

LANGUAGE ACCESS IS ESSENTIAL TO THE COURT'S MISSION



Report to
Governor C.L. "Butch" Otter
and the 2nd Regular Session of
the 61st Idaho Legislature

IDAHO JUDICIARY

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The Mission of the Idaho Courts is to "provide access to justice through the timely, fair, and impartial resolution of cases." Language access services are not only an essential component of fulfilling this mission, but a legal requirement at the state and federal levels. The Idaho courts have an obligation to ensure equal access to justice and due process of law. In addition to state and federal constitutional due process rights, Idaho courts must abide by the following federal mandates, state statute, and Supreme Court rule:

- *The Americans with Disability Act (ADA)* protects individuals with a disability, including people who are deaf, who participate in court matters. The ADA mandates that individuals cannot be charged for the auxiliary aid or service provided.
- *Title VI of the Civil Rights Act of 1964* and *Omnibus Crime Control and Safe Streets Act of 1968* prohibits recipients of federal financial assistance from discriminating based on national origin by failing to provide "meaningful access" to individuals who have limited English proficiency (LEP). Pursuant to a 2000 Executive Order, the Department of Justice (DOJ) has established guidance for recipients of DOJ funds.
- *Idaho Code § 9-205* requires that an interpreter be appointed in any civil or criminal action in which the witness or a party does not understand or speak the English language, or has a physical handicap which prevents him or her from fully hearing or speaking the English language.
- *Idaho Court Administrative Rule 52* sets forth the policy of the Supreme Court relating to the appointment of interpreters. The rule provides for a priority of appointment of court interpreters. In addition, the rule states that interpreter services must be provided for individuals who are seeking access to the courts outside of a court proceeding.

Judges must ensure that parties, witnesses, and other interested individuals are able to communicate in the English language, regardless of the reason they are accessing the courts. If they are unable to communicate in English, a professional interpreter must be appointed.

Providing language access is about far more than just locating a bilingual person to provide interpreting or translating services. Being bilingual alone is not sufficient to qualify a person to serve as an interpreter or a translator for the courts. Educated, native-like mastery of English and a second language is required. In addition to possessing language skills, interpreting and/or translating skills and a specialized knowledge of legal and other terminology is required.

The Supreme Court continues to work diligently to improve access to the courts for individuals who have limited or no ability to communicate in English or who are deaf and hard of hearing. The Court conducts annual orientations and skill-building workshops for court interpreters, as well as administers oral proficiency exams for court interpreter certification. In addition, the Court and Ada County District Court jointly sponsor an annual conference for court interpreters. This program is focused on professional development and affords Idaho certified court interpreters an opportunity to earn required continuing education credits in state.

Trends impacting language access services

- In August of 2010, ten years following the issuance of Executive Order 13166, the Department of Justice (DOJ) sent a letter to each state supreme court chief justice and state court administrator with the intent to "provide greater clarity regarding the requirements that courts receiving federal financial assistance provide meaningful access for LEP individuals." In the letter, Assistant Attorney General Thomas Perez conveyed the following message: "Language services expenses should be treated as

a basic and essential operating expense, not as an ancillary cost. Court systems have many operating expenses – judges and staff, buildings, utilities, security, filing, data and records systems, insurance, research, and printing costs, to name a few. Court systems in every part of the country serve populations of LEP individuals and most jurisdictions, if not all, have encountered substantial increases in the number of LEP parties and witnesses and the diversity of languages they speak.” Assistant Attorney General Perez acknowledged “that it takes time to create systems that ensure competent interpretation in all court proceedings and to build a qualified interpreter corps.” By now, however, It is the expectation of the DOJ that state courts have made significant and continuing improvements in LEP services.

