

Access to Justice

NON-ENGLISH SPEAKERS
IN THE LEGAL SYSTEM

A Report



NUFFIELD INTERPRETER PROJECT

The Nuffield Foundation 28 Bedford Square London WC1B 3B6

The Nuffield Interpreter Project

THE PROJECT

From 1983 to 1990 the Nuffield Foundation made a series of grants to the Community Interpreter Project to develop a system for the training and accreditation of interpreters for the legal, health and social sectors of the public services. During this time the programme was carried forward within the institutional framework of the Institute of Linguists. A further grant was awarded to the project, now known as the Nuffield Interpreter Project, in 1991 to promote the work achieved and to survey requirements for interpreters within specific sectors of the legal services. As a result, the impact on targeted departments was considerable and there is clear evidence of the need for a greater number of trained and qualified professionals who can respond to the increasing interpreter recruitment needs of the public services.

THE AIM

To enable effective communication between all public service officials and non-English speakers, in order to ensure access to a service of equal quality across barriers of language and understanding. The areas to be targeted for the promotion of usage of appropriately qualified interpreters are the law, the health service and social services.

OBJECTIVES

- To obtain the commitment of the public services to use qualified interpreters wherever available at professional rates of pay
- To initiate and foster the provision of training programmes for public service interpreters on a scale sufficient to ensure a continuing supply of appropriately qualified professionals
- To achieve a nationally recognised system of qualification
- To achieve a nationally available register of public service interpreters accessible on a 24-hour basis.

Access to Justice

NON-ENGLISH SPEAKERS IN THE LEGAL SYSTEM

NUFFIELD INTERPRETER PROJECT

To establish qualified interpreters in the public services

The Nuffield Foundation
28 Bedford Square
London WC1B 3EG

Contents

Foreword	3
PART I: BACKGROUND	
Interpreters in Court	4
National Court Survey: Summary	7
Appendix to Summary	19
PART 2: CONFERENCE REPORT	
Communication Needs	27
Keynote Address	28
Papers	32
General Discussion and Issues	45
Papers	47
Panel Discussion and Issues	59
PART 3: NIP: FUTURE PROGRAMME	60
APPENDICES	
Participants	62
Members: NIP Steering Groups	65
Press Release	66
Interpreters in the Legal Systems of Europe	68

Foreword

The Nuffield Interpreter Project's conference 'Access to Justice for Non-English Speakers in the Legal System' represented the culmination of the second phase of the project. It sought to heighten awareness of the issues amongst policy-makers, practitioners and service providers: the need for interpreter services within the legal system.

With the generous support of other charitable trusts the next phase of the project will foster the introduction of training courses and supply of qualified interpreters. Preliminary work already undertaken to achieve the institution of a national register of accredited interpreters which will be available locally and regionally on a 24-hour basis will be consolidated.

The conference provided the opportunity to present the achievements of the project and the findings of two national surveys undertaken to determine the use of and need for interpreters in the courts and by the police. The discussion and dialogue stimulated has provided the basis for working in partnership with other concerned agencies to accelerate the progress of the work.

We hope that this report will help to expand these partnerships and contribute to creating a wider understanding of the need for full communication in attempting to achieve a genuinely fair and equitable society.

Robert Hazell

Director, The Nuffield Foundation

Chairman, Legal Services Steering Group (NIP)

February 1993

PART I: BACKGROUND

Interpreters in Court

Article 6 of the European Convention on Human Rights is concerned with the concept of a fair trial. Paragraph 3 of this article provides that anyone charged with a criminal offence has the right, inter alia, to be

“informed properly, in a language which he understands and in detail, of the nature and cause of the accusation against him” (para 3[a]) and

“to have the free assistance of an interpreter if he cannot understand or speak the language used in court” (para 3[e]).

An understanding of court procedures and idiom is crucial to protect the rights of individuals participating in legal hearings, as it is to uphold the principle of equity before the law.

Even those whose first language is English would acknowledge that the specialised and occasionally arcane formal language of the law might, in itself, cause problems of comprehension. The rites and rituals of court procedure further compound such difficulties. For non-English speakers, the process may become completely impenetrable.

The court itself, however, is equally disadvantaged by such barriers to communication. It needs to be able to conduct its business efficiently and equitably and follow testimony fully and accurately. The appointment of an interpreter is essential, therefore, both to the non-English speaker and to the court.

Access to interpreting services is not in itself a sufficient guarantee of equity between the non-

English speaker and the court: there is the question of competence. Competence does not apply only to linguistic ability of course, but also to the knowledge of, and familiarity with, court procedure. The availability and provision of such professional skills will significantly improve the daily work of the courts.

DEVELOPMENT OF INTERPRETING SERVICES IN ENGLAND AND WALES

The principles of Article 6 have found some echo in the statutes and precedents that have guided the approach to use of interpreters in the legal services in this country since 1936.

Order 47, Rule 33A, County Court Rules 1936

The rules set out that discretion in civil cases rests with the court as to payment of interpreters' fees. Where one of the parties to the case is legal aided, application can be made to the Legal Aid Fund for payment. It should be noted that this provision does not extend to the civil jurisdictions of courts of summary jurisdiction who have no facility for appointing and paying for an interpreter.

Welsh Language Act 1967

This legislation gives the parties in legal proceedings in Wales the right to be heard through the medium of Welsh and places a duty on the court to make arrangements accordingly.

Administration of Justice Act 1973

Section 17 of the Act provides for the appointment of interpreters in criminal proceedings. It states that the court has a duty to appoint and pay for an interpreter where a defendant or prosecution witness has insufficient English to participate appropriately in proceedings before the court. Appointments are made following requests by individuals, defendants or prosecution witnesses or at the discretion of the court where this is considered necessary.

Race Relations Act 1976

This Act is pertinent to the organisation of court interpreting services as it makes provisions for complaints of discrimination to be made against public bodies which fail to provide an interpreter when the principle of equity is an issue.

Police and Criminal Evidence Act (1984)

This lays down police procedures; the Codes of Practice issued under the Act state that:

“A person must not be interviewed in the absence of a person capable of acting as interpreter, if

1. he has difficulty in understanding English;
2. the interviewing officer cannot himself speak the person's language; and
3. the person wishes an interpreter to be present.”

This rule can only be waived by an officer of the rank of superintendent or above, if he or she considers that delay will involve an immediate risk of harm to persons or serious loss of or serious damage to property. (Code C: Annex C).

The code also gives detailed guidance on the taking of statements through an interpreter.

The Kamasinski Case 1989

A recent judgement in the European Court of Human Rights (Kamasinski Case 9/1938/153/207 – delivered December – 1989) related specifically to the provision of court interpreting services. A United States citizen imprisoned in Austria claimed breaches of Article 6 3e. The judgement delivered on that case by the European Court stresses two factors of particular significance for the legal system in England and Wales.

1. The individual right to interpreting extends beyond the courtroom and verbal interaction. Those written documents, including statements of evidence, necessary to the defendant in putting his case adequately before the court should also be translated. The judgement does not go as far as establishing the right to have all written documentation translated but does create an issue for the UK Crown Prosecution Service in establishing policy on translation of written material.

2. Para 74 of the Kamasinski judgement makes it clear that provision of an interpreter alone does not fulfill the requirements of the European Court and those providing the service are also subsequently responsible for the standard and competence of service provision. Any failure in this regard may, ultimately, provide grounds for appeal.

THE ROLE OF THE INTERPRETER

The interpreter's role needs to be defined. Most interpreters in England and Wales work on a freelance basis and there are many variations in working practices and perceptions of the function.

A nationally recognised standard for the training of interpreters would clarify their role. A regulatory body would need to be established to apply a Code of Practice and to set up and maintain a national register (with proper entry qualifications and monitoring strategy).

INCREASING THE USE OF COMPETENT INTERPRETERS

The law is reasonably clear on when an interpreter is needed, but gives no guidance on what counts as competent interpreting.

Certainly the law requires no formal qualification. A number of responses from lawyers and judges and other users of interpreters in the legal system, indicated that they were still not concerned with the need for competent interpretation, but seemed to be prepared to accept unqualified interpreters. It has been suggested that the failure of lawyers and judges to insist upon the use of appropriately qualified personnel has meant that unqualified interpreters are able to work in the court system; furthermore

there is no incentive for interpreters to upgrade their skills.

A requirement to use qualified and registered interpreters will have to take into account questions of:

- remuneration and career structure of interpreters
- availability of appropriate courses
- accreditation in many languages
- introduction of a registration system
- monitoring of performance and practice
- education of users within the legal system.

An increased awareness of the interpreter's role by members of the ethnic communities may also assist in reducing antagonism generally. In particular, there is a need for recognition of the role of the interpreter as an impartial linguistic expert.

THE NUFFIELD FOUNDATION

The Nuffield Foundation was one of the first to recognise many of these issues; not least that the use of incompetent or 'amateur' interpreters can and does lead to serious miscarriages of justice.

Some ten years ago it supported the Institute of Linguists' Educational Trust in developing a system of training and assessment for interpreters working in the public services, including the legal service. A set of qualifications was developed which, in ascending order, assess language skills, interpreting and training skills.

Magistrates, Justices' Clerks and the Police Service were amongst those who helped devise the court materials and took part in the training programmes: the qualifications are soundly based in the daily practice of the courts and their requirements.

Further work continues to augment and adapt the course and training concepts to current needs; changing circumstances demand an acceleration in the provision of competent interpreters.

As increasing numbers of non-English speakers come to the UK for work, business, study, tourism and asylum, the problem grows: areas of litigation increase and become more complex: the range of language needs expands.

THE NUFFIELD INTERPRETER PROJECT

In 1991 a campaign was launched to promote awareness of the need to make the involvement of qualified interpreters standard practice in both criminal and civil courts. The work is guided by a steering group comprising members from all the legal services and concerned voluntary agencies.

To enhance this work the project sponsored the first national survey (as summarised below).

The report suggests a relatively low quantitative need for interpreting in the courts; records however are limited and it is hard to ascertain real need. Accurate and precise communication in court remains today a neglected and uncertain area in terms of meeting fundamental principles to ensure equal access to justice for non-English speakers.

REFERENCES

- Australian Commonwealth Attorney - General's Department (1991) 'Access to Interpreters in the Australian Legal System' Australian Government Publishing Service Canberra.
- Baker, P Hussain, Z and Saunders, J (1991) *Interpreters in Public Venture Press*.
- Berk-Seligson, S (1990) *The Bilingual Courtroom: Court Interpreter in the Judicial Process* The University of Chicago Press.
- Kaufert, J and Koolage, W (1984) 'Role Conflict Among "Culture Brokers" The Experience and Native Canadian Medical Interpreters' *Journal of Social Science and Medicine* 18, 3pp 283-286
- Linguistic Minorities Project (1985) *The Other Languages of England*. Routledge and Kegan Paul.
- Morris, R (1989) *The impact of Court Interpretation on Legal Proceedings*. MA Thesis Hebrew University of Jerusalem (Unpublished).
- O'Barr, WM (1976) *The Study of Languages and Politics, in Language and Politics* (ed. O'Barr and O'Barr).
- Polack, K and Corsellis, A (1990) 'Non-English Speakers and the Criminal Justice System' *New Law Journal* Nov 23 1990.
- Polack, K and Corsellis, A (1990) 'Non-English Speakers and the Criminal Justice System - 2' *New Law Journal* Nov 30 1990.
- Stafford, JB (1977) 'No Comprendo: The Non-English Speaking Defendant and the Criminal Process' *Journal of Criminal Law and Criminology* (Northwestern University School of Law) Vol 68 pp 15-30.

National Court Survey: Summary

1 INTRODUCTION

Despite growing awareness of the need for adequate interpreter services in legal proceedings (exemplified by recently publicised miscarriages of justice in cases where defendants or their witnesses were unfamiliar with English), little systematic information is available about the frequency with which courts are faced with this need, the languages required, or the supply of interpreters to meet the demand.

Courts are not the only agency facing language problems. The Police Force has a responsibility to provide interpreter services within the time limits imposed by the Police and Criminal Evidence Act; some parts of the tribunal system, such as the Immigration Appeal Tribunal, and of Customs and Excise, are confronted with many non-English speakers seeking adjudication. Apart from the more spectacular cases which attract waves of media attention, there is a steady groundswell of demand for interpreter services in the day-to-day operations of the law. The Nuffield Interpreter Project (NIP) was set up to foster the provision of such services; through advocacy and education, training, and development of inter-agency links.

In 1991 the NIP commissioned a survey of interpreter use in courts in England and Wales, to provide new information as a baseline for future policy-making and programme development. It was the first attempt in this country to generate a data base which would describe the nature and scale of the issue and help to identify priorities for action. A parallel survey of all police constabularies was also undertaken in July 1992, thanks to the collaboration and support of the Association of Chief Police Officers.

The specific objectives of the Court enquiry were to provide country-wide information on:

- the use and availability of court interpreter services, the range of languages used and methods of access to interpreters;
- opinions of court officials on the quality of services and their suggestions for improvement.

Constraints of time and financial resources restricted the scope of the court survey and excluded the work of tribunals. The exercise has nevertheless provided the first quantitative and qualitative assessment at national level of current practice in the provision of interpreters for legal purposes, which it is hoped will galvanise policy moves towards better services. A basis has also been created for future research into factors – geographical, linguistic, needs of clients, financial and human resources – affecting future service provision.

The following report describes the method and findings of the court survey, including area studies, summarises the issues arising from the findings and identifies some pointers for the future development of interpreter services and training.

1.1 Background

The court survey was directed at Courts of Summary Jurisdiction (Magistrates' Courts), Crown and County Courts. The work of the Magistrates' Courts comprises adult (criminal), juvenile and domestic proceedings. Almost 95% of all criminal cases are heard in the Magistrates' Court, where sittings are far more frequent than in Crown and County Courts.

Magistrates' Courts are administered through the Petty Sessional Division (PSD), a geographically based unit covering one or more courts. Each PSD

or group of PSDs has a Clerk to the Justices (a qualified lawyer) and a staff of court clerks who advise the lay magistracy on matters of law. At the time of the survey there were 532 PSDs in England and Wales and 267 Clerks to the Justices, but redistribution of PSDs for administrative reasons had already begun to reduce the number of divisions.

County Courts are concerned exclusively with civil matters [such as small claims, landlord and tenant disputes, mortgage claims, bankruptcies, claims for damages, domestic violence and divorce]. As a result of changes in the structure of the lower courts they will be increasingly involved in work derived from the Family Proceedings Court. Cases are heard by a judge or by a registrar. There are now 271 County Courts administered in 18 groups across England and Wales.

Eighty-seven Crown Courts, formerly Courts of Assize and Quarter Sessions, hear the more serious criminal cases and appeals from convictions by Magistrates' Courts.

Each County and Crown Court has a Chief Clerk and each circuit a group administrator.

Criminal (Magistrates' and Crown) Courts have the power to appoint interpreters while in a civil case responsibility lies with the parties concerned; arrangements are made between solicitors and defendants which do not require any court mechanisms. Even in Magistrates' Courts a large proportion of cases requiring an interpreter are handled in this way. When courts exercise their powers of appointment, they may do so by maintaining their own list. Alternatively, they may rely on a Police Force list, the Crown Prosecution Service is then informed by the court that an interpreter is required, and a request is made to the local police station which may have access to a central register.

2 SURVEY METHOD

2.1 The Questionnaire

For all types of court the key issues were: frequency of interpreter use, availability of interpreters, languages required and quality of service, but the form of questioning was adapted to take account of

differences between PSDs and other courts in the frequency of sittings, numbers of cases heard and obligation to provide interpreter services. A full questionnaire applicable to the whole court was devised for PSDs, while a shortened version accompanied by a record sheet for each occasion involving an interpreter was sent to Crown and County Courts (see Appendix 1).

A special set of questions was included for courts in Wales, covering 'the interpretation of the Welsh and English language' as required by Court Rules. British Sign Language was included in the list of languages likely to be required because provision of services for the deaf is covered by the European Convention on Human Rights.

Additionally, detailed studies were carried out in a large northern town, an urban area in the Midlands and in two busy London court areas, by means of semi-structured interviews with magistrates, other court personnel and a range of court users, including the Crown Prosecution Service, the police, the probation service, interpreters, voluntary bodies, solicitors and representatives from the RNID and the Association of Police and Court Interpreters (APCI). The topics discussed included screening procedures for inclusion on a list of interpreters, the process of appointment of interpreters to individual cases, training and perceptions and understanding of the role of the interpreter in court.

2.2 Distribution and Response Rates

With the co-operation of the Lord Chancellor's Department, questionnaires were distributed to PSDs, Crown and County Courts with overall response rates ranging from 59-68% (see Table 1). Among PSDs the 157 responses represented 279 courts.

At least one PSD responded from every county and metropolitan area in England and Wales but though representative in a geographical sense the sample lacked replies from some of the country's largest and busiest urban areas. Letters were received from some clerks explaining that court business was too heavy to allow time to respond to questionnaires; these informants sometimes indicated whether they used interpreters frequently or not. In general, the over-representation of rural

Table 1: Percentage Response Rates From PSDs, Crown and County Courts

	PSD (clerks)	Crown	County
Number of questionnaires	267	87	271
Number of responses	157	50	185
Percentage response	59%	57%	68%
Percentage Regional Response Rates			
South East (Inner & Outer London 67)	}	67	57
Midlands	}	88	61
Western	59 }	48	84
North East	overall }	60	54
North	}	50	89
Wales and Chester		27	79

Table 2: Number and Percentage of Interpreter Uses in Magistrates' Courts

Type of Court	Criminal	Domestic	Juvenile
Number and percentage of courts reporting	N (%)	N (%)	N (%)
– use of interpreters	190 (76)	49 (22)	40 (18)
– no use of interpreters	60 (24)	178 (78)	184 (82)
Number of reported uses and percentage of all reported uses	6603 (94)	177 (2.5)	253 (3.5)
Number of uses per 100 sitting days	7.8	1.4	1.9

areas may mean that problems of providing interpreter services are under-reported statistically in the survey, with implications for estimates of future need. However, it does not affect the validity of information on qualitative aspects, which are moreover dealt with in depth in the area studies.

2.3 Quality of Data

It was anticipated that courts would not have ready access to statistics or records of interpreter use, so questions were framed to allow estimates of numbers of occasions when interpreters were used and of the language groups concerned. In the event estimates were frequently needed and answers to questions about record keeping and registers revealed a general lack of systematic information at court level.

However, consistency of replies between the different types of court indicated an acceptable level of reliability.

2.4 Method of Analysis

Magistrates' Courts sit far more frequently than Crown or County Courts, and Criminal Courts have far more cases than Domestic or Juvenile Courts. In order to make valid comparisons of the frequency of interpreter use on different types of court a measure of standardisation was adopted – the number of uses per 100 sitting days. Using this index it was established that 95% of all interpreter use in PSDs took place in Adult Courts; and in the analysis of findings the great majority of references to PSDs is derived from adult court experience (see Tables 2 & 3).

Table 3: Number of Interpreter Uses per 100 Sitting Days in all Types of Court

	Number	Per 100 Sitting Days*
PSDs – criminal	6603	7.8
domestic	177	1.4
juvenile	184	1.9
	<u>6964</u>	** 6.3
	*** 550	0.8
	*** 200	0.7
	<u>7714</u>	

* correct to 1 decimal place

** weighted mean

*** estimated at 550 and 200 respectively, using figures reported for a portion of the total working year

Frequency of usage ranged from nil to several hundred cases per year. Courts were grouped as follows:

- occasional users – up to and including 12 times a year
- regular – 13-50 times a year
- frequent – 51 times or approximately once a week

2.4.1 Satisfaction Index

Respondents were asked to express their degree of satisfaction with the availability of interpreters and with the existing mechanisms and procedures for engaging their services on the following scale:

- not at all satisfied
- generally satisfied
- satisfied
- more than satisfied

A further question was asked about the extent to which existing arrangements ever occasioned unacceptable delay on the scale:

- frequently
- occasionally
- rarely
- never

A numerical mean was calculated for each question by computing the total number of responses in each class of satisfaction (or degree of delay). This represented the mean satisfaction score. Means were then calculated for each category of PSD user

(occasional, regular, frequent) and graded as follows:-

- category mean more than 20% above PSD mean – highly satisfied *
- category mean within + or – 20% of PSD mean – averagely satisfied **
- category mean more than 20% below PSD mean – poor satisfaction ***

2.5 Estimated Total Annual Interpreter Use

A rough estimate of total interpreter use was obtained based on the percentage of PSDs replying and the number of users reported, to compute the number of uses which would have been reported if a 100% response had been received. A similar method of computation was also used for Crown and County Courts to gain an estimate of annual figures based on the short survey period. The validity of this estimate depended on the representativeness of the responses on which it was based which varied from region to region, but in view of the rapidly changing PSD boundaries no further breakdown was attempted. For Crown Courts and County Courts, computations were made on a regional basis which allowed a greater degree of representativeness.

