



Report to the Governor
C.L. "Butch" Otter
and the
1st Regular Session of the
64th Idaho Legislature

IDAHO JUDICIARY

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LANGUAGE ACCESS IS ESSENTIAL TO COURT MISSION

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 courts have an obligation to ensure equal access to justice and due process of law.

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.

Professional Court Interpreters Required

Being bilingual is not sufficient to serve as a court interpreter. Special expertise is required. "Professional court interpreters are individuals who possess an educated, native-like mastery of both English and a second language; display wide general knowledge, characteristic of what a minimum of two years of general education at a college or university would provide; and perform the three major types of court interpreting.¹" An interpreter uses at least 22 cognitive skills while interpreting, and when doing so he/she manipulates the register of the language from the most formal legalese used during motions to the most informal jargon, such as slang. Professional court interpreters render complex cognitive tasks at speeds of 180 to 200 words per minute.

Statewide Cost of Interpreter Services

In a recent survey regarding trial court financing, counties reported paying court interpreter expenses in excess of \$830,000. This figure does not necessarily include all personnel expenses for bilingual court personnel that provide interpreting services as an added job responsibility, nor does it include expenses for translation services. In addition, the Supreme Court allocates funds to the districts to augment local budgets for language access services. In FY18, the Court allocated \$45,000 to the Third District to provide for freelance court interpreter services; \$72,500 to the Fourth District for staff interpreter positions and freelance services; \$30,000 to assist the remaining judicial districts with freelance court interpreter services; and \$30,800 for statewide video remote interpreting services.

Increasing Need for Language Access Services

According to the 2016 American Community Survey results provided by the U.S. Census Bureau, 10.8 percent of Idaho's total population over the age of five speaks a language other than English. The 2010 census reported that over 90 different languages are spoken in Idaho. In 2017, language access services were provided in over 40 different languages in the Idaho courts.

The Idaho Office of Refugees reports that as many as 85,000 refugees will be resettled in nearly 200 host cities this year in the United States, with about 1,000 expected to resettle in Idaho. Primary languages spoken among those resettled over the last five years includes: Arabic, Burmese, Farsi/Dari/Persian, Karen, Kinyarwandan, Nepali, Somali, Swahili, and Tigrinya.

¹ Hewitt, William E. COURT INTERPRETATION; CHALLENGE FOR THE 1990s. Williamsburg, VA: National Center for State Courts, 1995.

Legal Mandates

- 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.

Impact on County Budgets

Pursuant to I.C. § 9-205, language access services are to be paid out of the county district court fund. Some jurisdictions are experiencing an increased need for services, and county budgets are simply unable to take on the additional expenses. As a result, some districts are requesting funds to supplement local county budgets. During FY17, Canyon (13.67%) and Twin Falls (21.6%) counties each reported an increase in freelance interpreter expenses.

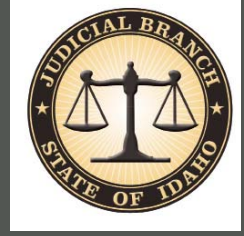
In its FY19 budget request, the Fifth Judicial District reported providing interpreters in over 7,000 instances in 22 different languages. This figure represents an 18 percent increase over the past two years. It should be noted this number does not take into account interactions over the telephone or without supporting documentation. As such, the number of instances is a conservative estimate. While Spanish is the primary language requested, the district also provides interpreter services in a number of other languages. The demand for these languages is expected to continue to increase as Twin Falls is a resettlement city and home to a refugee center.

Snapshot of Interpreter Services in Idaho:

FY 2017	# of proceedings an interpreter was needed*	Total # of languages for which an interpreter was needed	Freelance court interpreter services
Ada	2,613**	44	\$160,000
Canyon	2,617	18	\$108,825
Twin Falls	1,297	11	\$19,832

* Some proceedings may have required more than one interpreter.

**The total number of proceedings is unknown. Ada County experienced an underreporting of interpreted proceedings due to changes in personnel, as well as a change in operations resulting from the transition to the Odyssey case management system.



Mission Statement of the Idaho Courts

As the Third Branch of Government, we provide access to justice by ensuring fair processes and the timely, impartial resolution of cases.

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

The Idaho Courts strive to:

Provide Timely, Impartial Case Resolution through Legally Fair Procedures

Ensure Access to Justice

Promote Effective, Innovative Services

Increase Public Trust and Confidence in Idaho Courts

Adopted by the Supreme Court
 October 31, 2011
 and revised
 April 25, 2016

Supreme Court Efforts to Support Language Access Services

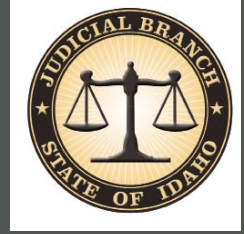
The Supreme Court continues to identify ways to support the trial courts in their constitutional and statutory obligations to provide access to the courts. In 2016, the Court requested and received a legislative appropriation for a Statewide Language Access Manager. This position is responsible to provide language access services to the trial courts, including court interpreting and translation services in the Spanish language. Administrative responsibilities include:

- Assist with the coordination of language access services statewide;
- Provide consultation for judges and court staff on best practices for language access services and working with interpreters;
- Provide back-up support when local coordinators or staff interpreters are out of the office or are otherwise unavailable;
- Assist trial courts in carrying out the requirements of the Court's statewide language access plan;
- Recruit and train new court interpreters;
- Manage the court interpreter training and testing program; and
- Serve as staff to the Court's standing committee on language access.

The Court also received funding for video remote interpreting (VRI) capability in every court facility to ensure access under the Americans with Disabilities Act. This technology is also being used in certain settings to provide access for spoken languages. These appropriations have aided the Court considerably in expanding coverage for direct and in-direct services across the state. Counties that have utilized these services have expressed appreciation for the additional resources.

In FY17, the Language Access Manager provided Spanish language interpreting services for 158 court events, resulting in a \$25,770 savings to the counties. Additionally, the Language Access Manager coordinated 184 interpreted events in 15 languages.

*For more information, contact Sara B. Thomas
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