

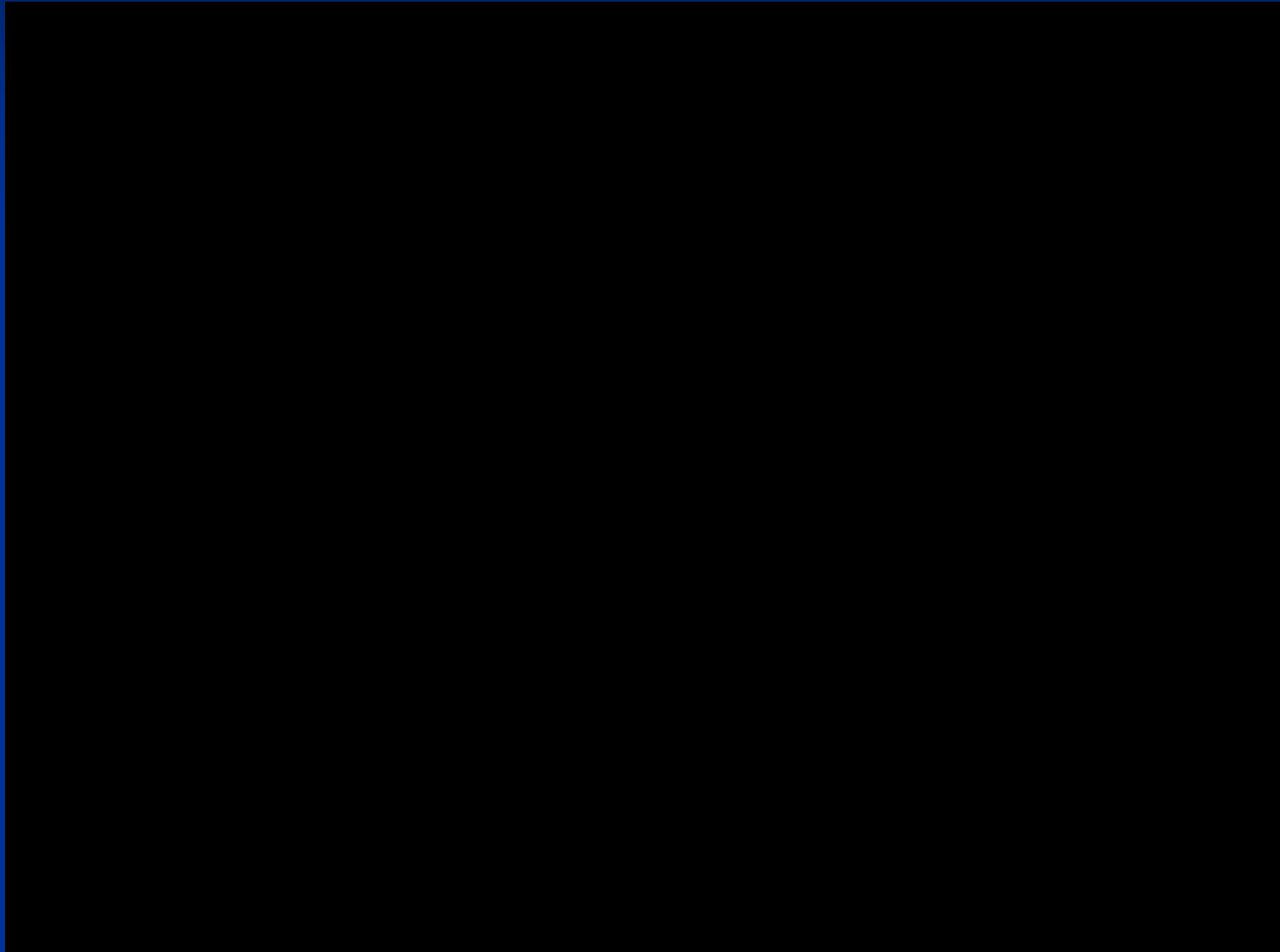
Municipal Court Interpreters . . . What every Clerk needs to know

Presented by Michael Acuña
Municipal Court Judge, City of Dallas

What is an “Interpreter”?