Table 4: Distribution of Interpreter Use in Magistrates' Courts

	Up to 1	13 - 50	51 - 100	101 - 200	Over 200	Total
South East						
Inner and Outer London	10	205	200	532	3215	
Other South East	129	513	157	200	-	5161
Midlands	86	167	316	150	-	719
North East	62	277	60	-	-	399
Northern	113	116	-	-	-	229
Western	133	75	-	-	-	208
Wales	53	15	-	-	-	68
Total	586	1368	733	882	3215	6784

Table 5: Use of Interpreters and Number of Uses by Type of User

Type of User	Number of Courts as Percentage of all Respondents %	Number of Uses as Percentage of all Uses %
Frequent	8	68
Regular	18	22
Occasional	50	9
Never	24	-
	<u>100</u>	<u>99</u>

3 SURVEY FINDINGS

3.1 Incidence of Interpreter Use

As indicated above it was in Magistrates' Courts that the greatest demand for interpreters arose. They reported 6784 occasions of use, ten times or more than Crown or County courts, and showed the clearest patterns of interpreter use.

The most obvious pattern showed that the majority of interpreter uses had occurred in two clusters in London and the West Midlands (see Table 4): 24% of Magistrates' Courts had not used interpreters at all, and 50% had done so at a rate of less than once a week, the remaining 26%, made up of regular users (approximately once a week) and frequent users (more than once a week), accounted for 91% of all interpreter use. The pattern is emphasised by the fact that frequent users alone

reported 68% of all use, although they made up only 8% of the sample.

Even among frequent users, few courts reported more than 100 uses in the year and the great majority of these were located in Inner or Outer London (see Table 5). Crown and County Courts also reported higher use in London and the South-East.

Frequency of use appeared not to be related to the volume of court activity as measured by the number of sitting days, nor to the fact that some courts carried out special types of jurisdiction (motorways, fisheries). Geographical location was clearly significant, indicating such factors as population density, urbanisation, industrialisation and ease of communications, which are associated with greater movement of people on the one hand and with higher crime statistics on the other.

Table 6: Number of Courts Reporting Available Languages

French	105	Hindi	98
German	103	Urdu	96
Italian	95	Punjabi	93
Spanish	91	Bengali	78
		Gujarati	73
Polish	69		
Greek	62	Chinese	99
Welsh	46	Japanese	45
Ukrainian	47		
Turkish	55	Arabic	76
		'African' group	60
	<u>673</u>		<u>718</u>

Table 7: Use of Language Groups in Adult Courts

Language Group	London	Other Regions	Total	Percentage
West European	19	113	132	
East European	10	16	26	
All European			158	42
South Asian	20	83	103	
Other Asian	19	47	66	
All Asian			169	45
Arabic	14	19	33	
African	11	2	13	
Joint Total			46	13

3.1.1 Language Requirements

In attempting to assess needs for interpreting services it was important for the survey to distinguish between languages available to the court in case of need on one hand and those for which there was a current demand.

A striking diversity of available languages was reported, eight of these being accessible to at least a third of the magistrates' courts taking part in the survey (French, German, Spanish, Chinese, Hindi, Urdu, and Punjabi). The number of courts reporting availability of specific languages is shown in Table 6.

Fewer courts actually reported using these languages. The survey questionnaire asked whether use had been made, frequently or occasionally, of

interpreters in specified language groups and the replies showed that numbers of courts reporting any use (occasional or frequent) in each group were far less than the number reporting availability of the constituent languages (Table 7).

The table also shows that West European and South Asian languages were more evenly spread between London and the regions than the other groups. Otherwise much of the diversity in interpreter needs originated in the London area. Half the use of other Asian languages and Arabic took place in Inner or Outer London, two fifths of the East European and all but two of the African. In the regions, South Asian languages were widely used in the Midlands; 13 courts in the South East reported using interpreters for Arabic; the East

European category was used in the South East, Midlands, North and North East, while the two courts reporting African languages were Croydon and Cheadle. Thirty two courts were unable to reply for all or most of the language groups.

Outside London, only the Croydon court needed all six groups; five were reported by Dover and East Kent and by Folkestone and Hythe; four by Poole, Hull, Bury, Ashton-under-Lyme, Solihull, Newcastle and Bradford. Frequent use was rarely reported except for South Asian languages (23 times) and West European languages (16 times).

Within the Inner and Outer London area, 22 of the 40 Magistrates' Courts replied, of which seven had used all six language groups, some of them frequently. African, Arabic and East European languages, the smallest categories, featured mainly in the busiest courts, but represented a substantial fraction of total use (Table 7). Thus the London area, together with Croydon and the courts in Kent, accounted not only for the majority of interpreter uses but established a pattern in which European and Asian languages achieve parity, with substantial minority groups which may be needed frequently, unlike the situation in the regions.

Overall, the level of need differs so much between London and the Midlands on the one hand and the rest of the country on the other (a picture reflected in the Crown and County courts) that there would seem to be a case for studying the two situations separately. It would certainly be of interest to continue the analysis of the London situation, including courts which did not take part in the survey, and to look more closely at areas which most need interpreters in the regions, to gain more precise information about the use of languages and the factors which give rise to the need for them.

3.2 Quality of Service (Management of Interpreter Services)

Criteria for efficient management and quality control of court interpreting were identified as:-

- record keeping and maintenance of interpreter registers;
- systematic checks on interpreter competence, including qualification requirements and training;

- availability of written materials, standard payment systems
- levels of satisfaction with the interpreter services.

All courts were asked questions related to these criteria.

3.2.1 Record Keeping and Maintenance of Registers

Only 26% of PSDs and Crown Courts maintained records of interpreter use, mainly for administrative purposes (eg. to record payments), and 21% of County Courts, mainly to record name, address and language of the interpreter. Where interpreter use was a frequent event, more records were kept (60% of frequent users compared with the PSD average of 24%).

Although Magistrates' Courts have the power to appoint interpreters to serve in court cases, the initiative is often taken by defendants, their solicitors, or the CPS. When courts take responsibility for providing an interpreter they may use their own court register, or that of another agency, or they may rely on informal methods such as calling on a court official who is familiar with the defendant's language. Among PSD respondents 54% of PSDs maintained their own or had access to another agency's register of interpreters. As shown in Table 9, 19% had their own register, but only 7% relied solely on this. By far the largest group, with or without their own register, drew on another agency list which in 53% of all cases was maintained by the police force. (Police lists served 20% of those without their own register). Other list-holding agencies included four local authorities and a number of disparate bodies such as a shipping company, a chamber of commerce, a local college and a voluntary organisation. The situation is roughly similar in Crown Courts but registers are few in County Courts where the responsibility for interpreting lies mainly with the parties concerned.

3.2.2 Interpreter Competence

The survey questions were formulated on the assumption that to give satisfactory service, a court interpreter should not only be linguistically competent, but should be sufficiently familiar with

court procedure and, if the need arises, able to understand the technicalities of a case. There is no universally accepted formal process for checking any aspect of an interpreter's competence and whether or not steps are taken for this purpose depends on the initiative of the court. In the case of the Crown Court, only 14% of interpreters were appointed by the Court, the remainder in equal proportions by the defence or the Crown Prosecution Service.

Overall 35% of PSDs took some steps to ensure linguistic competence (the percentage rises to 45% if non-users are excluded), as did 51% of Crown Courts and 18% of County Courts.

However, courts which used interpreters regularly or frequently were more likely to check on linguistic competence; the proportion rises to 75% for PSDs and for Crown Courts in the South East.

Among PSDs it was reported that without formal procedures, the courts made various checks. Frequent users also reported more checks (60 per cent) on technical competence.

Not many courts carry out their own checks. The most common method is by restricting names on the interpreters' list.

Only one Crown Court reported any formal check of qualifications, through the services of a company which had a good record of supplying interpreters in many languages. Judges made their assessments on the strength of questions in court. In over a third of County Courts (39%) the matter was left to the parties involved.

These findings highlight the fact that there is no system of quality control available to the courts. Any steps in this direction are taken on their own initiative. Among PSDs, it was reported that without formal checks, the courts made various efforts such as checks by justices and court staff familiar with the language.

Courts did not necessarily feel able to judge an interpreter's competence unless, as might happen with an 'informal' interpreter, he or she was plainly inadequate and had to be replaced. Even if the interpreting procedure appeared to be working well, there might be unrecognised inaccuracies or bias.

Efforts were however made to improve quality of interpreting: by one agency which organised in-

house training; by restricting names on the interpreter's list to those who had successfully followed the interpreters' course at the local college; by advertising for local interpreters and training them through a local initiative between the courts and social services and by the district council accepting names for interpreters' lists only after evidence of attendance at a locally established course.

3.2.3 Availability of written material

Over half of PSDs (54%) indicated that the courthouses or other court buildings within the division to which the public have access provided written information or displayed posters on matters relevant to the business of the courts in any other language than English. Where such information was available, it was predominantly in relation to legal aid (29%) or the duty solicitor scheme (11%).

Only 14% of Crown Courts and 6% of County Courts reported that they displayed or otherwise had available information relevant to court business in languages other than English, a much smaller proportion than Magistrates' Courts overall.

The information was in a form that would be useful to all courts and could be generally accessible; it included:

- 'Witness in Court' leaflet in Hindi, Urdu and Chinese
- Leaflets regarding jurors, available in 5 languages: Urdu, Hindi, Punjabi, Bengali, Gujarati, on request
- Posters from CAB displayed in several languages.

No examples were reported of written European language material.

3.2.4 Payment of Interpreters

Central funds were the major source of payment for interpreters in Adult Courts and County Courts. Only 38% of interpreters used in County Courts were paid at all, the remainder giving their services free, and of those receiving payment, 50% were paid from the Legal Aid Fund.

Among the courts which provided details, rates of payment ranged widely and were scattered evenly from £9.00 to £50.00 per hour, but most courts paid within the range £10.00-£24.00, with £15.00 as the

Table 8: Levels of Satisfaction in Magistrates' Courts with Specific Aspects of Interpreter Services

<i>PSD Category</i>	Availability of Interpreters	Current Mechanisms for Obtaining Services	Problems of Delay	Overall Satisfaction
Non-user	**	*	***	**
Occasional	*	**	**	*
Regular	**	**	*	**
Frequent	**	***	**	***

* = low satisfaction; ** = satisfied; *** = high level of satisfaction.

Table 9: Satisfaction with Specific Aspects of Interpreter Services in Crown and County Courts

	Crown %	County %
<i>Availability of Interpreters to the Court</i>		
Not satisfied	8	16
Satisfied	88	53
Not applicable	4	31
<i>Existing Mechanisms/Procedures for Engaging Interpreters</i>		
Not satisfied	19	21
Satisfied	77	47
Not applicable	4	32
<i>Unacceptable Delay</i>		
Frequent/occasional	23	4
Rarely/never	75	63
Not applicable	3	33

most frequent sum. Reasons for the very wide variation are not known, but may depend on methods of calculating the time spent in court.

In theory, the actual cost of providing interpreters in the court can be determined by reference to the central authorities of each of the potential sources of funding, but no central authority maintains records in suitable form to do this. It would appear that the onus to do so rests with those responsible for the administration of central funds.

3.3 Satisfaction with Services

3.3.1 Availability of Interpreters

Informants (Magistrates' Clerks) were asked to rate their satisfaction, on a four-point scale, with three aspects of the existing arrangements for interpreter

services: availability within the division, mechanisms and procedures for engaging the services of an interpreter and the degree of delay caused in court proceedings.

Among Magistrates' Courts all types of user except frequent users expressed low satisfaction with one or other of these factors. Only frequent users expressed a high level of satisfaction on the combined overall index (Tables 8 & 9). These results suggest that courts which are frequently confronted with the need for an interpreter have developed their own methods (hence the high satisfaction level with 'current mechanisms') of getting hold of interpreters and avoiding delay. Occasional users on the other hand are less likely to have made advance arrangements and so tend to experience delay when the occasion does arise: this

group also makes fewer quality checks than frequent users and is more likely to encounter problems of interpreter competence. The lower level of satisfaction on the delay factor reported by 'regular' users suggests that with interpreting needs occurring on average once a week, delay is significant but cases are not sufficiently numerous to call for specific mechanisms to be developed.

As non-users have no experience of delay, their low assessment of current mechanisms may indicate only that courts are aware of the problem even though they have not had to deal with it yet. Many rural areas had little or no experience of foreign language requirements.

A majority of Crown Courts expressed satisfaction with each of the three aspects of interpreter service. County Courts, like occasional or regular users among Magistrates' Courts, may have difficulty in obtaining interpreters or may be anticipating difficulty on the few occasions when an interpreter is needed. This would account for the 31% of courts describing themselves as not satisfied with current procedures, even though the procedures did not exist in some places.

On the other hand, a substantial percentage of County Courts expressed no opinion on interpreter availability (31%) and mechanisms for engaging them (32%) on the grounds that the issue had never arisen.

Perceptions of delay and other problems may be different in Crown and County Courts from Magistrates' Courts. Interpreting arrangements are the responsibility of the parties concerned in County Courts and problems are unlikely to impinge on the court itself, while in Crown Courts, delay must be seen in the context of bail requirements and remand in custody.

3.3.2 Interpreter Competence

Other types of comments on interpreter competence and on the arrangements for securing their services tended to be more specific with frequency of use. Occasional users made general criticisms of the system (as vague, or hit-and-miss), and of the variable quality of interpreters. One clerk reported that interpreters had been removed from the list after complaints of incompetence, another that the

best interpreters were rarely at home and used answering machines rendering the system unreliable. The most graphic comments came from frequent users with experience of the damage that can be done by an interpreter who does not understand his role and tries to mediate between the defendant or witness and the Courts.

"Non-professional interpreters (friends, relatives etc) often cause difficulties, eg. not translating proceedings as they occur, holding conversations with defendants/witnesses rather than simply acting as a two-way channel."

"We have occasionally found it necessary to make the interpreter translate word for word and we have had to stop them acting as advocates."

"I remember one in particular who would give the answer that he thought the court wanted rather than the one given by the witness. Another found it impossible not to comment on the evidence himself as it was given by saying things like 'obviously he must be mistaken when he says...'"

Ideas about improvements in the interpreter systems were generally similar in all types of court. Infrequent users were not in a position to suggest specific improvements. Together with 'non'-users they tended to say that the current ad hoc arrangements were cost-effective and adequate to demand. Suggestions were focused on access to a central (county or regional) register and a more comprehensive list stating qualifications, experience and fees. One county council had begun to compile a list for use by all criminal justice agencies. It was also pointed out that the list should be available to solicitors.

Those with more demand for interpreters had more specific ideas about the type of information needed on the register, or about expanding the range of languages available, increasing the number of interpreters in the most frequently required languages, and making interpreter lists available to groups representing ethnic minorities.

When demand was frequent, the suggestion of appointing duty interpreters recurred as the best way of ensuring that defendants and others received the services they needed:

"A duty interpreter for Urdu/Punjabi/Hindi would be a very useful resource. There is a large local Asian community whose members are a high percentage of our court users. Many could be helped with enquiries, fine payments etc, where at present we cannot help."

"The system could be improved only by having interpreters at court every day – there may well be occasions when the defendant witness really needs an interpreter but manages without one."

Despite the reported availability of BSL, several references were made by infrequent users to the need for services for the deaf or hard of hearing, and in one County Court staff had volunteered to undergo training in sign language if a course were available. This tends to confirm the explanation offered earlier that the BSL network is perceived as more pervasive than it really is.

3.3.3 The Role of the Police

In the absence of any widespread alternative, the police force plays a major role in the supply of interpreters for the courts. For courts using the police list the procedure is to make requests for interpreters through the Crown Prosecution Service. The police then make contact with an interpreter and arrange for attendance in court.

Opinions were divided on the desirability of this arrangement. Favourable experiences of police efficiency were quoted; in a court which had been operating foreign vehicle checks, drivers from all over the European Continent had appeared before the court within hours of being charged, police had provided interpreters for the whole operation commencing with the vehicle check and ending with the court appearance. The interpreters were proficient in five or six languages. In 'North Town' the police list, holding more than 100 interpreters on a central computer was regarded as sufficiently large to avoid problems of overlap between police and court work, delay in appointment of interpreters, or language deficiencies. In London on the other hand this system gave rise to problems and delays, particularly if an interpreter were needed at short notice or if proceedings were postponed.

Comments were made however by all types of user on the need to ensure the independence of interpreters and to avoid any allegations of

collusion. It was strongly felt by many that an interpreter used for interviewing at the police station should not be employed in court.

In the London Metropolitan area the police were contributing to the training of interpreters by offering them a half-day seminar before they took up their duties or soon after. The police are considering whether the time is adequate to cover their agenda which, with the help of the court training officer, covers: police interpreting requirements (including interpretation of taped interviews), the role of the Crown Prosecution Service and court procedures.

4. THE ROLE OF THE COURTS

Courts varied in the extent to which they used their powers to appoint interpreters. Some had created their own registers (as shown in Section 3.2.1); others relied on other agencies or, particularly those with few demands for translation, had no formal system. There were other ways in which the court influenced the interpreting process: by the decision whether or not to appoint an interpreter to a case, and whether or not to ensure consistency by using the same interpreter throughout the case. It could also set standards for interpreters to follow.

Reports from the area studies indicated that when courts are under pressure of time, they sometimes made do without an interpreter, or called upon family members or friends to act informally. There was the suggestion of collusion (conscious or unconscious) between court officers to avoid the delay which would be caused by an adjournment for the appointment of a professional interpreter. If the case went on without an interpreter at the first hearing, there was pressure to do without at subsequent hearings too.

The retention of the same interpreter between adjournments was seen as an important principle and some courts reported it as their normal practice. Continuity was generally guaranteed in Crown Courts, but the arrangements in Magistrates' Courts were not so secure, and some clerks did not think it was essential. However, defence solicitors did regard lack of continuity as a problem.

Suggestions for improvement of interpreter services therefore arose which applied not only to

the calibre of interpreters or their availability, but to the courts which employed them. The key suggestion was training of court staff to enable them to handle interpreters sympathetically and to reduce the frustration engendered by delays arising from the use of interpreters, by clarifying all guidelines for court interpreters.

Guidelines had been produced for MidTown, based on Home Office regulations, covering interpreters' terms of reference and conditions of work. The need for interpreter training to include court skills had been raised at a Court User group meeting; this had previously been offered only to sign language interpreters.

In 'North Town' a multi-disciplinary county procedure committee had organised a day of training for interpreters on court procedures and charges. The training, carried out by the Justices' Clerk and a professional trainer was free, voluntary and attracted 60 interpreters of diverse background and experience. (Some had never yet entered a court room). Problems were revealed about conditions of work, the perception of the court as a threatening place, the difficulties of technical language and of situations such as appointing an interpreter of opposite sex to the defendant.