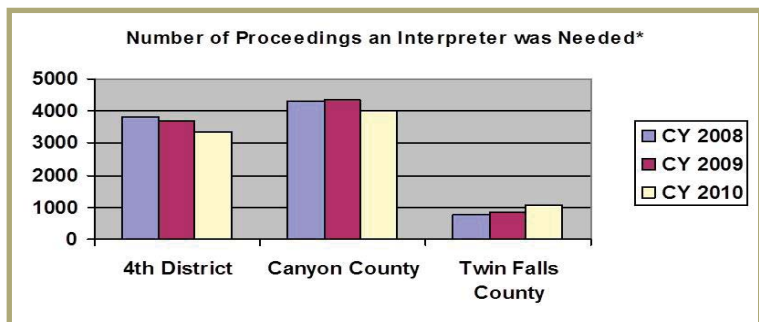
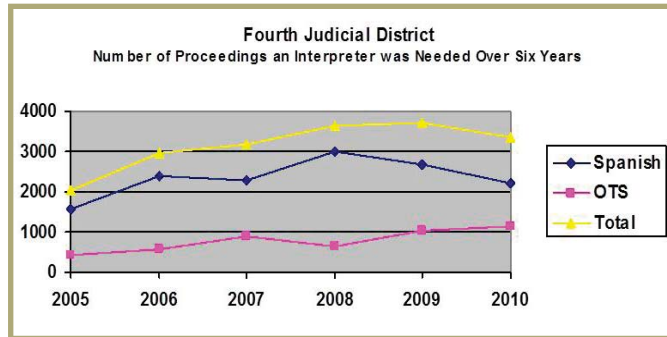
- The Bureau of Labor Statistics reports that “Employment of interpreters and translators is projected to increase 22 percent over the 2008-18 decade, which is much faster than the average for all occupations. Higher demand for interpreters and translators results directly from the broadening of international ties and the large increases in the number of non-English speaking people in the United States. Both of these trends are expected to continue throughout the projections period, contributing to relatively rapid growth in the number of jobs for interpreters and translators across all industries in the economy.” (<http://www.bls.gov/oco/ocos175.htm>)
- The U.S. Department of Health and Human Services reported the number of refugees arriving in Idaho has increased from 557 in 2006 to 1,231 in 2009, a 45 percent increase.
- The 2010 Census data for Idaho shows the population five years and over speaking a language other than English at home increased 26 percent over the last ten years. Over the same period of time, there was a 20 percent increase in the number of individuals five years and older that reported speaking English less than very well.

Statewide cost of interpreter services reaches 3/4 million dollars

The 2010 Idaho Trial Court Financing Report shows the total court interpreter expenses statewide as \$752,850. This figure does not necessarily include the salary of bilingual court personnel that also provide interpreting services as an added job responsibility, nor does it include expenses for translation services. The Supreme Court also provides \$60,000 for staff interpreter positions in the 3rd and 4th Judicial Districts and \$10,000 is available to the 5th, 6th, and 7th Districts to assist with the expense of freelance certified court interpreter services.

Snapshot of interpreter services in Idaho

While the need for Spanish language interpreters has decreased in Ada and Canyon counties, the need for interpreters in languages other than Spanish has increased. Twin Falls County has experienced an increase in the need for interpreters in Spanish, as well as languages other than Spanish.



* Some proceedings may have required more than one interpreter.



The Commitment of the Idaho Judiciary

As the Third Branch of Government, the Idaho Judiciary is committed to providing access to justice through the timely, fair, and impartial resolution of cases.

The Idaho Courts stand for:
 Integrity
 Fairness
 Independence
 Respect
 Excellence
 Innovation

In 2010, interpreters were needed for the following 45 languages:

Albanian, Amharic, Arabic, Basque, Bosnian, Bulgarian, Burmese, Cantonese, Cebuano, Czech, Creole, Dinka, Farsi, French, Gio, Indonesian, Japanese, Karen, Kirundi, Korean, Krio, Kumana, Laotian, Mandarin, Mina, Nepali, Nyanja, Oromo, Punjabi, Pashtu, Polish, Portuguese, Romanian, Russian, Sign Language, Somali, Spanish, Swahili, Tagalog, Tongan, Taiwanese, Thai, Tigrinya, Uzbek, and Vietnamese.