- **The American Heritage Dictionary:** “one who translates orally from one language into another”
- **Dictionary.com:** “a person who provides an oral translation between speakers who speak different languages”
- **Black’s Law Dictionary:** “a person sworn at trial to accurately translate the testimony of a witness who is deaf or speaks a foreign language.”

So what difference can
an interpreter make?



What is a Certified Court Interpreter?

- An individual who is qualified interpreter as defined in Article 38.31, Code of Criminal Procedure, or Section 21.003, Civil Practices and Remedies Code, or certified under Subchapter B by the Texas Commission for the Deaf and Hard of Hearing to interpret court proceedings for a hearing-impaired individual.
- Sec. 57.001 (1) Texas Government Code

What is a Licensed Court Interpreter?

- An individual licensed under Subchapter C by the Texas Commission of Licensing and Regulation to interpret court proceedings for an individual who can hear but who does not comprehend English or communicate in English.
- Sec. 57.001 (5) Texas Government Code

Where is the Law about Interpreters?

- LAW: Chapter 57, Texas Government Code, “Court Interpreters”
- ADMINISTRATIVE RULES: Title 16, Texas Administrative Code, Chapter 80, “Licensed Court Interpreters”

Chapter 57

Texas Government Code

COURT INTERPRETERS

What does Chapter 57 really talk about?

- Chapter 57 addresses requirements for court interpreters, such as how interpreters are licensed, when they must be licensed, and when they need not be licensed.
- Chapter 57 also defines many terms related to court interpreters (*i.e.*, licensed court interpreter)

Section 57.001. Definitions

- Certified court interpreter vs. licensed court interpreter

Certified court interpreter is certified to interpret for the **hearing-impaired** by the Texas Department of Assistive and Rehabilitative Services.

Licensed interpreters are **spoken language** interpreters licensed and regulated by the Texas Commission on Licensing and Regulation.

Section 57.002.

Appointment of an Interpreter

- (a) A court shall appoint a certified court interpreter or a licensed court interpreter if a **motion** for the appointment of an interpreter is **filed by a party** or **requested by a witness** in a civil or criminal proceeding **in the court**.
- (b) A court may, on its own motion, appoint a certified court interpreter or a licensed court interpreter.

What about Clerk conversations at the counter/window?

- NO . . .
- per Attorney General Opinion JC-0584
- “[Chapter 57] does not apply when a court clerk merely converses with a defendant in another language, even if the clerk assists the defendant, provided the clerk is not acting as a translator between the defendant and the court or another third person.”

What if the Defendant asks for help? Is this a “Motion”?

- MAYBE . . .
- per Attorney General Opinion JC-0584
- “[W]hether or not a defendant ‘who does not speak English’ and who ‘asks for assistance from a clerk of the court’ to enter a plea has moved for appointment of an interpreter will depend upon the circumstances and . . . is a matter for the Court taking the plea. Court may grant or deny a motion for an interpreter based on the court’s assessment of the defendant’s ability to communicate in English.”

Section 57.002. (c) Exceptions to Licensing Requirements

- In a county with a **population of less than 50,000**, a court may appoint a **spoken language** interpreter who is not a certified or licensed interpreter.

Section 57.002. (d)

Languages other than Spanish?

- Subject to Subsection (e), in a county with a population of 50,000 or more, a court may appoint a **spoken language** interpreter who is not a certified or licensed court interpreter if:
 - (1) the language necessary in the proceeding is a **language other than Spanish**; and
 - (2) the court makes a finding that there is no licensed court interpreter within 75 miles who can interpret in the language that is necessary in a proceeding.

Section 57.002. (e) - If not a licensed interpreter, who then?

- A person appointed under Subsection (c) or (d):
 - (1) must be qualified by the court as an expert under the Texas Rules of Evidence;
 - (2) must be at least 18 years of age; and
 - (3) **may not be a party** to the proceeding.

What about Hearing-Impaired Individuals in Court?

Title 2 Government Code Chapter 57
Subchapter B

Section 57.021. (a)

The Texas Commission for the Deaf and Hard of Hearing (the “Commission”) shall certify court interpreters to interpret court proceedings for a hearing-impaired individual.