Appendix to Summary

Language Frequency

Court	African	Arabic	Western European	Eastern European	Southern Asian	Other Asian	BSL
<i>Avon</i>							
Bath & Wansdyke	3	3	2	3	3	3	2
North Avon	3	3	2	3	3	2	2
Weston Super Mare	N/A	N/A	N/A	N/A	2	N/A	2
Long Ashton	N/A	N/A	N/A	N/A	2	N/A	2
<i>Bedfordshire</i>							
Biggleswade	- N/A						
Amphill	- N/A						
North Bedfordshire	- N/A						
<i>Berkshire</i>							
Windsor	3	3	2	3	2	3	3
Slough	N/A	N/A	N/A	N/A	2	N/A	N/A
Maidenhead	3	3	2	3	1	3	3
The Forest	3	3	2	3	3	3	3
<i>Buckinghamshire</i>							
Milton Keynes	- N/A						
Wycombe	3	3	2	3	1	3	2
Burnham	3	3	2	3	2	3	3
Chiltern	3	3	2	3	2	3	3
<i>Cambridgeshire</i>							
Peterborough	- N/A						
Cambridge	3	2	1	3	2	3	2
Newmarket	3	2	1	3	2	3	2
Ely	3	2	1	3	2	3	2
<i>Cleveland</i>							
Hartlepool	N/A	N/A	N/A	N/A	2	N/A	N/A
Langbaugh	3	3	3	3	3	3	3
Teeside	3	3	2	3	2	3	2

Code: 1 = frequently, 2 = occasionally, 3 = never, N/A = Not Applicable N/K = Not Known

Court	African	Arabic	Western European	Eastern European	Southern Asian	Other Asian	BSL
<i>Cornwall</i>							
Helston & Kerrier	3	3	3	3	3	3	3
Pydar	3	3	3	3	3	3	3
Truro & South Powder	3	3	3	3	3	3	3
Falmouth & Penryn	3	3	2	3	3	2	3
Bodmin & East Powder	3	3	2	3	3	3	3
South East Cornwall	3	3	2	3	3	3	3
Dunheved & Stratton	3	3	2	3	3	3	2
<i>Cumbria</i>							
Carlisle	3	3	2	3	3	3	2
Wigton	3	3	2	3	3	3	2
Barrow with Bootle – N/K							
Whitehaven	3	3	3	3	3	2	2
<i>Derbyshire</i>							
Ilkeston	3	3	2	3	2	3	2
Alfreton & Belper	3	3	2	3	2	3	2
Derby & South Derbyshire	3	3	3	3	3	3	2
<i>Devon</i>							
Plymouth	3	3	2	3	3	3	3
Okehampton	3	3	3	3	3	3	3
Barnstaple	3	3	3	3	3	3	3
Tavistock	3	3	3	3	3	3	3
South Molten	3	3	3	3	3	3	3
Bideford & Great Torrington	3	3	3	3	3	3	3
Torbay	3	3	2	3	3	3	2
<i>Dorset</i>							
Wareham & Swanage	3	3	2	3	3	3	3
Christchurch	N/A	N/A	2	N/A	N/A	2	N/A
Wimborne	N/A	N/A	2	N/A	N/A	N/A	N/A
Shaftesbury	3	3	3	3	3	3	3
Blandford & Sturminster	3	3	3	3	2	3	3
Poole	3	2	1	3	2	2	3
Weymouth & Portland – N/A							
Sherborne – N/A							
Dorchester – N/A							
Bridport	3	3	3	3	3	3	3
<i>County Durham</i>							
Teesdale & Wear Valley	3	3	3	3	3	3	3
Derwentside	3	3	3	3	3	3	3
Sedgefield	N/A	N/A	N/A	N/A	N/A	N/A	2

Code: 1 = frequently, 2 = occasionally, 3 = never, N/A = Not Applicable N/K = Not Known

Court	African	Arabic	Western European	Eastern European	Southern Asian	Other Asian	BSL
<i>Essex</i>							
Basildon & Brentwood	3	3	1	3	3	3	2
Chelmsford	3	2	2	3	3	3	2
Tendring – N/A							
Harwich	N/A	N/A	1	N/A	N/A	N/A	N/A
Colchester	3	2	2	N/A	2	N/A	N/A
<i>Gloucestershire</i>							
South Gloucestershire	N/A	N/A	2	N/A	N/A	N/A	N/A
Chipping Norton	3	3	1	3	2	2	2
Gloucester & Forest of Dean	N/A	N/A	2	N/A	N/A	2	2
Cheltenham	N/A	N/A	2	N/A	N/A	2	N/A
Tewkesbury – N/A							
North Cotswold – N/A							
Cirencester/Fairford/Tetbury	3	3	3	3	3	3	3
<i>Hampshire</i>							
Southampton	3	3	3	3	3	2	2
Odiham	3	3	2	3	2	3	3
Alton – N/A							
Petersfield	3	3	2	3	3	3	3
Lymington	3	3	2	3	2	3	3
Portsmouth	3	3	2	3	3	3	3
Havant	3	3	2	3	3	3	3
South Hants	3	3	1	N/A	2	2	2
<i>Herefordshire</i>							
Kidderminster – N/A							
Bewdley & Stourport – N/A							
Redditch – N/K							
<i>Hertfordshire</i>							
Watford	N/A	N/A	2	N/A	2	N/A	2
Dacorum – N/K							
St Albans – N/K							
Hertford & Ware	3	3	3	3	2	2	2
Bishops Stortford	3	3	3	3	2	2	2
Cheshunt	3	3	3	3	2	2	2
<i>Humberside</i>							
South Hunsley Beacon – N/K							
Middle Holderness – N/K							
Hull	3	2	1	3	2	2	2
Scunthorpe	3	3	2	3	2	3	3
Brigg	3	3	3	3	3	3	3
Barton on Humber	3	3	3	3	3	3	3
Epworth & Goole	3	3	3	3	3	2	3
<i>Isle of Wight</i>	3	3	3	3	3	3	3

Code: 1 = frequently, 2 = occasionally, 3 = never, N/A = Not Applicable N/K = Not Known

Court	African	Arabic	Western European	Eastern European	Southern Asian	Other Asian	BSL
<i>Kent</i>							
Ashford & Tenterden	3	3	2	3	3	3	3
Dover & East Kent	3	2	1	2	2	2	3
Folkestone & Hythe	3	2	1	2	2	2	3
Bexley	3	3	1	3	1	1	2
Tunbridge Wells	N/A	N/A	2	N/A	N/A	N/A	N/A
Sevenoaks	N/A	N/A	2	N/A	N/A	N/A	N/A
Faversham & Sittingbourne	3	3	1	2	3	3	2
Canterbury	3	3	2	3	3	3	2
Ramsgate	3	3	2	2	3	2	2
Margate	3	3	2	2	3	2	2
<i>Lancashire</i>							
Burnley	3	3	3	3	2	3	3
Preston	3	3	3	3	3	3	3
Wigan	3	3	2	3	3	3	3
Oldham	2	3	3	3	2	3	2
North Sefton	3	3	2	3	3	2	3
Bury	N/A	N/A	2	2	2	2	2
Stockport	3	3	3	2	2	2	2
Blackpool	3	3	3	2	3	3	2
Leigh	3	3	3	3	2	3	3
Lancaster	N/A	N/A	N/A	N/A	N/A	N/A	2
Blackburn	3	3	3	3	1	3	2
Darwen	3	3	3	3	2	3	3
Rossendale	3	3	3	3	2	3	3
Pendle – N/K							
Ribble Valley – N/K							
Middleton & Heywood	3	3	2	3	2	3	3
Rochdale	3	3	2	3	2	3	3
Hyndburn	3	3	3	3	2	3	3
<i>Leicestershire</i>							
Rutland	3	3	3	3	3	3	3
Loughborough	N/K	2	N/K	3	1	2	2
Melton & Belvoir	3	3	3	3	3	3	3
Leicester	3	3	3	3	1	3	2
Ashby de la Zouch	3	3	3	3	3	3	2
Market Bosworth	3	3	3	3	3	2	3
<i>Lincolnshire</i>							
Grimsby & Cleethorpes	3	3	2	2	2	3	2
Spilsby & Skegness	3	3	3	3	3	3	3
Horncastle – N/A							
Louth – N/A							
Boston – N/A							
Lincoln – N/A							

Code: 1 = frequently, 2 = occasionally, 3 = never, N/A = Not Applicable N/K = Not Known

Court	African	Arabic	Western European	Eastern European	Southern Asian	Other Asian	BSL
<i>Inner London</i>							
Marlborough Street	2	1	1	2	2	2	2
Marylebone	2	1	1	2	1	2	2
Woolwich	2	3	2	3	2	3	2
Highbury Corner	N/A	N/A	1	N/A	2	2	2
South Western	3	3	3	3	3	3	3
Horseferry Road	2	1	1	2	2	1	2
West London	2	2	2	2	2	2	2
Wells Street	3	1	2	3	1	2	2
Camberwell Green	2	2	1	2	2	1	2
Bow Street	3	2	1	2	2	2	3
Walton Street	N/A	2	N/A	N/A	2	2	N/A
Old Street	2	2	1	3	1	2	3
<i>Outer London</i>							
Hillingdon	1	2	1	2	2	2	2
Ealing	2	2	2	2	1	2	2
Hounslow	3	2	2	2	1	2	2
Barnet – N/A							
Waltham Forest	3	3	2	2	1	1	2
Merton	3	3	2	3	1	2	2
Haringey	2	3	2	3	2	2	2
Newnham	2	2	1	3	1	2	2
Bromley – N/K							
Richmond	3	2	1	3	2	2	2
Barking & Dagenham	3	3	2	3	2	2	2
<i>Greater Manchester</i>							
Ashton upon Lyme	3	3	2	2	2	2	2
South Tameside	3	3	2	N/A	2	3	2
Manchester City	3	3	2	3	1	2	2
<i>Merseyside</i>							
Liverpool	3	3	2	3	2	2	2
Knowsley	3	3	3	3	3	3	3
South Sefton	3	3	2	3	2	2	2
<i>West Midlands</i>							
Solihull	3	2	2	2	1	1	1
Wolverhampton	3	3	2	3	1	3	2
Sutton Coldfield	3	3	3	3	2	3	3
Warley	3	3	3	3	1	3	2
West Bromwich	3	3	2	3	1	3	2
Dudley	3	3	3	3	2	N/A	2
Stourbridge	N/A	N/A	N/A	N/A	2	N/A	N/A
Halesowen	3	3	3	3	2	3	3

Code: 1 = frequently, 2 = occasionally, 3 = never, N/A = Not Applicable N/K = Not Known

Court	African	Arabic	Western European	Eastern European	Southern Asian	Other Asian	BSL
<i>Norfolk</i>							
Norwich	3	3	2	3	2	2	2
Kings Lynn	3	3	2	3	3	3	3
Great Yarmouth	3	3	2	3	3	2	2
Cromer	3	3	3	3	3	3	3
North Walsham	3	3	3	3	3	3	3
<i>Northants</i>							
Wellingborough	3	3	3	3	2	3	3
Corby	3	3	2	3	3	3	3
Kettering	3	3	3	3	3	3	3
Towcester – N/A							
Daventry	3	3	1	2	2	3	3
Northampton	3	3	2	3	2	2	2
<i>Northumberland</i>							
Blyth Valley	3	3	3	3	3	3	3
Morpeth	3	3	3	3	3	3	3
Wansbeck	3	3	3	3	3	3	3
Tynedale – N/A							
Berwick upon Tweed	3	3	3	3	3	3	3
Coquetdale	3	3	3	3	3	3	3
<i>Nottinghamshire</i>							
Mansfield	N/A	N/A	N/A	N/A	N/A	2	N/A
Newark & Southwell – N/A							
Worksop/Retford	N/A	N/A	2	N/A	N/A	N/A	2
Nottingham	N/A	N/A	2	N/A	2	2	2
<i>Shropshire</i>							
Shrewsbury	3	3	2	3	3	3	3
<i>Somerset</i>							
West Somerset	3	3	3	3	3	3	3
Taunton Deane	3	3	2	3	3	3	3
Mendip	3	3	2	3	3	3	2
Sedgemoor	3	3	2	3	3	3	2
Yeovil	3	3	2	3	3	3	2
<i>Staffordshire</i>							
Cannock	N/A	N/A	2	N/A	2	N/A	N/A
Rugeley – N/A							
Seisdon	N/A	N/A	N/A	N/A	2	N/A	N/A
Newcastle under Lyme	3	3	2	3	3	2	3
Leek	N/A	N/A	N/A	N/A	2	N/A	N/A
Cheadle	2	3	2	3	2	2	2
Stafford	3	3	2	3	3	3	2
Eccleshall	3	3	2	3	3	3	2
Stone – N/A							
Uttoxeter – N/A							

Code: 1 = frequently, 2 = occasionally, 3 = never, N/A = Not Applicable N/K = Not Known

Court	African	Arabic	Western European	Eastern European	Southern Asian	Other Asian	BSL
<i>Suffolk</i>							
Ipswich	3	3	2	3	1	2	2
Downham Market – N/A							
Hunstanton	3	3	3	3	3	3	3
Fakenham	3	3	3	3	3	3	3
Mildenhall	3	2	3	3	3	3	2
<i>Surrey</i>							
Esher & Walton	3	3	2	3	2	2	2
Stains and Sunbury	3	3	2	3	2	2	2
Farnham	3	3	2	3	2	3	2
Croydon	2	2	2	2	1	2	2
<i>Sussex</i>							
Eastbourne	3	2	1	3	3	3	3
Hailsham	3	3	3	3	3	3	3
Hove	3	2	2	3	2	3	
Brighton	3	2	1	3	2	3	3
Crawley	N/A	N/A	N/A	N/A	1	N/A	N/A
<i>Tyne & Wear</i>							
Gateshead	N/A	2	N/A	N/A	N/A	2	2
Newcastle	3	2	3	2	2	2	2
South Tyneside – N/A							
Sunderland	3	3	2	3	2	3	2
Houghton le Spring	3	3	3	3	3	2	3
North Tyneside	N/A	N/A	2	N/A	N/A	N/A	N/A
<i>Wiltshire</i>							
North Wiltshire	3	3	2	3	3	3	2
Salisbury	3	3	2	3	3	2	2
Tisbury & Mere – N/A							
Kennet	3	3	3	3	3	3	3
Trowbridge – N/A							
<i>Yorkshire</i>							
Easingwold	3	3	2	3	3	2	2
Northallerton	N/A	N/A	2	N/A	N/A	N/A	2
Richmond	3	3	2	3	3	3	2
Doncaster	3	3	2	3	3	2	1
Bradford	3	3	2	2	1	2	2
Barnsley	3	3	3	3	3	3	3
Huddersfield	3	3	2	3	1	2	2
Calder	3	3	3	3	1	2	2
Staincliffe	3	3	3	3	3	3	2
Batley & Dewsbury	3	3	2	3	1	2	2
York – N/A							
Wakefield	N/A	N/A	N/A	N/A	1	N/A	N/A
Pontefract – N/A							
Selby – N/A							

Code: 1 = frequently, 2 = occasionally, 3 = never, N/A = Not Applicable N/K = Not Known

Court	African	Arabic	Western European	Eastern European	Southern Asian	Other Asian	BSL
<i>Clwyd</i>							
Wrexham Maelor	3	3	2	3	3	3	2
Berwyn – N/A							
Rhuddlan – N/A							
<i>Dyfed</i>							
North Camarthen	3	3	3	3	3	3	3
Dinefwr	3	3	3	3	3	3	3
South Camarthen	3	3	3	3	3	3	3
<i>Mid Glamorgan</i>							
Newcastle & Ogmore	3	3	3	3	2	3	3
<i>West Glamorgan</i>							
Neath	3	3	3	3	3	3	3
Port Talbot	3	3	3	3	3	3	3
Swansea	3	3	3	3	2	2	2
<i>Gwent</i>							
Newport	3	3	2	3	2	3	2
Bedwelty	3	3	3	3	2	2	3
East Gwent	3	3	3	3	3	3	3
<i>Gwynedd</i>							
Conway & Llandudno	3	2	2	3	3	2	3
Ardudwy-uwch-Arto – N/A							
Nant Conway – N/A							
Estimaner – N/A							
Ardudwy-is-Arto – N/A							
Talybont	3	3	2	3	3	3	3
<i>Powys</i>							
Brecon	3	3	3	3	3	2	3
Welshpool	3	3	2	3	3	3	3
Machynlleth	3	3	2	3	3	3	3

Code: 1 = frequently, 2 = occasionally, 3 = never, N/A = Not Applicable N/K = Not Known

PART 2: CONFERENCE REPORT

Communication Needs

There are daily instances of misunderstanding and inadequate communication in all the public services, not least in the legal services. These difficulties are made worse by poor interpretation stemming from a shortage of appropriately trained people. Not just language competence is needed to make a good interpreter; there must be a good cultural understanding: an ability to explain linguistic nuances which the interviewers might have missed. Interpreters must understand the context and procedures in which they are working (police station, court etc) and not stray beyond their role. They must have the confidence to say when they are getting into difficulties.

Failure in any of these aspects can result in serious miscarriages of justice, delay and frustration in the administration of justice, denial of human rights, expense and poor quality of service which affect the recipients and deliverers of services alike.

AIMS OF THE CONFERENCE

1. To publicise the findings of the first national survey into the use of and need for interpreters in the courts of England and Wales.
2. To expose from these findings and other sources the needs of non-English speakers caught up in legal procedures; to inform legal service providers of the need for more effective communication to ensure quality of service, avoidance of delay, cost-effectiveness and equal access to justice.

3. To explain the value of the model of training, qualification and accreditation developed in the 1980's (with the Institute of Linguists Educational Trust); to describe new developments emerging in training to increase the supply of qualified interpreters.

4. To discuss ways of continuing this work in the legal services to obtain commitment from all the main services to use qualified interpreters wherever available;

5. To consider the introduction of agreed minimum standards.

PARTICIPANTS

Over a hundred participants attended from the Judiciary, Magistracy, the Home Office, the Justices' Clerks' Society, the Scottish Office, the Police, Crown Prosecution Service, Legal Aid Board, Lord Chancellor's Department, Local Authorities, the Probation Service, concerned voluntary organisations, the Prison Service, the Royal Commission on Criminal Justice, Immigration, Customs and Excise and the professional bodies and agencies representing interpreters and translators, the Law Society and the Commission for Racial Equality.

Keynote Address

Creating an Equitable Society

Michael Jack MP, Minister of State, Home Office

I should like to thank you for giving me the opportunity this morning to set the scene for what I am sure will be a most worthwhile and productive conference. Later speakers will be addressing a wide range of practical matters affecting the need for, and role of, interpreters in different parts of the criminal justice system.

'Communication' is a word which is very often used automatically. But for some people, communication can only take place through an interpreter. I would like to congratulate the Nuffield Foundation for their work, being published today, in putting this subject on the agenda for those of us concerned with increasing the awareness of the criminal justice system to race issues generally. My intention is to look at some of the wider issues and, by so doing, provide a back drop against which subsequent discussions today can be considered. In particular, I will be talking about what is being done to ascertain that people from the ethnic minorities who come into contact with the criminal justice system are treated equitably.

The Government's aim is a fair and integrated multi-cultural and multi-racial society, and, where racial discrimination is a barrier to the realisation of opportunity, to eliminate it. But much of the discrimination we face is indirect, and often unintentional – and, for the criminal justice system, a more significant factor than direct discrimination.

A mark of a free and fair society is a society which has confidence in its system of justice. A society whose members can be certain of equitable treatment. Crucial to achieving that is understandable information. That is why I for one

welcomed the introduction in the Criminal Justice Act 1991 of the section 95 requirement, which places upon the Secretary of State a duty to publish information annually, to help those engaged in the administration of criminal justice to fulfil their own duty to avoid discriminating against anyone on the basis of race, gender or any other improper ground.

In 1992, the first information was issued in the form of separate, candid, publications dealing with race, gender and finance. The booklet on race gives details about the main ethnic minorities and describes what is known about their experiences with the criminal justice system. It also gives information on the present under-representation of members of ethnic minorities in positions of responsibility as practitioners in the system. Individual copies were issued to every judge and magistrate in England and Wales and to all criminal justice agencies.

The Government's approach to section 95 will be an evolutionary one. Comments have been invited from recipients of the booklets and they will be taken into account when consideration is given to the content of future publications. The work we have done this year has already persuaded the Home Secretary to ask officials to introduce more comprehensive monitoring of the circumstances in which people enter into the criminal justice system. The data which I hope we will be able to produce on stop and search, arrests and cautions will be a vital addition to our uneven knowledge of the way the system impacts on minorities.

More recently we have seen the publication of the Commission for Racial Equality's 'A Question of

Judgement' a summary of research by Dr Hood into race and sentencing in courts in the West Midlands. Dr Hood sought to discover whether all else being equal, ethnic minority offenders ran a greater risk of being sent to prison and/or treated more severely than white offenders. I know you will understand that this is not the time to discuss the report's findings in detail, but the main conclusion was that after allowing for all possible innocent explanations there was a 5% – 8% greater probability of black offenders than white offenders being sent to prison.

Professor Hood's research is a reminder that more needs to be done before we can demonstrate with certainty that there are no reasonable grounds for believing that improper discrimination on racial grounds exists in our system of criminal justice. My officials are already exploring with those in the Lord Chancellor's Department, the feasibility of introducing the ethnic monitoring of all court outcomes. This is not because we think we have a racist judiciary or a racist magistracy – indeed Professor Hood's work suggest that for similar offences Asians receive less punitive sentences than white people, – but we need to ensure that the disproportionate number of Afro-Caribbeans in prison is not, in part the result of unintentional indirect discrimination.

These are early days for section 95 and it is too soon to say what its long term impact will be on practices and procedures within the criminal justice system. However, I believe that it is a very significant step which has I believed already bolstered confidence in the system. And it is a step which should not be under valued – this section raises consciousness of the issue and signals to those both inside, and outside of the system that it remains a central concern.

CITIZEN'S CHARTER

The criminal justice system is in the business of serving people. We want to improve its quality and its responsiveness for everyone who comes into contact with it. This approach reflects strongly the themes of the Citizen's Charter. If we add to this a willingness to be open and to listen we have the basis to develop a system in which everyone can have confidence.

MAINTAINING CONFIDENCE

I think it is fair to say that confidence in the criminal justice system is achieved in three ways. The first entails demonstrating that each person coming into contact with the system will be treated equitably at each stage of the process. The second is to achieve a mixed workforce in criminal justice services, agencies, in the professions and on the bench. This will better reflect the balance of the local community and help to dispel misconceptions and suspicions about the system. The third – central to your proceedings – is to ensure that everyone has the ability to understand what is happening in the system and how they can contribute to ensuring that justice is done, and seen to be done.

