora of languages. With exam development costs soaring and budget constraints representing a nearly universal woe, some states have turned to using Oral Proficiency Interviews, or OPIs, to assess a candidate's proficiency in the non-English language by measuring his or her ability to use the language effectively and appropriately in real-life situations. The obvious failing of a foreign language-only OPI is that it does not at all measure skills in the language of record nor, most essentially, does it measure interpreting skills. (Wallace 2012: 81)

In acknowledgement of the stark reality that test development resources for new languages are hanging in a critical balance, stakeholders should consider investing in the elaboration of simultaneous exercises in languages of lesser diffusion with the money they save by administering oral certification exams in two phases, thus eliminating the expense of rating many exams which do not result in the identification of qualified interpreters. Such saved funds could also be reallocated to provide additional training to LLD interpreters that focuses on courtroom protocol, courtroom procedure, and common legal terms in the language of record.

As for replication of centralized interpreting services protocols such as those established in the successful 7<sup>th</sup> Judicial District pilot study, at least in Wisconsin courtrooms, computer systems to flag cases requiring interpreters are already in place, and court personnel have access to shared calendar software across judicial districts. Courtrooms are equipped for telephonic and video remote interpreting. With the impressive shift in culture wrought by the pilot, judges and clerks of court are now accustomed to block scheduling and to hiring the best available interpreters. Indeed, the main impediment to replication of the pilot on a larger scale in the study site is the need to allocate funds for staff members to manage it. For states or nations just beginning to regulate and administer court interpreting services, the pilot project offers a successful blueprint which prioritizes quality over cost yet is still economically feasible. As potential mitigators of the impact of high rates of exam failure as well as the increasing need for qualified interpreters of languages of lesser diffusion, together, bifurcated testing and centralized interpreter

services represent the fruitful marriage of research and policy at the service of language access and thus justice.

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**BIONOTE / NOTA BIOGRÁFICA**

MELISSA WALLACE received her Ph.D. in Translation and Interpreting Studies from the Universidad de Alicante, Spain. A certified court interpreter since 2005, she continues to interpret regularly in court and occasionally in health-care settings. On the policy level, Wallace served two terms as an appointed member of the state Supreme Court Committee to Improve Translation and Interpreting in Wisconsin Courts. She is an active appointed member of the Standards and Training Committee of the National Council on Interpreting in Health Care (NCIHC), and is co-lead on the Webinars Work Group of the NCIHC's Home for Trainers initiative. Recently Wallace was asked to join the Advisory Council of The Voice of Love, a U.S.-based nonprofit that develops training and resources to support interpreting for survivors of torture, war trauma and sexual violence. Her research focuses on indicators of aptitude on court interpreter certification exams, interpreter and translator training, and policy innovations as language access activism. She has presented her research in the United States and abroad, including to the Qualitas research group, a project funded by the Department of Justice of the European Commission which aims at providing a roadmap for the development of valid and reliable certification procedures for judicial and police interpreters for all 27 EU member states. Currently she is an Assistant Professor of Translation and Interpreting Studies at the University of Texas at San Antonio, where she directs the graduate certificate program in translation studies.

MELISSA WALLACE obtuvo su doctorado en Estudios de Traducción e Interpretación por la Universidad de Alicante (España). Ha sido intérprete judicial certificada desde el año 2005, y continúa interpretando con regularidad en los tribunales y ocasionalmente en entornos sanitarios. En el plano político, Wallace sirvió como miembro del Comité de la Corte Suprema del estado de Wisconsin para mejorar la traducción e interpretación en los tribunales del estado. Es miembro activo del Comité sobre Normas y Capacitación (*Standards and Training Committee*) del *National Council on Interpreting in Health Care*, al mismo tiempo que codirige el grupo de trabajo dedicado a la producción de *webinars* para capacitadores. Wallace ha sido recientemente invitada a participar en el Consejo Asesor de *The Voice of Love*, una organización estadounidense sin fines de lucro que desarrolla programas y recursos para apoyar la interpretación para sobrevivientes de tortura, trauma de guerra y violencia sexual. Su línea de investigación se centra en los indicadores de aptitud en los exámenes de certificación para los intérpretes jurídicos y en la política lingüística como forma de activismo para eliminar barreras. Wallace

ha presentado sus trabajos de investigación en los Estados Unidos y en el extranjero, incluyendo al grupo de investigación Qualitas, un proyecto financiado por el Departamento de Justicia de la Comisión Europea que tiene como objetivo desarrollar procedimientos de certificación válidos y fiables para intérpretes judiciales y policiales para los 27 Estados miembros de la Unión Europea. Actualmente es Profesora Asistente de Estudios de Traducción e Interpretación en la Universidad de Texas en San Antonio, donde dirige el programa de posgrado en Estudios de Traducción.