Section 57.021. (c)

How to find a Certified Interpreter?

The Commission shall maintain a list of certified court interpreters and other persons the Commission has determined are qualified to act as court interpreters and shall send the list to each state court and, on request, to other interested parties.

www.dars.state.tx.us – click on “Deaf and Hard of Hearing Services” then click on “BEI” and go to “Court Interpreter List”.

Section 57.022. Certification – by whom? to whom?

- (a) The Commission shall certify an applicant who passes the appropriate examination prescribed by the Commission and who possesses the other qualifications required by rules adopted under this subchapter.

Section 57.022. (b) Rules

- The Commission by rule shall provide for:
 - (1) the qualifications of certified court interpreters;
 - (2) training programs for certified court interpreters each of which is managed by the Commission or by a public or private educational institution;
 - (3) the administration of examinations;
 - (4) the form for each certificate and procedures for renewal of a certificate;

- The Commission by rule shall provide for:
 - (5) the fees for training, examinations, initial certification, and certification renewal;
 - (6) continuing education programs under this subchapter;
 - (7) instructions for compensation of a certified court interpreter and the designation of the party or entity responsible for payment of compensation; and
 - (8) administrative sanctions enforceable by the Commission.

Section 57.023 Examinations

- (a) The Commission shall prepare examinations under this subchapter that test an applicant's knowledge, skill, and efficiency in the field in which the applicant seeks certification.

Section 57.025

Denial, Suspension or Revocation?

- (a) The Commission shall adopt rules establishing the grounds for denial, suspension, revocation, and reinstatement of a certificate issued under this subchapter. The Commission may revoke or suspend certification under this subchapter only after a hearing.

Section 57.026. Prohibited Acts

A person may not advertise, represent to be, or act as a certified court interpreter unless the person holds an appropriate certificate under this subchapter.

Criminal Offense? Administrative Penalty? Section 57.027.

- (a) A person commits an offense if the person violates this subchapter or a rule adopted under this subchapter. An offense under this subsection is a **Class A Misdemeanor**.
- (b) A person who violates this subchapter or a rule adopted under this subchapter is subject to an administrative penalty assessed by the Commission.

**What about People who do not
Communicate in English in Court?**

**Title 2 Government Code Chapter 57
Subchapter C**

Section 57.042

Licensed Court Interpreter Board

- (a) The licensed court interpreter advisory board is established to advise the Texas Commission of Licensing and Regulation regarding the adoption of rules and the design of a licensing examination.

Section 57.043. Issuance of License – by whom? to whom?

The Executive Director of the Texas Department of Licensing and Regulation shall issue a court interpreter license to an applicant who

- (1) can interpret . . . ;
- (2) passes the examination; and
- (3) possesses the other qualifications for the license required

Section 57.043. (c)

How long is a license good for?

A license issued under this subchapter is valid for **one year** from the date of issuance.

Section 57.048. (a)

Denial, Suspension or Revocation?

After a hearing, the commission **shall** suspend or revoke a court interpreter license on a finding that the individual:

- (1) made a material misstatement in an application for a license
- (2) disregarded or violated this subchapter or a rule adopted under this subchapter; or
- (3) engaged in dishonorable or unethical conduct to deceive, defraud, or harm the public or a person for whom the interpreter interprets

Section 57.049. Prohibited Acts

A person may not advertise, represent to be, or act as a licensed court interpreter unless the person holds an appropriate license under this chapter.

Criminal Offense? Administrative Penalty? Section 57.050.

- (a) A person commits an offense if the person violates this subchapter or a rule adopted under this subchapter. An offense under this subsection is **Class A Misdemeanor**.
- (b) A person who violates this subchapter or a rule adopted under this subchapter is subject to an administrative penalty assessed by the commission as provided by Subchapter F, Chapter 51, Occupations Code.

**Title 16, Texas
Administrative Code,
Chapter 80**

**LICENSED COURT
INTERPRETERS**

What does Chapter 80 really talk about?