THE YOUNG POPULATION

This is of particular relevance to young people. 45% of people from ethnic minorities were born in the UK, almost a third of them are under 16. It is the young people we all need to target – the work-force of tomorrow. We need to attract many more of them into the criminal justice services and professions for which many of you here today already provide role models. All young people want well paid successful jobs. We need to be able to persuade them that working within criminal justice is a worthwhile challenge at all levels, offering rewards and the opportunity to get to the top. Any remaining barriers to equal opportunity must come down, petty prejudices must be dispelled. Able young people, from any community, may need support because of lingering prejudice or sometimes pressure and resentment from their own communities. We need to be able to offer that support. This is indeed part of good management; it is about sustaining professional standards.

RECRUITMENT, THE SERVICES AND THE LEGAL PROFESSION

The Home Office is involved in London and Merseyside in Compact Schemes with local schools to provide work experience for youngsters. A lot of youngsters from the minority communities have been recruited into clerical grades in the Home

Office and about 6% of Executive Officers are from those communities – but sadly there are very few in posts above that. I hope this will improve through training and monitoring programmes which are in hand. I would like to see policy makers better reflecting the balance of the community. (And I recognise that Parliament too has a long way to go in this area.)

Things are improving on the bench. The Lord Chancellor continues to appoint ethnic minority magistrates younger than the broad run of JP appointments. For the judiciary, race awareness training is still in its very early stages – but it has begun. Sir Henry Brooke is doing some valiant work in this regard. The number of full-time and part-time judges from ethnic minorities is still small but a number of them have been appointed, relatively recently and I believe this is another positive sign of change.

I take encouragement from the numbers of lawyers from ethnic minority communities – for example, 5% of those in the CPS – and particularly from the number of students seeking to enter the profession. In 1990-91 over 14% of students enrolling with the Law Society came from the ethnic minorities (and more than half were women). There has always been an established minority presence at the Bar but that does not necessarily mean equal access to all the work. Now the Bar Council has set out a policy with clear targets for the profession.

The information published under Section 95 underlines however that despite these encouraging signs, ethnic minorities are under-represented as practitioners in the criminal justice system. If their numbers and profile rise I am optimistic that confidence in the system will increase amongst our ethnic minority populations.

VICTIMS

One of the more disturbing conclusions to flow from last year's work was that members of the ethnic minorities figure disproportionately highly as victims of crime and sometimes have to endure the horror of racist attacks. For them there is a Charter setting out their rights, backed up by information

leaflets which are available not just in English but in a number of other languages too. I am glad that the police are making efforts to provide a priority response for victims of racially motivated crime.

RESPONSE TO CRIME

But the response to crime cannot be left just to the Government or the criminal justice system. It must involve the whole community. Crime is mainly committed by young men, one third of whom will have a conviction by the age of thirty. Attitudes of parents, their discipline, their own culture and values are crucial in reducing criminality and in diverting the young from the criminal justice system. Community effort can be vital in reducing crime but our efforts to harness community effort won't work if a particular community's own experience of the criminal justice system has been tainted by a bad experience or by a perception of prejudicial behaviour which undermines confidence.

INTERDEPENDENCE

The Criminal Justice Act 1991 and its emphasis on community sentencing provides opportunities to divert more youngsters from custody. Effective implementation of the Criminal Justice Act depends on genuine commitment, on good communication between the probation service and the bench, and on better understanding with other services and the legal profession.

In the criminal justice process it is crucial to recognise the impact that one decision about an individual can have further on down the line. If that decision is based on false assumptions or incorrect inferences, then the injustice may be compounded as the offender moves on through the process. So in looking at how black people are dealt with in the criminal justice system it is important to analyse the whole process, not just isolated actions or decisions. Attention to decision-making, and standards of service for members of the ethnic minorities, can also, I believe, have spin-offs for improving quality all round.

CONCLUSION

Let me begin to draw these threads together. Confidence in our system of criminal justice is vital. Our system is about imposing an orderly process on the attribution of guilt and the punishment of offenders so as to prevent disorder and lawlessness – to discourage victims of crime, and their sympathisers from taking matters into their own hand. That confidence has been dented. The Royal Commission on Criminal Justice was set up to address public concern. They have commissioned work from the Runnymede Trust and CRE on race issues and the Home Office and CRE have both submitted papers to the Commission on race and justice. We all await their report with great interest.

We are in a business which must deal with people as individuals and give consideration to their

needs. No matter what their background, people must feel the system is accessible and that they will be treated fairly by it. This concept is at the heart of the Nuffield Interpreter Project. I am delighted that those Government Departments with an interest in its findings – including the Home Office – will be discussing how we can help to take it forward.

We must achieve a position where we cease to comment on the numbers of people from ethnic minorities in leading roles in the criminal justice system because their presence is taken for granted and their influence is assured. We must foster a criminal justice system geared to delivering better quality services to a multi-cultural and integrated society which will command confidence from all quarters.



Robert Hazell, Walter Merricks, Michael Jack

Papers

Access to Justice for Non-English Speakers

*Robert Hazell, Director, The Nuffield Foundation,
Chairman, NIP Legal Services Steering Group*

When I came to the Nuffield Foundation from the Home Office four years ago I was given two sacred charges by my predecessor, James Cornford. One was our work with integrated schools in Northern Ireland; the other was called the Community Interpreter Project. This was the brainchild of a Cambridge magistrate, Ann Corsellis, who had become concerned at the difficulties faced by people appearing in the courts in Cambridge who could not speak adequate English; and who, being a practical person, set about trying to do something about it. She began organising a panel of interpreters and training courses to enable those interpreters to work effectively in police stations and the courts.

Ann quickly realised that it was not just the courts which experienced difficulties: people with poor or non-existent English appear in doctors' surgeries; social security offices; hospital accident departments; social workers' offices; and elsewhere. So she began organising courses for interpreters working with the health service or local government services. It is as frustrating for the services concerned not to understand properly what the person wants as it is for the non-English speaking client. Equally worrying is the unknown number of clients who do not appear in surgeries, police stations etc because at present there is no effective mechanism enabling them to make their needs known; and so they do not try.

This project is trying to ensure that non-English speakers have equal access to public services: services

to which they or their families may have contributed as tax payers, but from which at present they derive little benefit. Our focus in the last couple of years has been on the law, so we will be concerned with the difficulties faced by non-English speakers in their encounters with the police, the courts, the prison service and the probation service. We tend to think of them as defendants, but they can appear as complainants, plaintiffs, victims or witnesses. In whatever capacity they appear, they need to understand what is going on; and we need to understand them.

Let me start with a brief description of the law. *ECHR Article 6* provides that everyone charged with a criminal offence has certain basic rights. These include the right 'to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him; and to have the free assistance of an interpreter if he cannot understand or speak the language used in court'.

Kamasinski emphasises the need for the translation of documentary material and at pre-trial proceedings. At the end of the judgement the court said 'in view of the need for the right [to an interpreter] to be practical and effective, the obligation of the competent authorities is not limited to the appointment of an interpreter but... may also extend to a degree of subsequent control over the adequacy of the interpretation provided'.

As noted earlier (pp 6-7), the law is reasonably

clear on when you need an interpreter; but no guidance on what counts as a competent interpreter. Friends, relatives, court ushers get pressed into service; it is not unknown for the police to send round to the nearest Chinese restaurant.

The present arrangements for supplying interpreters are extremely ad hoc. There is seldom any proper check of the competence of an interpreter. The police do their best in difficult circumstances, and try to assess language competence, but the preliminary screening conducted by police forces before placing someone on a list is of the only kind they know – a criminal record check.

UNTRAINED INTERPRETERS

It is not just language competence that is required to make a good interpreter. Interpreters need also to have a good cultural understanding, to explain linguistic nuances which the interviewers might have missed; and they need to understand the context in which they are working – the procedures in the police station, the roles played by the different parties in court; and the proper role played by the interpreter. The interpreter must not stray beyond that role; and must have the confidence to say when getting into difficulties.

These are the issues which the NIP has been addressing over the last ten years. I cannot do justice to all the work that has been done, but I want today to cover four main things:

1. *the survey* of the courts and the police which we commissioned to learn more about the extent of the problem¹;
2. *the inter-agency steering group* we have formed of all the main legal services to develop a strategy for improving the quality of interpreting for the police, the courts etc;
3. *the qualifications* we have helped develop for police and court interpreters;
4. the work we are about to embark on to increase *the supply of trained interpreters*.

Commissioned by the Nuffield Interpreter Project and funded by the Nuffield Foundation.

¹ 'Silence in Court?' *A Study of Interpreting in the Courts of England and Wales*: Ian Butler and Lesley Noaks, School of Social and Administrative Studies, University of Wales (1992)

THE SURVEY

When we started, there was no data available about the need for, or the use of, interpreters in the courts of England and Wales. We therefore commissioned a survey of magistrates' courts in 1991, followed by the crown courts and county courts in 1992 to give us a better feel for the size and nature of the problem; with the assistance of ACPO we conducted a similar survey¹ of the police (see pp 42-43).

The survey's specific objectives were:

1. to collect information about the use of interpreters in magistrates', crown and county courts; the languages most commonly used; and how interpreters were found;
2. to gauge the quality of service provided, by seeking the opinion of court officials, solicitors, police and probation officers, and inviting their suggestions for improvement.

Sadly, we were unable to incorporate the views of the clients for whom interpreting services are provided. The survey was done on a very limited budget and timescale: it does not pretend to be comprehensive or statistically significant. Although we got a good response from the courts, the underlying data was very poor; we are therefore reporting the impressions of the courts rather than detailed figures culled from their records.

The first point to make is that in the courts' system, magistrates' courts are overwhelmingly the major users of interpreters. (See Fig 1).

Fig 1: Usage of Interpreters

	Number of Interpreter Uses	Cost £k
Magistrates' Court	10-15,000	500-750
Crown Court	500	80
County Court	200	< 10
Police	? 30,000	2m +

In the magistrates' courts, there is little demand for interpreters in the juvenile court or domestic court (as it then was). Ninety five per cent of reported interpreter uses are in the adult court. (See Fig 2). I do not understand why the use of interpreters is less in the other jurisdictions of

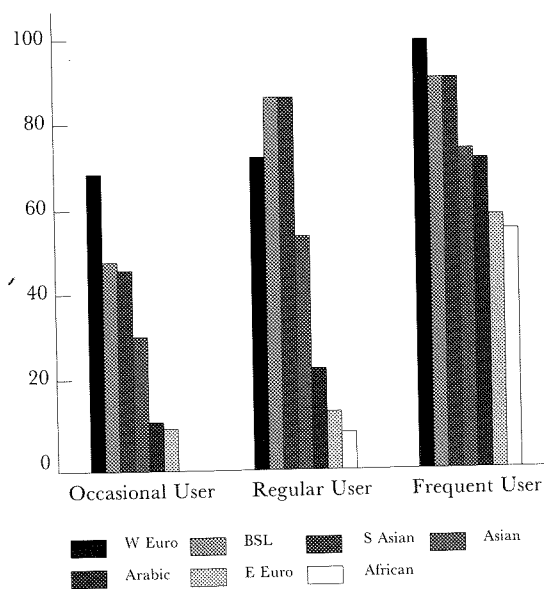
magistrates: when you allow for the lesser number of sittings, there is still much less use made of interpreters – although the overall population served by the court is the same.

Fig 2: Frequency of Interpreter Use by Court Type

	Number of Interpreter Uses per 100 Sitting Days
Adult (Crime) Court	7.76
Domestic Court	1.35
Juvenile Court	1.85
<i>Weighted Mean</i>	<i>6.29</i>

Amongst the different magistrates' courts, the 80/20 rule applies. Just 10% of the courts account for 70% of all interpreter uses. As you would expect these courts which are frequent users of interpreters are in the major conurbations, in particular London and the South East, and in the Midlands. At the other end of the distribution, 25% of magistrates' courts never use interpreters; and a further 50% use interpreters only occasionally.

Fig 3: Language Use by Category of User



What languages do they use? This was rather surprising, at least to me. The main language group required is western European. The right hand set of

bar charts is the one to focus on, because it accounts for 70% of all uses. (See Fig 3). The next most frequent language is British sign language for the deaf and hard of hearing, although we have doubts about reliability – it may have been over-reported because it is more visible and people remember it.

USE

What do courts and court users say about the present arrangements? Frequent users – the 10% of magistrates' courts – have developed adequate mechanisms to ensure a supply of interpreters, they do not report undue delays, and they are generally satisfied with the present arrangements. A number of these courts maintain their own register of interpreters, and our local studies show that some even organise training days for them in court procedure etc. There are examples of good practice which we hope the Project will spread to other areas.

Most magistrates' courts (80%) do not have a register of their own. Nearly half the courts rely on a list maintained by another agency, generally the police.

Some steps were taken to try to check the competence of interpreters. But in over half the magistrates' courts that used interpreters, no direct checks were made on linguistic or technical competence; and where a check was reported, there was heavy reliance generally made on the agency providing the interpreter.

WHAT DO THE COURTS WANT?

The most frequently suggested improvement would be access to a central register, not held by the court but maintained at national or regional level.

The next thing the courts and solicitors want is a system of quality assurance: they want some guarantee that interpreters will be competent and reliable. The sort of difficulties reported by the courts are the following:

- holding long conversations with the defendant or witnesses rather than simply acting as a two-way channel;
- sometimes the opposite: not translating the proceedings as they occur;
- another worry is the interpreter starting to

advise the defendant, and trying to act as an advocate;

- in extreme cases the interpreter can completely blow it: in one crown court case in London the interpreter lost all control and burst out to the jury 'Why do you listen to him? He is guilty.'. You can imagine the scene. The Judge buries his head in his hands; and jury is dismissed. There are shades of the Marx brothers, with Harpo interpreting for Chico: but it is not actually very funny. At £7,000 a day, which is what the Home Office estimates crown court trials now cost, we cannot afford this kind of slapstick.

That is all I want to say about the magistrates' courts – overwhelmingly the major user of interpreters; the situation is, perhaps, summarised in a commentary from the Survey.

"The system at the moment is extremely vague, a bit hit and miss within the area. The quality of interpreters made available to the court has been highly variable. It would certainly assist the court in this area to have a central pool of trained interpreters with clear responsibilities as to arranging for their attendance at court and payment."

CROWN AND COUNTY COURTS

The first point to make in this context is that in proportional terms, the use of interpreters in crown and county courts is much less, by a factor of almost ten (See Fig 4).

Fig 4: Frequency of Interpreter Use by Court

	Number of Interpreter Uses per 100 Sitting Days
Crown Courts	0.79
County Courts	0.67
<i>Weighted Mean</i>	<i>6.29</i>

The second difference is that county courts have the most rudimentary arrangements. They do not use interpreters very much, and in two thirds of all cases they rely on volunteers – generally family or

friends of one of the parties. That may be all right in a debt or a housing case – but is it really appropriate in a custody dispute, or a divorce petition based on unreasonable behaviour?

The crown court is different, and in 90% of cases where an interpreter is required it uses a professional interpreter. The crown courts more often maintain their own registers (40% in London and the South East). There is no sharing with the magistrates' courts, who are still part of another world so far as finding interpreters is concerned: this is a practical point which the new criminal justice area committees might like to address. When asked about improvements, the crown and county courts made the same suggestions as the magistrates' courts. Essentially they want a register, regularly updated, of competent and qualified interpreters maintained by a national body, approved by LCD, whose responsibility it would be to distribute the register to the courts, to publish amendments etc.

Those are the main findings from the survey of the courts.

THE POLICE

The parallel survey of the police shows that the police, as ever, are in the front line: they are generally the first point of contact for anyone coming into contact with the criminal justice system, and of all the criminal justice agencies they are the heaviest users, spending £2m a year on interpreters. Almost all police forces do maintain lists of interpreters; but they want better methods to check the proficiency of interpreters; and better training of interpreters, in particular in police procedures.

What are we doing to address the issues and recommendations coming out of the survey?

INTER-AGENCY STEERING GROUP

We have formed a steering group bringing together all the main agencies in the legal system. We have been most fortunate in their interest and commitment to the project. It has been a very successful example of inter-agency cooperation, to tackle a problem that straddles all the legal services; and it has also been a good example of voluntary and public sector partnership – if you include Nuffield,

we have four voluntary organisations on the group working alongside all the statutory agencies.

The group has been meeting now for two years. Their task has been to raise awareness of the problem, to highlight the unmet needs of non-English speakers in the legal system; and to promote the use of suitably qualified interpreters as a possible solution. This conference represents the culmination of these efforts to place the issue firmly on the legal agenda; and it is a great tribute to their efforts that such a distinguished and interesting group have gathered to discuss what needs to be done.

What still needs to be done? The main recommendation from the survey is a register of interpreters: I will come on to that in a moment. I want first just to sketch out the other things we need to tackle in the next 12-18 months. I will group them under four main headings:

1. *Development of national standards* Together with a parallel steering group we have set up on the training and supply of interpreters, we need to agree national standards to define what is expected of interpreters working with the legal services. On the language side there will be parallels with the work recently completed by the Languages Lead Body defining minimum standards for NVQs. I hope that, in conjunction with the interpreters' professional bodies, we can define what the minimum standards of an adequate interpreting service should be.

2. *Training for service providers* It is not just interpreters who need training: all those who work with interpreters – the police, court clerks, magistrates etc – need training in how to make the most effective use of an interpreter. It is not complicated or long-winded but it is necessary.

3. *Promotion of good practice* The project also has a wider training role. There needs to be a focal point in the UK for legal services wishing to improve their use of interpreters, to exchange ideas on good practice etc; and this project is fast fulfilling that role. We field enquiries from the courts, from solicitors, from interpreters looking for training; we are even starting to field enquiries from Europe, which is starting to look to our work in the UK as a possible model.

4. *Gathering more evidence* I am always suspicious of those who present survey findings and then press the case for further research. But I have to say that there are some glaring omissions in our data:

a) The survey should be extended to tribunals. We know nothing about the interpreting needs of immigration adjudicators and the immigration appeals tribunal; of employment tribunals; social security appeal tribunals; etc.

b) We need to draw on the findings of the survey we have done, expose the main gaps, and use the survey data to plan more effective provision in local areas. Where are interpreters needed; in what numbers; and in what languages.

c) We need to collect more evidence about costs. I cannot at the moment show that the use of qualified interpreters is more cost effective, through reducing delays; adjournment; and trials abandoned. Needless to say I should like to be able to do so; but it is difficult to collect other than anecdotal evidence.

So there is work still to do. But the key thing, the central plank of a more effective system of interpreting for the legal services has to be a register. We are now devoting time to discussing who in the legal system should hold a register of interpreters on behalf of all the other services. There are two main candidates: the police, who to some extent do this already; and the Legal Aid Board. A number of the other agencies are unhappy about using police lists because the interpreters will be perceived as 'police interpreters'. The Board may be more suitable because it also plays a central function on the civil side; it already regards itself as serving a number of stakeholders; and it performs a rather similar function in the provision of duty solicitors. Any agency holding the register must operate a 24-hour service, because of the needs in particular of the police. The Board provides that with the duty solicitor scheme, and we have held preliminary discussions with the Board to see whether we might be able to develop something similar for interpreters.

RECOGNISED QUALIFICATION FOR INTERPRETERS

Of course, a register is only as good as the people on it. The other great defect of the present system is that there is no proper test of an interpreter's competence, nor of his understanding of police or court procedures. That is something we started to address early on in the project, through work pioneered through Ann Corsellis and the Institute of Linguists. The Institute is a recognised examining body which does language testing for industry and for the public services. Together with the Institute we have developed a hierarchy of qualifications. Starting at the bottom is the Bilingual Skills Certificate, a test of language only. Next the Certificate in Community Interpreting, which tests the competence of interpreters working in a particular context and the Diploma in Community Interpreting Techniques, which is a teaching qualification. The changes and adaptations taking place in this area are described in later papers.

INCREASING THE SUPPLY OF TRAINED INTERPRETERS

As you will see there are very few interpreters holding these qualifications at present. Our next priority is to achieve a significant increase in their numbers. The Institute is working on making changes to the Certificate, so that it is more accessible and flexible, and possibly can be taken in modular form; and we are engaged in close discussions with the various bodies representing interpreters working in the field to see how we might recognise and accredit their experience and expertise. I should stress I am not saying that all interpreters currently on police and court lists are incompetent. Many are highly competent. We want to devise a means, through the principle of accreditation of prior learning and experience developed by the NCVQ, of recognising and rewarding that expertise, by offering a qualification which will serve as a badge of competence for all the legal services. We must also start offering differential rates of pay to qualified interpreters, as an incentive to encourage them to undergo the training and become suitably qualified.

LONG TERM OBJECTIVES

That brings me to my conclusion, and our future plans. We are currently redrafting our strategic plan and work programme for next year. Our objectives are:

-
1. *To obtain commitment from all the main services to use qualified interpreters wherever available*
 2. *To obtain commitments from all the services to pay qualified interpreters at differential rates*
 3. *In the case of the legal services, to achieve the introduction of a statutory requirement that all interpreters working with the police and the courts be properly qualified by the year 2000.*
-

FUNDING

That is the goal we are working towards. It all costs money. Nuffield has invested over £½m in this project. It cost the Nuffield Trustees' £¼m to develop and pilot the qualifications with the Institute of Linguists; and we have invested a similar amount in the further work we are doing with the legal services, and the work we are planning to increase the number of trained interpreters. Other trusts have joined us, contributing towards a central training fund. The Nuffield Trustees have said with increasing firmness that they cannot shoulder the burden alone, and Nuffield funding on this project runs out next month unless Government starts to share the cost. It is very tantalising when our goal is now in sight, and I believe one last push will get us there. That was one of the main reasons for organising the conference. It is pleasing to note that in addition to the Minister of State there are here six people from the Home Office; perhaps the Nuffield Interpreter Project will get the recognition and support it needs and deserves.

A Case in Point: Views from the Courts

Charles Paton Webb, OBE, Justices' Clerk, North Tyneside

David A W H Chandler, Justices' Clerk, Bradford

CHARLES PATON WEBB

The discussion today is going to consider two areas of jurisdiction. We can't claim to talk for our service or for the magistrates or for the higher courts who are represented today. We can only say that we represent ourselves. But the one thing that we do represent is a need. And that need we hope is going to be dealt with at great length today. And hopefully at the end we will all feel much more responsible for something which is, as has already been emphasised, treated too much as a minor issue in a major subject.

Family issues are absolutely vital, and one has got to add to all the complications which have been mentioned up to now, things like cultural differences, the fact that older people are not happy to discuss their sex lives with magistrates' courts through an 18 year old or even a 20 year old interpreter. Certain people will not work through an interpreter of the opposite sex; they certainly feel discomfited by that. These are additional issues which must be looked at.

The civil jurisdiction of magistrates is extensive – it includes all the child care work, all family proceedings, short of divorce, maintenance and many other issues of a very sensitive nature and yet one of the unkindest cuts of all in the system is that public funds which are available to the Criminal Justice system are not available to magistrates to pay interpreters. You heard Robert Hazell say that it seems to be the custom, that most people provide their own interpreters. The Legal Aid Scheme came to the rescue, with the Green Form Scheme which has been used until recently, and perhaps in cases of need the Legal Aid Board will continue to allow the Green Form Scheme to be used to pay for interpreters. But it may go, so any lifelines that there were, which were minimal before, are about to be severed. We must have more interpreters in regions – national funding must be made available to train regional panels properly, and additional public funds must be available to

courts and tribunals to help disadvantaged non-English speakers to pay for such interpreters at reasonable rates. It should not be acceptable nationally for charities like the Nuffield Foundation to go on funding vital work like this. It should be a national responsibility and I hope that the message that this conference will take away, is that this is a national issue, and it's up to us to do something about it, and to make sure that those responsible do something about it too.

DAVID CHANDLER

I come from the Justices' Clerks' Society, a society that has shown a great deal of interest in those who are disadvantaged appearing before the courts: we need to examine our courts and the procedures so that none are disadvantaged.

There are three questions to be asked: do courts get good service from interpreters? Do interpreters get good service from the courts? Finally, very important, do non-English speakers get justice?

Coming to the first question as to whether courts get good service from interpreters, really brings me to my interest in the role of interpreters in court. I found at a very early stage that there was a great deal of concern within West Yorkshire about what was the court's view of the standard of interpreting in the courts. It was the court's view that the standard of interpreting was very low. I'm pleased to say that they had already decided that there was some benefit to be gained by putting on a course for those who quite often came to the courts and interpreted. I volunteered to take responsibility for organising such a course for, in all, about 60 interpreters in West Yorkshire and we held it on two separate days – 30 coming to each of the sessions. I was there throughout the day as a Justices' Clerk, who knew the procedures of the court. I also enlisted the assistance of a professional trainer – Joan Collin who also was a magistrate and was able to give information from the magistracy. In that training we were not attempting in any way to deal with the

linguistic difficulties that interpreters no doubt encountered. We were not qualified to discuss with them the difficulties of interpreting. Our job during that day was to show to them that there was a set procedure. If they knew a bit more about it, it would give them more confidence in the courts. And this I may remind you was because the courts themselves were concerned about what they believed to be low standards. What sort of low standards did they actually see? Well it's already been mentioned that interpreters act as advocates. It's great fun being an advocate. As a court clerk it's a very tempting thing on occasions to intervene and to act as an advocate. It must be the same for an interpreter. It was also seen that some interpreters really had very little experience of how to behave as interpreters. They would actually say 'Well he says to me that' rather than interpreting the words of the witness or the defendant. Little clues like that made the courts believe that the interpreters weren't used to the procedures in court and what the court's expectations of them were.

Once we vetted the interpreters we found that it was not one sided. They had criticisms of the courts as well, and I'm going to come to those in a moment. But they've divided themselves up very simply and their views were rather different depending upon the background they came from.

We identified that there were different views or different perceptions of interpreters of the courts. If English was the mother tongue of the interpreter or English was the foreign tongue of the interpreter, that seemed to make quite a bit of difference about their confidence and ability within the courts. Obvious if you think about it. Since my youth I've been brought up on a diet of television programmes culminating perhaps in 'Rumpole of the Bailey'. Even if I had nothing to do with the courts I would have some idea of what goes on in a court. People from other cultures do not necessarily have that appreciation. Because of that they feel, the interpreters themselves are at some great disadvantage. They felt that the courts themselves were identifying the interpreters rather too closely with the defendants. So the courts were saying they act rather too much as advocates. The interpreters were saying 'why do you think we're on their side, we

want to be impartial and yet we're treated as though we are on their side.' It must be much easier, must it not for the Englishman who teaches German at the local comprehensive school who is called in to interpret because there is a German lorry driver who has been stopped on the motorway and his case is coming before the court. When he gets there he looks at the magistrates, he may actually be teaching the children of one or two of the people in that court. He feels confident in that courtroom; that is not necessarily the case for other interpreters.

In the publicity that went out before this conference there was one thing that I would actually want to take issue with. I'll read the quotation. The Nuffield Interpreter Project has uncovered instances where friends, relatives, and this is a point that upset me, and even ushers have been pressed into service as court room translators. In Bradford we have a lady who acts not regularly but occasionally in an emergency as an interpreter. If you heard her now, or if Professor Higgins were here now he almost certainly would be able to identify which particular school she went to in Bradford. But... she speaks Gujarati. She is well versed in the role of people in court, she has been trained in that way. I would much prefer her to go into another courtroom. She shouldn't take off the gown and actually act as an interpreter in the court in which she has been an usher. But I would much prefer her to be doing it than the relative, the friend who has never been in court before. And despite what it says in that publicity material it will be my intention when I get vacancies amongst ushers in future to look for foreign language speakers – the foreign languages that are prevalent in the Bradford area; not to take over the role as interpreter, but there are so many occasions when suddenly you find that you have a difficulty; and it is those occasions when courts have been led into allowing relatives to interpret for witnesses and defendants.

Interpreters are also needed outside the court room. We think of the court proceedings and that which happens within four walls where the judge and the magistrates sit. People are fined in Bradford who do not speak any English at all. They need their fine notice translated to them. If they wish to ask for further time to pay at a later stage they come into my office and

ask for further time to pay. It is clear that interpreters are needed throughout the court process.

I welcome the initiative of the Nuffield Foundation which is really trying to raise the status of the interpreter. Interpreters I meet, feel that they are regarded as almost the lowest person in the court. There is a factor recognised by many of those who are in the court regularly – the ‘Oh No’ factor. If you are sitting there just before the court starts, and you realise that it’s a case that requires an interpreter you feel just slightly that your heart sinks. Why does it? Because the case is definitely ‘going to’ take longer and you envisage the difficulties that there may well be because of that. Do interpreters really get a good service from the courts – my answer to that is, ‘No not really’. The interpreter doesn’t get much in the way of guidance. There is little in the law books. Anything that raises the status of the interpreter will be to the interpreter’s benefit – so it’s not just the court that will benefit from the qualification.

The role of the interpreter gives rise to differing views. One view is that the interpreter should provide a totally verbatim translation without in any way modifying material or taking any active role in the proceedings. Most clerks on my course agreed with that. I pointed out that in practice we seem to expect rather more; we don’t always use direct speech but say ‘will you please explain to him’, or ‘will you please tell him that’, rather than speaking directly to the main protagonist whether defendant or witness. Clerks complain that interpreters need training and guidance on their role; similarly interpreters stress that court officers need guidance on how to work with interpreters. For example, in an attempt to be helpful some clerks break down their statements into three or four words at a time so that the interpreter has no idea of where the statement is going or the full meaning of what is to come next.

There is impatience on the part of the court when a short legal statement in English seems to lead to a debate between the interpreter and the defendant. It is not understood that a single word in English may not translate into a single word, but that a whole concept has to be explained. For example the word *alibi* may not be capable of translation into one word in many languages. On

another course for court clerks I asked them to explain the word without using it. One suggestion, intended humorously no doubt, was ‘lying about where you were when the crime was committed’.

Lawyers are wordsmiths. They enjoy playing with words. On this course when not allowed to use the direct word *alibi*, this group could not agree on a form of words which all found suitable. And yet the importance and meaning of words in our jurisdiction is fundamental, and understanding them and the intention behind them has far-reaching effects. It is far too simplistic to think that a sentence of eight words in English will translate into eight words in another language, no matter how slowly you speak them.

There is the question of who has responsibility for interpreters. It is my view that ultimately the court has responsibility. It is for the court to satisfy itself that the defendant or witness understands the proceedings; if the court is not satisfied then it is the court’s duty to stop. Yet we have no control over the quality of the interpreters who come before us. And yet ultimately the court is responsible. It is essential therefore that we move to a situation where there is a proper list and that we use only those whose qualifications and competence are assured by the fact that they have been accepted onto that list.

The essential question is ‘has justice been done?’ I have referred to the ‘Oh no!’ factor. It does occur. It is also my experience, however, that there is a compensation factor... In many instances the court is doing its utmost to see that the non-English speaker is not disadvantaged. Of the thirty thousand cases or more, per year, where interpreters in court are required, I believe that in the majority of those cases justice is done. The real issue is to ensure that instances of injustice are reduced. There are ways and means of improving standards and the quality of service provided. We must take the steps to acknowledge the need and to put these changes in place.

The PACE Clock is always Ticking

Colin Sheppard, Deputy Chief Constable, Norfolk

THE POLICE USE OF INTERPRETERS

'The PACE clock is ticking' when an individual is detained by the police. The Police and Criminal Evidence Act lays down strict requirements on how long he can be kept in custody before either being charged with an offence or released. The timescales are tight, and rightly so, ensuring that interviews are conducted with the individual with the minimum of delay.

It follows that if a police interview requires the services of an interpreter access should be gained by the police to that interpreter as soon as possible. Ideally, the interpreter should be fully aware of the requirements of the Police and Criminal Evidence Act and his part in the interviewing process. At the present time procedures governing the use of interpreters vary considerably from Force to Force. There is little training offered to the interpreter and in many cases the qualifications to undertake the interpreting role can be questioned.

To safeguard the rights of the individual, and to assist the police in providing a more professional service, a full review is required of existing practices. As the Police Service has a major requirement in respect of the use of interpreters within the Criminal Justice System, it would seem sensible that their experience is drawn upon. It would also seem appropriate to recognise that any change in procedure takes account of the police requirement to have access to a register of interpreters 24 hours a day.

There are 43 Police Forces in England and Wales, each responsible for a geographical area and, in total, utilising over 120,000 police officers to enforce the law. Each year those officers bring approximately 2 million persons before the courts to answer a variety of charges ranging from illegal parking to the most complex of serious crime investigations. In the past 12 months those investigations have required the police to seek the services of interpreters on 17,530 occasions. An example of some of the difficulties which arise for

the police in the use of interpreters are reflected in the following.

On the 2 September 1990, the bodies of three dead South Koreans were found in Diss. It transpired that the incident revolved around a dispute over 'chicken sexing'.

When the Turkey industry in Norfolk require the services of chicken sexers, the 'Michelangelo's' of the chicken sexing world are to be found in South Korea. This work is well paid in Norfolk and consequently there is a long waiting list of Koreans seeking such employment. In this particular case a hopeful chicken sexer had paid money to the deceased to ensure that his name moved up the list. When no job materialised he came to Norfolk and, not being satisfied with the explanations given, proceeded to stab and kill those whom he felt had let him down.

The murderer was arrested in nearby Thetford Forest. It was apparent from the outset that he did not speak English and consequently the services of an interpreter were required. Norfolk had a wide range of language experts in the County but none who could speak Korean. In addition, it was obvious that it would be necessary to interview a vast number of Korean Nationals, - some to build background and others formally to secure evidence for subsequent proceedings. Thus it was not the services of one interpreter that were required, but those of several to ensure fairness and a lack of 'contamination' of evidence.

The South Korean Embassy was extremely helpful in identifying Koreans who lived in the East Anglia Region, but there was no way of assessing how effective these people would be as interpreters. It became evident that the Korean community in England was reasonably 'close-knit' and by word of mouth and through organisations such as the Church, a number of people were identified and used to conduct the many interviews.

In all a total of 10 interpreters were used, but only two had previous experience in a formal interpreting situation. This gave rise to concern

that the validity or quality of interpretation would be challenged at Court. This was never tested. Only three of the interpreters charged for their services resulting in the expenditure of £1,663 in fees.

With hindsight we might say 'what an unprofessional way of tackling the problem' and it must be agreed that it is far from ideal. This is not untypical of the current 'state of play' within the Police Service and demonstrates the practical difficulties which exist for the police in the acquiring of services of professional, accredited interpreters, particularly when an emergency occurs.

THE POLICE SURVEY

Earlier this year a survey was conducted amongst the 43 Police Forces in England and Wales. In order to make progress it is important to know what is currently happening and in particular the way that the 43 Police Forces recruit, train and utilise the services of interpreters.

It was revealed that 41 of the 43 Police Forces in England and Wales maintain a register of interpreters and 31 of that number allow access to the details of the register by Courts and other enforcement agencies such as the Customs and Excise. The two Police Forces who do not have a register are the City of London Police who are linked to the Metropolitan Police System, and a Welsh Police Force who rely on a University Language Centre.

All of the registers are available on a 24 hour basis, with 27 of the 41 linked to a computerised system.

On the registers can be found details of the individual interpreter and the languages they speak. Only 13 Forces recorded the qualifications of the individual interpreter.

The survey demonstrated that the Police Service in total, has access to interpreters in over 60 different languages. A number of the Police Forces commented that whilst there was an abundance of Western European language interpreters, considerable difficulty was experienced with Asian and non-European languages.

Some Police Forces used their own officers to interpret but the use of a staff member was generally

considered to be a 'last resort' and only acceptable in formal questioning, or taking statements when prior authorisation from a senior officer was given.

In Norfolk we have over 200 officers who claim to be skilled in the French language, 60 in German, 3 in Italian, two in Dutch and so on. During a recent audit it was found that the skills level varied considerably, with many quoting as a qualification a GCE 'O' Level, achieved some years before, and perhaps supplemented by holiday experience. Thus the problems with the use of police officers in terms of skill and their subsequent value as a witness are apparent. This practice should be discouraged.

Of the Police Forces in England and Wales, 24 indicated that they had either informal or formal guide-lines concerning the use of the same interpreter for pre-Court issues and during proceedings in Court. 18 of that number have an agreed procedure with the Crown Prosecution Service as to the point at which responsibility for providing an interpreter passed from the Force to the Crown Prosecution Service.

Nearly half the Forces reported that the ability of particular interpreters had been challenged during Court proceedings. Examples indicated that challenges could come from anyone in the Court Room, Magistrates, Prosecuting Solicitors, witness, or even relatives present in Court. In some instances this had led to the case having to be dismissed.

One Force recorded that an interpreter had been borrowed from an adjacent Police Force to assist in a very delicate child abuse case. The interpreter was in fact very poor and had not spoken the language for ten years.

Another example was of an interpreter appearing before a Crown Court; he was so incompetent that it was instructed that he should never appear before that Court again and should be deleted from the register. Three months later another Police Force brought the same interpreter before the same Judge in the same Court!

During a Crown Court trial of two Chinese youths who were members of 'Triads', it became apparent that the interpreter could not understand the slang used by the accused.

The procedure whereby an interpreter comes to be approved by the police varies widely across the

country. A basic security check to eliminate applicants with any criminal record is carried out by all but one Force, but only half carry out further checks to verify qualifications, with less than half actually checking language proficiency. Six Police Forces carry out a language test. One Force utilises previously approved interpreters to administer a language test.

One Force indicated that their interpreter list was entirely based on academics, usually University lecturers or modern language teachers. In addition, others were from a professional background such as Commerce or from Shipping Companies.

In terms of enhancing the quality of interpreting services available, the difficulties of persuading a volunteer interpreter to obtain formal qualifications was addressed in the responses of two Forces. They commented:

'It would be difficult to make interpreters hold a formal qualification as most do it in retirement or in their spare time, and would withdraw their services if they had to take a qualifying examination'.

Another Force emphasised:

'All interpreters are volunteers, many with no formal qualifications to indicate competence in language. Funding to provide training and development is not readily available and the commitment from other Criminal Justice Agencies to share the cost is lacking'.

In some Police Forces efforts are being made to train interpreters. In one example quoted all interpreters are invited to a quarterly meeting at which presentations are made on procedures, practice and responsibilities in this area. Concerns are discussed and addressed, and members are encouraged to share their experiences both good and bad.

Fourteen Forces were able to provide information relating to the circumstances, in terms of procedure, in which interpreting services were used. From those responses it was established that 72% of interpreting required was in relation to the processing/interviewing of prisoners. 7% related to the interviewing of victims of crime, 8% in response to general enquiries and 2% for miscellaneous other purposes.

The survey indicated that interpreters had been

used in the period September 1991 to August 1992 on 17,530 occasions in England and Wales, but 13,000 of those had been in the Metropolitan Police area. A further 2,000 had been in the West Midlands.

When measured in cost terms the use of interpreting services had amounted to expenditure marginally under £2 million. 65% of Police Forces paid interpreters according to a Home Office scale but others adopted their own idiosyncratic formula. They quoted a basic day time rate from £6 to £14 per hour, with enhancement for Sundays, Bank Holidays and night-time work.

In conclusion, the Police Service sees the current system to be very ad hoc. There is no standardised formula for recruitment, testing, training or assessing the quality of interpreters. The scale of reimbursement varies greatly between Police Forces. We call for a system of National guide-lines to help set up a more organised system.

If the estimates are correct then by the year 2000 30% of the population of urban Europe under the age of 35 will not be living in their country of origin. In addition, the global village will continue to expand with the commensurate movement of peoples with varying degrees of language skills. It is possible that an increasing number of non-English speaking residents in the United Kingdom could, at some stage, be introduced into the Criminal Justice System. It is essential that qualified interpreters are made available to ensure that a miscarriage of justice does not occur, and that the individual involved, above all others, is aware of the nature of what is taking place in relation to him.



Colin Sheppard

David Chandler, Charles Paton Webb



Michael Frost, Ian Chisholm, Robert Hazell,
Ann Corsellis, Alan Moys



General Discussion and Issues

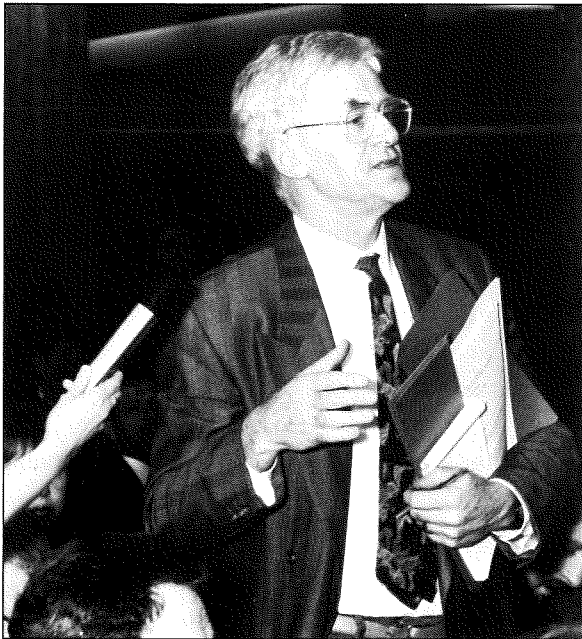
Chairman: Walter Merricks

It was reported that interpreter services were not always readily available nationwide and in some areas, it was almost impossible to find an interpreter at short notice, if at all. This frequently resulted in family members being appointed to undertake the role of interpreter, in case adjournment, and invariably, in rising costs. The need for appropriately qualified interpreters was bound to increase, especially in tribunals, once Disability Living Allowance and Child Maintenance appeals were taken up.

The problem was not only one of availability of interpreters, but also that of recognition of need. It was sometimes difficult to recognise when English

was not being perfectly understood; equally, it could be difficult for the average policeman, solicitor or clerk to know which dialect of a given language was required. Trained, impartial, interpreters were needed at all levels within the legal system, whether the police station, prison cell, solicitor's office or the court.

In many cases, language and procedural skills were not enough. The interpreter must also be aware of dialectical nuance and cultural differences. It was important, furthermore, that the deaf were not excluded from this service. British Sign Language (BSL) interpreters must be trained alongside foreign language experts. One of the areas of greatest need



A question from the floor



Lady Marre, CBE



Delegates



▲ Usha Prashar makes a point

◀ R Sandhu and K Bahl

for BSL interpreting was civil law, particularly family matters.

In order to ensure that there was a meeting point between supply of, and demand for, interpreters nationwide, there should be an insistence on qualified interpreters and proper remuneration which might allow more access, flexibility and mobility.

When a question was asked regarding payment for interpreter services in cases of need it was confirmed that these would still be met under the

Green Form Scheme (Legal Aid), but this would be restricted to cases that were at present non-contributory. For example, approximately 84% of Magistrates' court defendants were on benefit level; however such an arrangement could lead to delays whilst the Legal Aid Board deliberated eligibility for payment. It was agreed that there was a lot of work to be done regarding standards, good practice and matching supply with demand, and that the Nuffield Interpreter Project was making significant inroads into this process.

Papers

Working with Non-English Speakers in the Probation Service and the Prison Service

Michael Frost, Assistant Chief Probation Officer, Middlesex

Ian Chisholm, Head of Home Office Prison Policy Division

MICHAEL FROST

The Association of Chief Officers of Probation is pleased to be associated with the work of the Legal Services Steering Group of the Nuffield Interpreter Project and I am pleased to share with you a probation service perspective upon the issues we are discussing today. Can I emphasise that it is simply one perspective, although I believe that the issues I raise are of particular relevance to probation services.

Probation Officers come into contact with people at all stages of the criminal justice process. In particular I should emphasise that in common with colleagues in the prison service the work of the probation service continues through sentencing, and in those cases where a community sentence or a prison sentence is imposed is likely to continue for months or many years following sentence. The circumstances in which probation officers work with offenders include bail information work, the production of pre-sentence reports for the courts, supervision of offenders subject to community sentences such as probation orders, throughcare contact with prisoners, preparation of reports for penal institutions and the parole board, and supervision of prisoners following release. In addition probation services work with the victims of crime through victim support schemes and are engaged with the community in crime prevention initiatives. Whilst focusing today on the criminal justice system we have already been reminded about

the work of the civil courts; probation officers are also engaged in working with families experiencing conflict, undertaking conciliation work, the preparation of reports concerning the welfare of children and providing advice and support to families.

In each of these contexts probation officers will from time to time become involved with individuals, families and communities where English is not the first language, nor the language in which the individual or group would prefer to work; and in some cases where the ability to use English is insufficient for work to be completed to a good standard. The extent to which probation services have had to engage with this issue varies largely as a result of geography. The large metropolitan areas tend to have confronted the issues by virtue of the very clear demand for interpreting services among their population; probation services covering areas which have fewer numbers of non-English speakers may have had less reason in the past to develop policies or make practical arrangements to ensure that non-English speakers can be offered the same services as English speakers. The research outlined by Robert Hazell did not address itself to the needs of probation services for interpreters and as far as I am aware there has been no study similar to the one conducted for police and court services. However I have sought some information from a number of probation services in England and Wales from which a brief overview can be drawn.

Many probation services identify infrequent use of interpreters. For example a Service in Wales reported that use of interpreters would be used once every three months or so. Other services associated with metropolitan areas have a larger demand for interpreting services. Thus an outer London service makes use of an interpreter twice a month, and my own service, Middlesex Area Probation Service, has during the past year used independent interpreters on 63 occasions. My colleagues in a large metropolitan area outside of London report that during a twelve month period they had 364 requests from probation officers for independent interpreting services in Asian languages alone, recognising occasional need for other languages in addition. This is of course simply a note of the occasions on which interpreting services have been 'bought in'. On other occasions the need to provide services in languages other than English is met by bi-lingual probation officers, or as in the case of the Middlesex Area Probation Service, by a member of staff specifically appointed to provide interpreting and translation services. One Middlesex bi-lingual probation officer is currently supervising 15% of his caseload in Punjabi whilst a specialist member of staff is called upon four or five times a week to interpret in Asian languages – this might amount to a further 400-500 occasions when staff in Middlesex are working in a language other than English.

Some features of the demand for interpreting services in the Probation Service are particularly interesting in the implications they have for the range of knowledge and skills interpreters might need and the dilemmas faced by some services. The large metropolitan service already referred to notes that of the 364 occasions when interpreters were requested 64% of those were in respect of civil court matters. The major demand for interpreting in the Probation Service is in respect of people resident in Britain; nevertheless for a small number of probation services there is also a significant number of occasions when interpreting is required in respect of people visiting this country. This issue is confronted particularly in the Inner London Probation Service but also has an impact in such areas as Kent, with the channel ports and for probation services dealing with cases arising from

Gatwick Airport, as well as Middlesex Area Probation Service where 30% of the use of independent interpreters is accounted for by cases arising from illegal importation of drugs through Heathrow Airport.

Probation Services vary in the way in which they seek to provide interpreting services. Aside from the availability of bi-lingual probation officers or other staff employed by services many services have arrangements with their local authorities to make use of their language units or lists of approved interpreters; other services have contracts with voluntary or commercial interpreting agencies to meet their needs, whilst a number rely upon court or police lists of interpreters. In the majority of cases where interpreters are bought in from commercial or police sources there is no means, other than by trial and error, to determine the competence of the interpreter either in the narrow technical task required or in the wider skills which are necessary to the provision of a good service.

This is a brief picture of current use of interpreters by probation services, but current practice is not necessarily a good basis upon which to form plans for the future. It may give us some clues about the level of services which might be required and indications of what might be best practice in the delivery of quality service, but I would suggest that in the main current practice is based upon response to specific issues in a few probation areas and that it falls short of the development of strategies or policies in respect of the use of interpreters. In developing approaches to this issue I believe a number of factors need to be taken into account and I would like briefly to address these. They fall into two sets: first the availability of interpreters of good quality who possess the specific skills required to interpret in the probation service setting; and second a number of issues which probation services will need to address if they are to deliver a good quality service making use of interpreters.

Accepting, as I do, the desirability of formal methods to identify interpreters qualified to work within the criminal justice system I believe that in order for them to work successfully with probation officers four criteria need to be met:

1. *Interpreters require a high level of technical competence*

Probation officers use the technical language of the courts and the jargon of offenders so a knowledge of these specific vocabularies needs to be added to a good appreciation of formal and informal language. Additionally, the work of probation officers is often focused on feelings, intra-psychic phenomena, social constructs and subtleties of thinking which require considerable facility in the accurate expression of their meaning when interpreting. It is not necessarily true that an interpreter who is technically competent to translate in the world of commerce or industry would be equally competent to translate in the world of the criminal justice system.

2. *Interpreters require a general understanding of the criminal justice system, the operation of the civil courts and the role of the probation service* I draw upon our experience in Middlesex, in coming to draw this conclusion. Our experience suggests that there is a significant qualitative difference between working with an interpreter who does not have any knowledge of these matters and one who does.

3. *Interpreters need to be personally secure enough to cope with situations which can be emotionally draining* The details of offending behaviour can be harrowing. Interpreters need to be able to maintain the integrity of their own personal lives and not be drawn into the offender's world or take upon themselves the burden of the information to which they have been party.

4. *Interpreters need to be able to work with people experiencing stress* Offenders have contact with the probation service not only when they are experiencing the stress of having committed an offence, been arrested and found themselves before the court but sometimes when they are also facing domestic, social or personal problems of great sensitivity which in themselves create considerable stress in their lives. Among other skills working with people in this condition requires patience, understanding and an ability to remain calm and composed.

Turning to the issues which probation services need to address in order to make good use of skilled interpreters:

1. *The ability of probation services to work effectively with non-English speakers is initially dependent upon resources* I would highlight two in particular. First: *time*.

Working through an interpreter will clearly take more time than working directly with an offender. The amount of additional time required will depend upon the skills of the probation officer and the interpreter and upon the extent to which both are well prepared for the task they are to undertake. Second: *finance*. Interpreters used by the probation service are paid standard rates usually based upon court rates. In my own service the interpreter bill currently runs out at about £4,000 per year for independent interpreters. It will be much higher in the larger metropolitan services. The requirements of the Criminal Justice Act 1991 mean that a number of non-English speakers who may have been dealt with by the courts without reports from the probation service in the past will now have to have reports prepared upon them. I am aware that this is placing a strain upon the budgets of some probation services and this will have to be addressed.

2. *Train staff to recognise when it is necessary to use an interpreter* Whilst I have described the extent to which interpreters are currently used by the probation service I am convinced that present use does not reflect the full need for interpreters. Whilst I hope that probation officers are sensitive to the ability of people to communicate in English, I am very aware that cases do progress through the whole of the criminal justice system without an appreciation of the possible difficulty of an offender to truly understand what is taking place. We need staff who are alert to the need for interpreters and who are able to determine in which cases their use is necessary. (As an aside we also need to establish, as we have in my own area of operation that the use of members of the offender's family or of a friend to act as interpreter is not generally good practice and certainly does not offer the same confidential and sensitive service to the non-English speaker as that which would be available to an English speaker).

3. *Finally we need staff who are trained in the use of interpreters* I believe that careful preparation for tasks by probation officer and interpreter is essential and that training in methods of using interpreters is an essential part of ensuring sensitive and fair services which meet the same good standards that we apply to English speakers and that we wish to offer to all.

I would like to conclude by referring back to the Criminal Justice Act 1991. This morning Mr Jack reminded us of the principles of the Act and made particular reference to Section 95. It is clear that the Home Office is taking its commitment to this section of the Act very seriously and we have been pleased to note the early arrival of the first supporting documents on race and gender. I believe that good services provided by the criminal justice system are services which are free from discrimination and provided on a genuinely equal basis. For a non-English speaker this means services which can be delivered in a language in which they have facility.

In the probation service we must find ways now to meet the requirements of Section 95 of the Criminal Justice Act. These are more explicitly stated in the National Standards for the Supervision of Offenders in the Community which refer specifically to provision of services by probation services which are free of discrimination on the grounds of language ability. The Nuffield Project is leading the way to the achievement of a consistent high quality supply of interpreters; this should be watched by probation services ensuring that they develop policies for service delivery to non-English speakers and enable staff to use interpreters in a professional fashion.

IAN CHISHOLM

Nationality and language

Statistics in the Prison Service record prisoners by nationality. Of course, nationality is not synonymous with non-English speaking. Many foreign nationals have no difficulties with the English language: indeed it may be their first language. Some foreign nationals may have been resident in the UK for a long time but taken out British citizenship. Conversely some United Kingdom citizens, eg: some Asian women, may have English language difficulties. Equally we must not see language difficulties as problems of the ethnic minorities; most members of the ethnic minorities in prison have no language problems; some indigenous, white prisoners do.

There are some 3,000 foreign prisoners in jails in England and Wales out of a population of 42,000, ie:

about 7% of prisoners are foreign nationals. Non-UK prisoners are particularly prominent in the female prison population. They make up a third of all female prisoners and about half of all those receiving sentences of more than 4 years. Most of these women are convicted of drug importation offences. The numbers are rising.

The Prison Service has paid increasing attention since the Woolf report to prisoners' ties with their home and families and it is in this context that we have become aware of the difficulties facing foreign prisoners. The Home Office commissioned some research on non-UK prisoners from the Cambridge Research Project on imprisonment and family ties conducted by the University of Cambridge Child Care and Development Group. Because of the greater problem in relation to female prisoners the first part of the study has looked at the problems facing non-UK women prisoners. The project is currently working on non-UK male prisoners; a report is expected in the next few weeks. A report for the Prison Reform Trust by Deborah Cheney on 'Foreign Prisoners in the British Prison System' will also be published in March.

Conclusions of the Cambridge research

The conclusions of the Cambridge research project, with particular reference to language difficulties faced by female foreign prisoners, are as follows:

- 33% of the female foreign prisoners spoke English fluently as a first language;
- a further 25% spoke English well;
- over 40% spoke no English or had general difficulties with English.

Interestingly by the time the research interviews took place many of the non-English speakers had developed a good grasp of English, partly through formal classes at the prison and partly through informal contact with fellow prisoners.

This suggests that the greatest period of difficulty faced by foreign national prisoners is at the time when they are on remand before trial. Of those who had an interpreter at their trial 60% had one in whom they had confidence but 40% had no interpreter or one with whom they were dissatisfied. Many women felt that the disadvantages of poor interpreters or officials misunderstanding their

broken English may have prejudiced their cases.

It is not surprising that those with language difficulties reported the greatest difficulties in coping with the unfamiliar procedures and environment of prison, largely, because of their inability to understand or communicate with prison officers and other prisoners. Other prisoners who spoke the same language were of the greatest help. As stated, the research indicated that foreign national women were very quick to pick up a basic command of English.

Prison Service Support for Foreign National Prisoners

The Prison Service is beginning to recognise the particular needs of foreign national prisoners. The Prison Service is committed to treating all prisoners on the basis of non-discrimination, equality of opportunity, the equality of provision and respect for beliefs. Foreign national prisoners, particularly those with language difficulties, are at risk of discrimination, lack of access to certain opportunities, lack of provision of needs and lack of support. It therefore is not inappropriate to find most consideration of the needs of foreign national prisoners within the race relations policies of the Prison Service. I chair the Prison Service Race Relations Committee and, recently, we have extended this remit to cover foreign nationals. We have received some criticism recently about this move from Deborah Cheney in the Prison Reform Trust magazine and in her forthcoming book. I know the problems facing foreign nationals and ethnic minority prisoners are conceptually different, but it is a good pragmatic use of scarce resources and staff skills to use the existing race relations structures in prisons to assist foreign nationals. There is a management structure at all prisons with a race relations liaison officer who is a focus of advice to prisoners and staff. He reports to a management team consisting of the chaplain, a governor, and representatives from education and probation. We are encouraging the race relations liaison officers to develop a service to foreign nationals. At the Race Relations Annual National Conference to be held in May we will include workshops on foreign nationals training and launch also the foreign prisoner resource pack.

This pack is to provide information and guidance for those working with foreign nationals and to foreign national prisoners themselves. It is a joint production between the Prison Service and the Prison Reform Trust (Deborah Cheney again) and is to be used in conjunction with the Prisoners Information Pack which provides a range of material in all aspects of prison life. The existing prisoners' information pack is published in Arabic, Bengali, Cantonese, Dutch, French, Gujarati, Hindi, Punjabi, Spanish, Turkish, Urdu, Vietnamese and Welsh. The foreign prisoner resource pack covers foreign prisoner needs and concerns, criminal justice system, immigration, customs and excise, embassies, interpreting and translation. The foreign prisoners' resource pack will be translated into at least six languages initially with, we hope, more to follow. The pack will be distributed in April.

Language Line

A further initiative we are considering is introduction of Language Line, a telephone interpreting service, into establishments. The facility will provide immediate assistance for foreign national prisoners who do not understand English. Language Line provides a 24-hour service, 7 days a week by phone, there are over 40 languages available. We believe it could be of considerable benefit to the Prison Service because of its availability and convenience. The staff on Language Line are qualified interpreters all of whom have to be competent in spoken and written English as well as the other languages. They all work to a strict code of ethics by the Capital Community Interpreters. No record is kept of the personal details of any phone call and this service is anonymous and confidential.

Visits

Foreign national prisoners also experienced great difficulties with parole and home leave. A great number of foreign nationals are subject to detention or deportation orders and have in the past been treated as ineligible for home leave. However, potential deportees can be considered for home leave, although the Governor must give careful consideration to the risk of absconding. If there is a detention order, the Immigration Service must agree

to lift it temporarily. The new guidelines will be of particular value to potential deportees with relatives in this country. The Criminal Justice Act 1991 made some changes in relation to prisoners liable to deportation or removal from the UK. All short term prisoners, ie: those serving sentences of under 4 years including deportees, are now released automatically at the half way point of sentence. Deportees serving sentences of 4 years and over will have the same early release entitlements as other prisoners. They will become eligible for release on licence once they have served one half of their sentence and will in any event be released automatically after serving two thirds. Deportees will no longer, however, be considered by the Parole Board. The Home Secretary has total discretion to authorise a deportee's release at any point between one half and two thirds of a sentence and the Parole Board will not be involved. The decision to remove foreign prisoners from the parole scheme has been widely welcomed. Local review committees and the Parole Board have had to make judgements about the benefits of supervision (which does not apply with deportees) and the acceptability of a release plan in this country (which is usually irrelevant). Such consideration has delayed the release of foreign national prisoners. The new arrangements will mean that more foreign national prisoners are released earlier.

Repatriation

We need to distinguish between deportation at the end of sentence and repatriation during it. There is no doubt that the best solution to the problem facing foreign nationals in prison in this country and in other countries is repatriation under the Council of Europe or Commonwealth Convention for the repatriation of prisoners. Repatriation can only be done on the application of the prisoner and with consent of the sending and receiving jurisdiction. Repatriation enables prisoners to serve the sentences in their home countries, thus enabling the prisoner to maintain family ties and contacts. It facilitates rehabilitation and enables support and planning to return to the community.

Conclusion

The Prison Service is now recognising the problems facing foreign national prisoners. We are using the existing management structure for race relations to assist foreign nationals. We are looking at specific means of assistance through the foreign prisoners resource pack and the possible introduction of a telephone interpreting service.

The best solution, however, to the problems facing foreign national prisoners, we believe, is for repatriation, if the prisoner wishes to transfer to his/her home country. More countries are signing up to the various conventions for the repatriation of prisoners and we are anxious to transfer as many prisoners as possible, including English prisoners abroad back here.

Towards Solutions: Quality and Quantity of Training Needed

Alan Moys, Chairman, NIP Training and Practice Steering Group

Ann Corsellis, NIP Principal Consultant, Training and Practice

ALAN MOYS

My task today is to present the work of the Training and Practice Group which was set up just over a year ago.

Our objective is to increase the number of trained and qualified public service interpreters. There are a number of steps along the way which I'm going to briefly touch on. The first thing that we have had to do, and I have given it high priority, is to engage a broad support in a fragmented field. Let me explain what I mean. First of all, interpreters are needed in a much wider variety of contexts and fields than we've been able to look at today; we have focused on the legal field and that is already a highly diverse and demanding one, but there are very extensive and diverse demands from the fields of health, local government and social services. Secondly, interpreting is a field which over the years has had to try and develop a sort of professionalism based on a self-help approach. We owe much to the work of many voluntary small bodies alongside agencies and institutions, and it is those bodies who in many cases have taken on the burden over the years of providing professional support for interpreters. I'm delighted that we've been able to recruit to our steering group members of a number of those bodies, including for example the Association of Police and Court Interpreters, the Institute of Translating and Interpreting and the Institute of Linguists. I have just today sent off an invitation to Language Line to be a party to our steering group activities. I believe strongly that if we are to carry forward initiatives in the field of interpreter training we must do so on a basis which commands the widest support possible.

I think we are well along the way to developing a new strategy. We started out with a review of the existing model, in order to take account of new developments such as the standards based assessment of the NCVQ and to provide maximum flexibility of access in terms of accreditation of prior learning and experience. We've also been trying to

respond to developments in the partner group, the Legal Services Group, and this work, for example in the field of surveying need and user perceptions, has often informed and indeed in some cases confirmed the basis on which our training model has been developed.

And finally, we've had to look at the issue of finance. Robert Hazell has already explained to you that having invested heavily in the development of the training and qualifications model the Nuffield Trustees could not go on shouldering singlehanded the burden of financing a general national training programme, which of course would be an expenditure on a quite different scale. The work of our group has therefore had to be predicated on the condition that our scheme would somehow attract funding, and I'd like at this moment to express my gratitude to the Nuffield for continuing to exercise a leadership role in raising the awareness of other potential funding bodies for the work that we are doing. More of the cash issue however a little bit later on.

The Scheme

We have centred our model around a central programme fund. Recognising the need for training and qualification is not enough on its own. Providing and recruiting such training is in the end a matter of money. Many of those who work as public service interpreters do so on a part time basis or on an occasional basis often for a very small fee. In many cases it would be quite unreasonable and indeed uneconomic for them to meet the cost of their own training, and we have therefore centred our scheme around a programme fund which would be available to fund training (or a substantial proportion of the cost of the training) for those wishing to reach qualifications leading to registration. We've drawn up a specification for training and we're inviting bids from institutions, organisations, agencies and associations, to undertake training of their members, or to seek to secure the services of others to undertake training of their members. Provided they

meet the specification in terms of the requirement, the target qualifications, the course content in the linguistic, the technical, the cultural, and specialist fields and provided they meet the service related skills and the ethical issues which came up in this morning's discussion, and provided that a specification of training as we understand it can be met by would be organisers of local training programmes, we see this as the way forward. It's a model, of course, which has been used extensively as you know by government in giving out insufficient sums of money to large numbers of people wanting it. But in our present circumstances we find ourselves with insufficient money: certainly insufficient money to run a top-down training programme spreading gradually through the system. Indeed I don't think that is the way to operate given the nature of the existing efforts towards professionalisation of the interpreter field as we understand it. So this model is not simply a response to the way in which government tends to make funds available in order to encourage certain sorts of initiative; it is more a reflection of the way in which we suspect people wish to organise training in this field. I don't think it would be for the Nuffield Interpreter Project to go along to organisations like APCI which contain considerable reservoirs of expertise and experience and to say to them 'Let us come in like the cavalry and run some sort of in-service training programme for your members'. That seems to me to make no sense at all. It may of course be necessary for us to turn down worthy bids in the context of a bidding system. But if necessary we will do that using an adjudication process with specified and published criteria so that people know where they stand and we will try to avoid the worst pitfalls of bidding systems, which are that you spend hours developing a bid, sending it off, costing it only to find at the end of the day that it's rejected. I think we will try as far as possible to identify potential bidders, certainly in the early stages and look for collaborative partnership developments.

We intend to award grants to initiatives in the training field on a per capita basis based on a contribution towards the cost of training x people; so if it's a Certificate in Community Interpreting qualification which we're looking at then we would

in the case of a full two-year programme from scratch be looking at a sum of around about £500 per head. If it is a shorter programme, an accelerated programme, as it may well be in the case of people who are already experienced then the sums would be scaled down accordingly. We intend to set up arrangements for the selective monitoring and evaluation of the work and of course we will ask all those engaged in training programmes to conduct self evaluation programmes and to let us have reports so that we can ourselves draw messages and lessons from the work.

If I can move on to the next issue which is that of money, we have to establish a programme fund. Until about two or three weeks ago we were working hard on the development of a model but with no confidence that we would actually be able to raise sufficient funds to enable us to carry the work forward. I'm delighted to be able to say that thanks to grants from charitable bodies and particularly from the City Parochial Trust, we in fact now have a total of something like £60,000 available to us in programme money for the coming year; that is, in addition to the core administrative funding from Nuffield already mentioned again. The Nuffield Foundation, are not prepared, and quite naturally, to continue to shoulder the full burden of the work of this project yet they are nonetheless continuing to make substantial contributions to our work by funding the core administrative costs – the costs of setting up the systems and having adjudication processes and all that goes with them and indeed providing a range of advisory and consultative input to local training schemes. So we are now in the happy position, to look forward to a year in which we shall be starting a range of initiatives to produce a fairly dramatic increase in the number of qualified people coming through.

One final point on funding: we are still hoping for a contribution from public funds. Robert Hazell raised this point earlier and it is a matter of great concern to us. Pat Webb made this point very tellingly when he said that we are in a situation where we are training thanks to the good offices generosity and vision of a number of charitable foundations. Yet we are still waiting for contributions from public sources.

Can I now turn to my final brief look at our programme for 1993. First of all we hope to launch our training programmes, not by promulgating the availability of a relatively small sum of money and asking everyone and his neighbour to bid for it, but by turning to associations and agencies whom we know already to be active in the development and support of interpreter services. We think it appropriate that this should be the initial thrust of our work because there are many people who are already working expertly and tellingly in the public service interpreting field but who may be unqualified simply because it is a largely unqualified field. We think that we should give initial priority to making opportunities for as many of them as possible to achieve a qualification at little or no cost to themselves. We hope and expect to enter into partnership with a number of professional bodies in the field during the coming year, and with local authority interpreting services, in order to secure a substantial increase in appropriately qualified interpreters.

Qualifications

A number of options for the changes to the existing examinations and qualification arrangements are being examined, and we shall be working with the Institutes of Linguists to make what ever adjustments may be needed, in the light of the forthcoming set of language standards for interpreting and translating drawn up by the Language Lead Body. The LLB was established to set national standards and competencies in vocational areas.

There is also the issue of service standards. Although it's only in recent years that notions of service standards have figured so prominently in the political agenda, much of the work on good practice has already been going on quietly and relatively unpublished, particularly in the work of projects such as that of Ann Corsellis. In the field of public service interpreting I think we have nothing to fear from the development of such standards of service delivery and we are hoping to be able to put in place during the current year a statement of service delivery standards, probably on a sector by sector basis; we can begin to learn from the excellent model which has come from the probation service

The National Register

The national register will, in purely Nuffield Project terms, bring together into an even closer working arrangement the two strands of the project – that is the Legal Services and Promotion strand on the one hand and the Training and Practice strand on the other. The two bodies will come together into an integrated programme to look at the proper basis for establishing a national register and for admission to it. Many of you in the audience are already helping in this process, not in terms of your work as interpreters, but in terms of your work for other legal agencies, by promoting the view that only registered interpreters should in fact be employed in the not too distant future. That may be unrealistic at this moment but we hope to make it possible by the end of the decade.

ANN CORSELLIS

The Development of the Model

I would like to say at the outset that the model we have developed to meet the need, which has been described today, has been the result of a collaborative effort. When the work began in Cambridgeshire in 1983, we began to gather together a group of people, from a variety of cultural and professional backgrounds, who were involved in the grass roots experience of delivering the legal services. This included people from the Cambridgeshire Constabulary, courts and probation services, linguists and educationalists – many of whom put in a great deal of work on top of their normal responsibilities. One of the consequences of that participation, is that we feel that the model reflects the daily practical realities in which it is intended to be applied.

I have just spoken with my colleague Ratilal Joshi. We were remembering the moment, almost ten years ago to the day, when we sat outside the court house in Peterborough after testing the first batch of potential interpreters and had to come to terms with the fact that interpreters of the calibre needed could not be found overnight. Members of the group have supported each other through the process of developing procedures for selection,

training, assessment and good practice for language and related skills in the public services – so that others could learn from our mistakes and successes and achieve the same goals in a much shorter time. The most important point is that we have demonstrated that it is possible to activate existing dormant skills to achieve the necessary standards.

Language Skills Required

There are three sets of people with language skills:

- *Interpreters* who, by definition, interpret the spoken word into a second language. In the context of the public services, there is also a need for translations, to transfer the written word into a second language. Like lawyers, linguists specialise and beyond a certain point of difficulty the interpreter may not be able, or wish, to translate documents.
- *Translators* who possess the specialist skills for translating more complex texts. This is particularly important in view of the Kamasinski judgement which, as you know, clarified the need for the translation of documents in criminal cases.
- *Professionally qualified people from the legal disciplines who can provide an equal service through the medium of a second language* are an essential resource, especially in those contexts where working with an interpreter would be impractical. Lawyers have led the way in this and the integrated law and language courses are impressive. It is to be hoped that other disciplines such as the probation and social services follow that example. Otherwise it is difficult to see how, for instance, a guardian ad litem could work with a distressed child through an interpreter.

Access to People with Language Skills – a Register

Those working in the legal system need access to people with reliable language skills 24 hours a day, seven days a week and often at short notice. With modern technology, it should not be difficult, in the long term, to provide that sort of service by independent computerised data base.

Membership of the Register

Clearly, registration procedures should reflect the level and scope of the responsibilities involved and would have to include only those who have met certain criteria.

1. *Training* to work in the legal system. The interpreter training which has been piloted has been on the basis of dividing the legal system into units, and enabling the carefully selected students to learn and hone their skills progressively as they progress through them. Each unit has five aspects and I shall, if I may, use magistrates' courts as an example.

a) The structure of the court system, and the place of the magistrates' courts within it, as well as the main procedures involved are explained, usually by a court clerk.

It is difficult, for instance, to interpret the mode of trial procedure ('Do you wish to be tried by a judge and jury, or summarily by the magistrates in this court') unless one knows what judges, juries and magistrates are.

b) The terminology, which describes the concepts involved, needs to be learnt in both languages. There is a range of formal and informal language used in courts and students are required to extend their knowledge of their languages into this context. Language tutors and people from the legal services lead this exercise.

No one ever knows all of any language. The terminology used in computer instruction manuals is incomprehensible to many of us, for example. Terms, such as 'bail' and 'Crown Prosecution Service' are among the obvious ones needed in the court situation and terms such as 'parental responsibility', 'I came over queer and had one of m'turns' are a linguistic challenge in any language.

c) The interpreting techniques are learnt mainly by students acting as interpreters in role-plays involving court staff. Using their extended terminology, students learn to interpret consecutively (after the speaker) and to interpret in a whisper simultaneously (while the speaker is speaking). The latter technique is not only needed now, but will be the foundation for the simultaneous interpreting skills which will be needed as the cordless headphones

become more commonly used in court rooms for interpreting purposes.

As my linguist colleagues will confirm, not everyone who knows two languages well can transfer between them. It requires great mental agility, intellectual rigor and stamina.

d) In-service training for court staff and magistrates is a part of the process. Their participation in role plays helps them to learn to work effectively across language and cultures, through an interpreter.

A significant proportion of British people are not blessed by the sort of linguistic competence which is said to have led Alexander Korda to comment that once one could do all the crosswords in a country, it was time to leave it. Without a linguistic awareness, we are tempted to doing strange things like asking for 'word for word translation, Mr Interpreter'. Most French school children have read that useful phrase book, which demonstrates the pitfalls of doing just that, and is called 'Ciel! Mon mari!' or 'The sky my husband'. 'Manger à la carte' does not mean 'to eat at the map.' Sometimes lawyers stop in the middle of a sentence, to allow for interpretation, without realising how impossible this is for the interpreter working in languages where the verb comes at the end of the sentence. It has been interesting, however, how quickly and enthusiastically effective strategies are adopted once people have the opportunity to understand the basic principles involved.

e) Professional practice and development are essential parts of any training to educate students in how to apply their skills in the real situation. Students must not only observe court hearings but should ideally be supervised for their first court interpreting assignments.

This is often very practical work. Those courts who have kindly set up simulated court hearings have benefited students who could try out the acoustics, find out where to place their note pads and whether it might be possible to avoid the occupational hazard of 'interpreter's arm'; when the nervous defendant clings to the one person who can speak their language with such force that the bruises take days to fade. The students learn not to tidy up the syntax in the examination of witnesses (so that

questions become leading ones), to ask for clarification, to ask people to speak louder or slower. They also begin to learn how to absorb, learn from and grow with stressful or distressing situations.

2. *Assessment* has been carried out within the project so far by the Institute of Linguists Examinations Board by an examination leading to the Certificate in Community Interpreting. This is being revised in the light of the first years' experience and up-dating is likely to recognise the coming NCVQ (National Council for Vocational Qualifications) guidelines and a change of title.

NVQs not only promote national, and potentially EC, levels of competence, they will also allow for the assessment of work experience and accreditation of prior learning and experience which could provide exemption from parts, or all, of the training for the many excellent and dedicated interpreters who are already working in the legal system and whose skills should be formally recognised.

3. *Work experience* is, in the professions, a traditional, post-qualification requirement. We all know individuals who are marvellous at passing examinations and who are less than useful in practice.

4. *National Standards of Good Practice* are being developed for other public service disciplines, such as the probation service. It is felt that the publication of similar standards for linguists would encourage a consistency of approach and quality of service. It would also be helpful guide to those working with linguists and we are pleased to see mention of dealing with clients with language differences, in the standards already published, which will promote a dove-tailing and enhancement of complementary professional work.

5. *A Code of ethics* is an integral part of professional conduct. The interpreters' includes a requirement to be impartial and observe confidentiality. It would, of course, be for the professional language bodies to discipline their own members.

Professional Framework

There are four main elements.

1. *Letters of agreement and working conditions* should address such matters as:

- pay. It is unrealistic to demand a professional level of skills for £8 or £12 an hour. Much of the interpreting work being done in the courts is carried out by linguists with a social conscience, who subsidise the courts from their work in the commercial sector at infinitely higher fees. They have to pay their rent too and cannot be expected to shoulder more of the burden.
 - indemnity. Interpreters on low fees cannot afford to pay insurance premiums.
2. *Standard inter-disciplinary conventions* need to be defined and observed. Much of the work in the legal system is conducted on a multi-disciplinary basis, where conventions which recognise and enable particular types of expertise have grown up. Linguists need to be given the space and support to take their place in that team and to exercise their responsibilities toward colleagues and the public.
3. *Quality assurance, monitoring and development* are much in the news. Two points are worth mentioning perhaps:
- quality of service to someone who cannot speak English cannot be fully assured or monitored by those who can only speak English
 - Statistics should take account of criteria other than those described imprecisely as 'race' if a service across language and culture is to be

planned and developed based on statistics. Language, ethnicity, nationality and culture base are all relevant factors. An individual can be a French national, of Vietnamese origin, whose preferred language is Cantonese. While each of us is different, a more worthwhile statistical base would encourage better planning.

4. *Complementary structures and facilities* are required. Interpreters and translators cannot be responsible for the whole of the provision of service across language and culture. It is instructive to look at the DTI guidelines for selling goods and services abroad. No mention of 'race' there that I can see, but an emphasis on the delivery of a service which meets the needs of the individual. The matters addressed include:

- market research
- adaptation of the product (not to change it)
- advertisement and information giving
- effective delivery of the product
- after sales service.

Under these headings, I fear that much of the strategies used by the public services would not sell a washing machine. It may have something to do with money in advance. The promotion of the best sort of business practice could enhance the delivery of professional service.



The panel

Panel Discussion and Issues

Chairman: Robert Hazell

Panellists: Rosemary Thomson (Magistrate's Association), Alison Macnair (Legal Aid Board), Fernando Ruz (NACAB), Mary Burton (Lord Chancellor's Department), Roger Ede (Law Society), Alan Moys (NIP Training & Practice Group).

The final session of the day was a discussion led by a panel of six members of the NIP Legal Services Steering Group which focused on the long term objectives of the Project, namely:

- to obtain the commitment of all the main services to use qualified interpreters whenever available
- to obtain the commitment of all the services to pay qualified interpreters at differential rates
- in the case of the legal services, to achieve the introduction of a statutory requirement that all interpreters working with the police and the courts be properly qualified by the year 2000.

It was generally agreed that not only was it necessary to employ an appropriately qualified interpreter, but that the user, be he or she a police, solicitor, judge, doctor or nurse, must also receive training in how to work with interpreters in order to enable fluent communication. There were many publications and resource packs offering advice on best practice and there was a case for bringing it all together and providing an accessible package for all interpreter users. The user had to be sufficiently confident about working with an interpreter in order to be able to explain to the client how communication would take place. One important consideration

was the avoidance of unnecessary jargon and complex terminology.

Guidelines for best practice would have to cover the use of an interpreter throughout the whole of the proceedings when it was clear that the client could understand most but not all of what was going on in English.

Recording of interpreted exchanges was also a matter of concern: proceedings in police stations were reported as always being recorded on tape (although generally only the written summary in English was used in court); it was then confirmed that there was much pressure being brought to bear for court proceedings to be recorded especially when interpreter services were used.

One of the most important issues was thought to be finance. It would make a significant difference if those present were able, in the various professional capacities, to persuade those with financial resources namely the Home Office and the Lord Chancellor's Department, that a professional service ought to be available to provide equal access to justice for all and to minimise the escalating costs of poor communication. The lack of resources was felt to be a critical constraint.

PART 3:

NIP: FUTURE PROGRAMME

Creating recognition of a new profession, which is what the Nuffield Interpreter Project is largely about, is not an easy or an overnight task. The Nuffield Trustees were certainly unaware when they made the first grant ten years ago what a long haul it might be. But with the completion of the first two phases of the project the prize looks at last within our grasp.

In the first, development, phase in the 1980s, we worked closely with others in the field including the Institute of Linguists to produce the first ever set of qualifications for interpreters working with the public services. In the second, promotion, phase we sought to bring those qualifications to the attention of the legal services. Initially the legal system was targeted, as the police and the courts in particular are major users of interpreters. This conference, represents the culmination of two years' intensive effort in seeking to place the needs of non-English speakers much higher up the agenda. Thanks to the expert guidance of our Legal Steering Group, the legal services are now well aware of the need for more competent interpreting, and are fully committed to the aims of the project.

The project is now poised to embark on a third phase, to bring about a major increase in the number of appropriately qualified interpreters. Over the next couple of years we hope to stimulate an increase in the availability of training courses for public service interpreters, and to introduce specially tailored programmes to accredit the prior

skills and experience of interpreters already working in the field. That will naturally lead to a widening of the focus of the project: there is as much demand for training for interpreters working in the fields of health and local government services as there is in the law. Strong interest has been expressed by health authorities and local authorities in starting new courses, and in using the qualifications developed by the Institute of Linguists to assess and accredit their own teams of interpreters.

For this third phase of the project we have obtained generous support from other trusts towards a central training fund. The first task ahead is to target colleges, local authorities, service organisations and others which are involved with the supply or use of interpreters inviting them to bid for funding to run public service interpreter courses. Grants will also be available to fund courses for *trainers* of public service interpreters.

Guidelines for framing outline bids are established: priority is to be given to the funding of programmes leading to qualification for those already working in public service interpreting. Courses aimed specifically at preparing experienced interpreters for qualification are likely to be of shorter duration than those currently in existence. Some courses may be specific to individual services eg: hospital care, court appearances, or for a wider constituency. The aim is to inform, to train and to accredit public service interpreters in order to create a national body of expertise.

PROGRAMME OF WORK

1. The key constraint is the shortage of suitably qualified interpreters. The main thrust of the project will be to increase the supply of qualified interpreters, through:

- the funding of training programmes leading principally to the career grade qualification, the Certificate in Community Interpreting (the Certificate in Public Service Interpreting 1994);
- facilitation of more flexible routes to professional qualification, such as the accreditation of prior learning and experience, in collaboration with awarding bodies, and in the light of NVQ developments.

2. High priority will also be given to the initiation of a National Register of qualified public service interpreters, and to securing commitments from service providers to employ only registered interpreters in the medium term.

3. Work already undertaken to promote the use of qualified interpreters in the legal services will continue, and will be extended progressively to the health and social service fields.

4. The project will seek to develop, in direct collaboration with other bodies and groups in the field, a national set of service delivery standards for public service interpreting.

5. The project will continue to gather and disseminate evidence and information on:

- recruitment and service needs across different sectors
- training and development
- professional recognition and employment conditions
- evidence of the effect of the availability/non-availability of qualified interpreters on the adequacy, fairness, or cost-effectiveness of services.

APPENDICES

List of Conference Participants

MAGDI ABBAS

*Legal Interpreter & Interpreter
Trainer*

DONALD ADAMS

*Branch Crown Prosecutor, Leeds
Crown Prosecution Service*

BARRY ANDERSON

*Head of Youth Crime
NACRO*

KENNETH ASHKEN

*Director of Policy
Crown Prosecution Service*

KAMLESH BAHL

*Solicitor
Data Logic Limited*

CYNTHIA BANKS

*Secretary
Birmingham Branch of
Magistrates' Association*

KEITH BEST

*National Council for the Welfare
of Prisoners Abroad*

INIGO BING

*Metropolitan Stipendiary
Magistrate*

MICHAEL BURDETT

*London Criminal Courts
Solicitors' Association*

MARY BURTON

*Head of Family Business
Lord Chancellor's Department
(LSSG Member)**

IAN BUTLER

*School of Social and
Administrative Studies,
University of Wales*

DAVID CHANDLER (Speaker)

*Justices' Clerk
Bradford Magistrates' Court*

COLIN CHAPMAN

*Assistant Branch Crown Prosecutor
Inner London
Crown Prosecution Service*

DEBORAH CHENEY

Prison Reform Trust

IAN CHISHOLM (Speaker)

*Prison Service: Directorate of Inmate
Admin., Home Office
(LSSG Member)**

HEATHER CLERK

*Solicitor
Simons Muirhead & Burton*

MARGARET COKE

*Chairman
Association of Police & Court
Interpreters*

JANE COKER

*Solicitor
Jane Coker & Co*

HIS HONOUR JUDGE PAUL

COLLINS
Wandsworth County Court

TIM COOK

City Parochial Foundation

KATE COLLINS

*Deputy Director
HM Immigration Service
(LSSG Member)**

ANN CORSELLIS (Speaker)

*Principal Consultant
NIP Training & Practice
(LSSG Member)**

LORNA DALE

*Scotland Yard Language
Services*

SHIRLEY DANIEL

EMAC/Judicial Studies Board

CHRISTOPHER DYMENT

*Secretary
Council on Tribunals
(LSSG Member)**

MARIE EASTWOOD

*Deputy Chief Probation Officer
West Midlands Probation
Service*

ROGER EDE

*Secretary to the Criminal Law
Committee
The Law Society
(LSSG Member)**

JANET ERSKINE

*Honorary Secretary & Vice Chairman
Association of Community
Interpreters*

LYNN EVANS

*Coordinator
Law Centres Federation*

MARIAN FITZGERALD

*Principal Research Officer
Home Office Research &
Planning Unit*

ROGER FLETCHER

*Chairman
Institute of Translation &
Interpreting*

YVONNE FOWLER

*Language Tutor
East Birmingham College*

- GRAHAM FRASER**
Policy Group, Crown Office,
The Scottish Office
(LSSG Member)*
- MIKE FROST (Speaker)**
Assistant Chief Probation Officer
Middlesex Probation Service
(LSSG Member)*
- HAZEL GENN**
Reader in Law
Queen Mary and Westfield
College
- HIS HON JUDGE MARTIN GRAHAM,
QC**
Shoreditch County Court
- ELLIOT GRANT**
Head: C6 Division
Home Office: Probation
Department
(LSSG Member)*
- WESLEY GRYK**
Solicitor
B M Birnberg & Co
- JOHN HAINESH M**
Deputy Chief Inspector of Probation
Home Office
- ALLAN HAMPTON**
Chief Clerk
Worcester County Court
- MALCOLM HART**
Detective Chief Superintendent
Home Office
- ROBERT HAZELL (Speaker)**
Director
The Nuffield Foundation
(LSSG Chairman)*
- BRIAN HENDERSON**
Senior Probation Officer (Prisons)
Essex Probation Service
- SIMON HILLYARD**
National Duty Solicitor Coordinator
Legal Aid Board
- ELIZABETH HOODLESS**
Chairman
Inner London Youth Court
- SIR DAVID HOPKIN**
*Chief Metropolitan Stipendiary
Magistrate (Retired)*
- EDWARD HOUGHTON**
Chief Clerk
Well Street Magistrates' Court
- MRS G HOUGHTON-JONES**
Chief Clerk
Justices' Clerks' Society,
Old Street Magistrates' Court
- STEPHEN HUGHES**
Senior Field Officer
Victim Support National
Association
- ROBIN IRVINE**
Solicitor
Irvine & Co Member, Criminal
Law Committee,
The Law Society
- MICHAEL JACK, MP**
(Keynote Speaker)
Minister of State
The Home Office
- THE HON MR JUSTICE JOHNSON**
Royal Courts of Justice
- DAVID JONES**
Magistrates' Courts' Adviser
Lord Chancellor's Department
(LSSG Member)*
- PETER JONES**
Chairman
Solicitors' Family Law
Association
- DETECTIVE CHIEF INSPECTOR
JORDAN**
SO2 Branch, New Scotland Yard
- RATILAL JOSHI**
Association of Community
Interpreters
- CAROLINE KAPUR**
Refugee Legal Centre
- JOHN KAY**
Assistant Chief Probation Officer
Nottingham
- I KHAN**
Adjudicator
Immigration Appeals
- YASMIN KHAN**
Criminal Justice Section,
Commission for Racial Equality
- MARK KIDDLE**
Director
Language Line
- MRS J KING**
Chairman
Law & Parliamentary
Committee, Association of
Magisterial Officers
- SHERIFF FRANK LUNNY**
Sheriff Court House, Hamilton,
Scotland
- BOYD MACADAM**
Home and Health Department,
Scottish Office
- ALISON MACNAIR**
Policy Officer
Legal Aid Board
(LSSG Member)*
- LADY MARRE, CBE**
Chairman
The Commission of Enquiry into
Human Aids to Communication
- JITINDER MATHARU**
Principal Crown Prosecutor
West Midlands Crown
Prosecution Service
- WALTER MERRICKS**
(Chairman: Session 1)
Assistant Secretary General
(Communications)
The Law Society
- HUGH MORLEY**
Assistant Chief Probation Officer
(Training & Race Relations)
Greater Manchester
- ALAN MOYS (Speaker)**
Chairman
NIP Training & Practice
Steering Group
- MOHAMMED NAEEM**
Executive Secretary
UK Immigration Advisory
Service (UKIAS)
- J W NAPIER**
Organisation Branch,
Scottish Courts Administration
- LESLIE NOAKS**
School of Social and
Administrative Studies,
University of Wales
- EDDA OSTARHILD**
Director
Institute of Linguists
- ANNE OWERS**
Director
Justice (LSSG Member)*
- DR BRIAN PARKINS, JP**
Lagesse Parkins & Stone

CHARLES PATON WEBB, OBE

(Speaker)

Justices' Clerk

North Tyneside (LSSG Member)*

GILLIAN PEEBLES

Solicitor

Scottish Legal Aid Board

LADY HAZEL PHILLIPS, JP

House of Lords

BRIAN PIPER, JP

Leicester Magistrate

Equal Opportunities Trainer

USHA PRASHAR

The Royal Commission on

Criminal Justice

JEANNE PRITCHARD

Chief Translator

H M Customs & Excise

KAMLESH RANA

Court Clerk

Hounslow Petty Sessions Area

NARGIS REHMAN

Regional Interpreter

Birmingham Immigration Appeals

MRS M RENNIE, JP

Sheffield Magistrates' Court

J RICHMAN

Clerk to the Justices

Sheffield Magistrates' Court

ISOBEL ROGERS

Solicitor

Clinton Davies & Co

SUSAN ROWLANDS

Immigration Law Practitioners Association

FERNANDO RUZ

Research Development Officer,

(Ethnic Minorities)

NACAB (LSSG Member)*

BETTY SANDARS

Home Office Conference Unit

R SANDHU

Coordinator

Communications Services Unit,
Leicestershire Probation Service

IRENE SHAW, JP

Former Member of Family Proceedings Committee

COLIN SHEPPARD, MSc (Speaker)

Deputy Chief Constable

Norfolk Constabulary, Member:
ACPO, General Purposes
Committee (LSSG Member)*

JOHN SILVESTER

Immigration Appeals
Headquarters

KARAMJIT SINGH

Police Complaints Authority

DETECTIVE INSPECTOR SKENE

Leicestershire Force

Constabulary

ERIC SMELLIE

Race Issues Officer

NACRO

ANTHONY SMITH

Solicitor

The Consumers' Association

PETER SOAR

Member

Legal Aid Board

PHILLIP SYCAMORE

Solicitor

The Law Society

ROSEMARY TATTERSALL

Branch Crown Prosecutor

Leicester Crown Prosecution Service

ROSEMARY THOMSON, OBE, JP

Deputy Chairman of Council

The Magistrates' Association
(LSSG Member)*

HIS HONOUR JUDGE ANTHONY

THORPE

President

Independent Tribunal Service

P S WALLIS

Clerk to the Justices

Folkestone & Hythe Magistrates' Court

AUSTIN WILSON

Head of Criminal Policy Department

Home Office

MICHAEL WILDING

Assistant Branch Crown Prosecutor

Liverpool Crown Prosecution Service

*LSSG = Legal Services Steering

Group

(Nuffield Interpreter Project)

NUFFIELD INTERPRETER PROJECT:

The Nuffield Foundation

SARAH DE MAS

Conference Consultant

DAPHNĒ RAWSON-JONES

NIP Legal Services Coordinator

JOSEPHINE SHEPPARD

NIP Administrator

PRESS CONSULTANT

DAVID UTTING

INSTITUTE OF LINGUISTS

CATHERINE CAJONE

ROWLAND CHESTERS

Members: NIP Steering Groups

LEGAL SERVICES STEERING GROUP

ROBERT HAZELL*

Chairman

Director

The Nuffield Foundation

DEREK OAKLEY/MARY BURTON*

Lord Chancellor's Department

IAN CHISHOLM

H M Prison Service, Home Office

ANN CORSELLIS

Consultant

NIP Training & Practice

KATE COLLINS

HM Immigration Service

CHRISTOPHER DYMENT

Council on Tribunals

ROGER EDE*

The Law Society

MIKE FROST

Probation Service

GRAHAM FRASER

The Scottish Office

BRIAN HAYES

HM Inspector of Constabulary

BARRIE IRVING

Police Foundation

DAVID JONES

Magistrates' Courts' Division,
Lord Chancellor's Department

FIONA KING

Crown Prosecution Service

ALISON MACNAIR*

Legal Aid Board

ALAN MOYS*

Chairman

NIP Training & Practice
Steering Group

ANNE OWERS

Justice

CHARLES PATON WEBB

Justices' Clerks' Society

FERNANDO RUZ*

NACAB

COLIN SHEPPARD

ACPO, General Purposes
Committee

CHRISTINE STEWART

Home Office, Criminal
Department

ROSEMARY THOMSON*

Magistrates' Association

MARTHA WOOLDRIDGE

Home Office, Police Department

DAPHNĒ RAWSON-JONES

Coordinator

Legal Services Steering Group

*Panel Members: Open Forum: 3.30-

4.30pm

TRAINING & PRACTICE STEERING GROUP

ALAN MOYS

Chairman

CHRISTINE ADAMS

*Conference Interpreter; Interpreter
Trainer*

ELEANOR ARTHUR

Coordinator

Adult Education Language
Programmes, Goldsmith's
College, London University

ROGER BELL

Associate Head of Languages
University of Westminster

MARGARET COKE

Chairman

Association of Police and Court
Interpreters

ANN CORSELLIS

Principal Consultant

ROGER FLETCHER

Chairman

Institute of Translators and
Interpreters

HILARY FOOTITT

Head of Languages

University of Westminster

ANITA HARMER

Legal Interpreter; Interpreter Trainer

ROBERT HAZELL

Director

The Nuffield Foundation

Chairman

Legal Services Steering Group,
NIP

JOHN LONDON

*Senior Lecturer in Multicultural
Education*

Moray House Institute of
Education,

Heriot-Watt University

EDDA OSTARHILD

Director

Institute of Linguists

DAPHNĒ RAWSON-JONES

Coordinator

Legal Services Steering Group

Press Release (an extract)

Robert Hazell, Director of the Nuffield Foundation, said:

'Bitter experience should have taught us by now that the use of incompetent interpreters in the courts and public services can result in costly delays and actual miscarriages of justice. The results of this survey suggest that the lessons have yet to be learned.'

CASE HISTORIES

1. Mrs Iqbal Begum was sentenced to life imprisonment for the murder of her husband at Birmingham Crown Court in October 1981. Her solicitor had unsuccessfully attempted to take instructions from her, using a Pakistani accountant as interpreter. At her trial she pleaded guilty to murder, but the judge adjourned the case so her counsel could make sure that she understood that charge. After interviewing her with an interpreter, the barrister told the court she had answered only one question, stating that she did understand the charge. The judge had no alternative but to pass a life sentence.

At her appeal over three years later, it emerged that the interpreter at her trial was a native Gujarati and Hindi speaker who was fluent in English and had some knowledge of Urdu. Mrs Iqbal knew some Urdu, but her native tongue was Punjabi which the interpreter was unable to speak. The Appeal Court agreed that the difference between murder and manslaughter on grounds of possible provocation by her husband should have been explained in a language that she understood. Her murder conviction was quashed allowing her to plead guilty to the lesser charge and a sentence substituted that allowed her to be freed immediately.

Giving the Appeal Court's judgement, Lord Justice Watkins said no one should minimise the difficulties that sometimes occurred in obtaining an interpreter who was fluent not only in the language of the person being interviewed, but also the dialect. He added: 'That is merely an indication of the very great care which must be taken when a person is facing a criminal charge to ensure that he or she fully comprehends not only the nature of the charge, but also the nature of the proceedings which will ensue and of the possible defences which are available having regard to the facts of the case.'

2. A solicitor in North London experienced difficulties in finding an interpreter for a Berber-speaking Moroccan mother of three children caught in family proceedings following the breakdown of her marriage. Instructions had to be taken through her 12 year old daughter, while the only interpreter available in court (an adjournment hearing) was her estranged husband's brother.

3. An overseas student was invited to act as interpreter for two Cantonese speaking witnesses at the Old Bailey. Translation difficulties were evident and he spent the entire morning with them in the witness box. After lunch, the jury was instructed to disregard the evidence taken that morning. It was heard again through a professional interpreter, taking just 45 minutes.

4. A Zairean woman, speaking the Lingala language, approached a solicitor in Watford, claiming she was the victim of repeated domestic violence. She was obliged to explain her predicament in broken French through an Italian neighbour who translated into English. She was granted an emergency legal aid certificate to seek the

court's protection under the Domestic Violence and Matrimonial Proceedings Act (1976), but her lawyer remains worried as to the outcome unless a competent Lingala interpreter can be found: 'I am concerned about her security in respect of violence from her husband. I am worried that problems over language may prevent her from obtaining from the court the protection which she appears to need.'

5. Solicitors for an Italian defendant in a London magistrates' court attempted to cast doubt on a statement made to police by insisting that their client had a strong Neapolitan accent which could have been misunderstood by the interpreter from Bologna. The court interpreter strongly supported this claim – suggesting he was siding with the defendant – even though the (Italian-speaking) magistrate had no difficulty understanding what was being said.

Health and Social Services Cases

6. A Pakistani woman in a maternity ward developed complications which required a Caesarean delivery. The doctors sought to explain what they wanted to do. She and her husband both thought the doctors wanted to sterilise her, and withheld their consent. The woman died in labour.

7. The Chinese mother of a child with severe learning difficulties was considered obstructive by social workers and, over six years, appeared to reject all recommendations made by specialists. Her attitude changed dramatically after a professional interpreter was engaged to attend a case conference. He was told that until he spoke to her, the mother had never once been seen to smile.

Interpreters in the Legal Systems of Europe

A preliminary enquiry

In common with other members of the Council of Europe, Britain has accepted the obligations of the European Convention on Human Rights, including the rights of anyone charged with a criminal offence, as set out in Article 6 (3)(a) and (e) of the Convention viz:

- a) to be informed promptly in a language which he understands and in detail, of the nature and cause of the accusation against him, and
- e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court

Like all member countries, Britain faces the prospect of increased movement between members of the European Community, together with the growing pressures on immigration from Eastern Europe and developing countries, and the claims of refugees seeking asylum.

If current interpreter services are to expand to meet the expected future demand, gaps and weaknesses in the system will have to be addressed.

The NIP undertook a preliminary study of current practice in Europe to find out whether there were grounds for collaboration with partners in the Council of Europe. A table is attached. The information set out is based on a letter sent to Ministries of Justice in 24 countries asking for information about their legal commitment to the provision of interpreters for persons charged with an offence and corresponding witnesses, and the arrangements for providing such service and the standards and regulations which might apply.

In reviewing the range of legal provisions and practical arrangements reported in the survey, it is important to remember the institutional difference between continental countries which have the inquisitorial system of justice, and Britain where the adversarial system is used. Magistrates and judges in the inquisitorial system are far more directly involved in pre-trial examinations and thus in decisions about the need for interpreter services than those in the adversarial process, where it is the prosecution and defence lawyers who meet the defendants and witnesses while preparing cases to be presented to the court.

Appointment of interpreters

Great diversity in the definition of need for an interpreter was reported, which springs from two main causes: differences in the significance attached to conducting legal proceedings in the national language and a wide range of perceptions of the defendant's 'need' for an interpreter.

Definitions of eligibility for an interpreter vary even in identifying the individual concerned; defendants may be defined as the 'party' or as the 'person charged with a criminal offence', or a witness as the 'person to be heard by the court'. The concept of need varies from 'does not know/understand' to being 'unfamiliar with the Y language and (unable to) express himself in a language which the judge (or clerk of the court) is familiar with'.

Responsibility for deciding whether an interpreter is needed appears to depend on the legal system; where inquisitorial procedures are used, as in France, the examining magistrate can judge the

language capacity of suspects and witnesses at the pre-trial stage of a criminal case; he or she then decides not only whether to appoint, but who shall be appointed. In Denmark for example, the interpreter is selected by the prosecution, or in a civil case by the parties concerned.

In the British adversarial system the court is less directly involved with the defendant; it has power to appoint an interpreter but no responsibility to do so. In practice the Crown Prosecution Service usually obtains the services of an interpreter from the list kept by the police for use in pre-trial enquiries. In civil cases the responsibility lies with the parties concerned and their lawyers.

Responsibility for costs

As far as interpretation in criminal cases is concerned, most countries represented in the survey comply with ECHR requirements and interpreter costs are covered by the state. However a convicted party in France who is not receiving legal aid must reimburse interpretation costs (unless it is a non-registered member of the public who is acting as interpreter). The situation has changed in Germany; the convicted party paid these expenses until 1978 when a German court ruled that this was a breach of the ECHR article 6 (3)(e).

In Switzerland one of the parties is in principle liable to reimburse the interpreter unless they have insufficient means, in which case the right to free assistance is recognized; but the Swiss Federal Court is now re-examining the position taken by the Swiss parliament in relation to the Convention article.

Free assistance is also extended to some family cases but in general it is the parties in a civil case who are expected to pay the costs of interpretation.

Apart from a reference to scales and charges laid down in French criminal courts, no information was reported from any country about rates of pay or systems of payment to interpreters.

The study provided information on both legal requirements for interpreter services and practical arrangements providing them. In the legal sphere, conformity to Article 6 3a. and e. is more or less universal. There is evidence that changes have been made in response to the Convention (Cyprus, Germany, Malta) or are being contemplated

(Switzerland). Variation between countries occurs in definitions of need, in responsibility for deciding on need and in the status of interpreters.

The need for an interpreter depends on factors such as the necessity of holding trials in the national language; if this is not a legal requirement, a court official may translate for the defendant or witness.

Conflicting rulings have also been made relating to the language competence of the person concerned; in Italy since 1988 an interpreter may be found for anyone not familiar with Italian while in the same year a British judge questioned the necessity of providing one for a citizen who had lived in the U.K. for 25 years.

Owing to the prevalence of the inquisitorial system, the responsibility for appointing an interpreter most often falls on the judge or magistrate who is examining the case.

There may well be scope for further enquiry into factors affecting these decisions. Even more clearly, the situation with regard to interpreter qualifications, ie: absence of agreed standards and of national registers, raises the question of whether outward conformity to the Convention is matched by the level of service provided to the client.

Nuffield Interpreter Project
1992

Table 1: Summary of Conditions and Method of Appointing Interpreters, Regulations and Standards in some European Countries

(* denotes membership of the European Community)

	Conditions for Appointment	Method of Appointment	Standards and Regulations
Austria	None if judge or other understands defendant; or if represented for oral civil proceedings; 1992 draft law extends right to examine papers	Interpreter engaged by Court	Linguistic competence and specific training required
Belgium	None if judge or other understands; the defendant/litigant/witness may use language of choice. Treasury bears the cost	Appointed by presiding judge	Interpreters/translators have no articles of association nor special requirements for admission
Cyprus	Constitution (articles 12 & 20) accepts ECHR provisions		
Denmark*	None if judge or other court official understands defendant	Interpreter usually called by prosecution or parties concerned	No fixed rules. Officially appointed interpreters
Finland	Pre-trial Investigation Act 1987 permits use of interpreter for specific cases; in criminal proceedings an interpreter may be requested	PTI officer may interpret, or invite competent interpreter In civil cases the parties make their own arrangements	Board maintains list of licensed translators who have passed examinations
France*	None if judge or other understands defendant	Examining magistrates decide; select appropriate interpreter	Linguistic competence required
Germany*		Examining magistrates decide; select appropriate interpreter	Linguistic competence required
Gt. Britain*	Proceedings must be in English. 1989 Police & Criminal Proceedings Act requires pre-trial interpretation Criminal courts have power but not responsibility to appoint interpreters	Police or Crown Prosecution Service may provide interpreter from police list or courts maintain own lists In civil cases the parties must make their own arrangements	No register No standard qualifications
Hungary	Examining magistrate decides; selects interpreter	Local council issues certificates; no recognised qualifications; local council run examinations	
Iceland	State provides interpreters for criminal and some family cases; litigant bears costs in civil cases		Ministry of Justice authorises after examination and keeps national register
Ireland*	State provides for interpreters in Irish language in civil and criminal cases; other languages in criminal only	Engaged from reputable agencies or competent local individuals	No national register Translators' Association has members' register
Italy*	Italian is a pre-requisite in court proceedings; interpreter to maintain confidentiality; grounds for nullity if not in Italian		Court lists No fixed rules regarding skills or qualifications, but some exclusions
Malta	None if judge or other understands defendant; judge may translate deposition	Defendant may request outside interpreter if it's felt that interpretation by court official may be biased	

	Conditions for Appointment	Method of Appointment	Standards and Regulations
Netherlands*	Recommended free interpreter at criminal pre-trial hearings as well as at trial	High courts have lists of interpreters on standards in progress	High Court lists with three categories. Draft legislation
Norway	None if judge or other court official understands defendant		No minimum qualifications Interpreters' Assoc. aims to establish register and standards
Portugal*	Portuguese a pre-requisite in court proceedings. Grounds for nullity if proceedings not in Portuguese	Recommendations from Judicial Services to Interpreters' Association	
Spain*		Selected local persons, or referral to Ministry of Foreign Affairs for written translation	
Sweden		Register of authorized persons with prescribed qualifications kept and monitored by National Board of Trade	
Switzerland	None if judge or court understands defendant's language		

SCANNED BY THE NRPSI ON **09 OCTOBER 2014** WITH PERMISSION FROM THE NUFFIELD
FOUNDATION