- Chapter 80 was created by the authority of Title 2, Texas Government Code, Chapter 57 and Title 2, Texas Occupations Code, Chapter 51
- This Chapter addresses the licensing requirements and continuing education for **licensed** court interpreters – “the rules”

Chapter 80.20.

Licensing Requirements

- (a) Prior to performing court interpretation services, a person first **must obtain a court interpreter license**
- (b) A person seeking to be licensed as a court interpreter **must file an application . . . and must pay a non-refundable license application filing fee**

Chapter 80.22. Examination

Each applicant **must pass all parts** of a Department approved language examination before the applicant will be licensed as a court interpreter for that language.

Exam

- www.license.state.tx.us/court/examinfo.htm
- Consists of 2 parts: oral & written
- Written part lasts 3 hours & has 135 multiple choice questions
 - General proficiency
 - Court related terms
 - Ethics

Exam

- Oral part has 3 sections
- Sight interpretation
 - 6 minutes to interpret from English to target language
 - 6 minutes to interpret from target language to English
- Consecutive interpretation
 - 22 minutes in simulated trial
 - Role playing
- Simultaneous interpretation
 - 8 minutes to interpret recorded speech
 - With headphones
- In 2007, 48 people sat for the exam, 6.6% passed = 3 people

Chapter 80.23. License Renewal?

- (a) A complete application . . . and all required fees **must be filed by the expiration date**, or the application will be considered late and the license will expire.
- (c) A person shall not perform work requiring a license under Chapter 57 of the Texas Government Code with an expired license.

Chapter 80.25.

“Continuing Education”?

- (b) To renew a license . . . a licensee must complete **eight hours of continuing education** in courses approved by the department, **including two hours of instruction in ethics.**
- (c) The continuing education hours **must have been completed within the term of the current license**, in the case of a timely renewal. For a late renewal, the continuing education hours must have been completed within the one year period immediately prior to the date of renewal.

Chapter 80.25 Curriculum?

- (f) To be approved under Chapter 59 of this title, a provider's course must be dedicated to instruction in one or more of the following topics:
 - (1) law and rules affecting the practice of a licensed court interpreter;
 - (2) ethics;
 - (3) practice topics, such as etiquette, modes, vocabulary, technology, transcription, translation, grammar and spelling, and voice training; or
 - (4) business practices.

Who needs Continuing Education?

- (h) This section shall apply to licenses issued under Texas Government Code, Chapter 57, Subchapter C, that **expire on or after January 1, 2007.**

Chapter 80.70.

Interpreter Responsibilities

- (a) A licensee **must provide** the following written notification to the court: "Regulated by The Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599." The notification **shall** also be included on all contracts and invoices for court interpreter services.

(b) A licensee **shall** present their court interpreter license upon the request of a court or an officer of the court.

(c) A licensee **shall** notify the Department, in writing, within thirty (30) days of any change in the licensee's name, address, or telephone number.

Chapter 80.80 What about the Fees?

- (a) All fees are non-refundable.
- (b) The original license application filing fee shall be \$75.
- (c) The renewal application filing fee shall be \$50.
- (d) The fee for obtaining a duplicate license is \$25.
- (e) The fee for the written examination is \$100.
- (f) The fee for each oral examination is \$300.

Chapter 80.90.

Administrative Sanctions/Penalties?

- If a **person** violates any provision of Title 2, Texas Government Code, Chapter 57, any provision of 16 Texas Administrative Code, Chapter 80, or any provision of an order of the Executive Director or Commission, proceedings may be instituted to impose administrative penalties, administrative sanctions, or both administrative penalties and sanctions in accordance with the provisions of Title 2, Texas Occupations Code, Chapter 51, or 16 Texas Administrative Code, Chapter 60.

Chapter 80.100 Code of Ethics and Professional Responsibility

While interpreters must develop their own, well-informed ethical judgment, 80.100 lists 9 Canons which set forth fundamental ethical precepts for court interpreters to follow.

Chapter 80.100 Code of Ethics and Professional Responsibility

- (b) This code shall guide and be binding upon all persons, agencies and organizations who administer, supervise use, or deliver interpreting services to the judiciary.

Canon 1

Accuracy and Completeness

Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written, and without explanation. The register, style and tone of the source language should be conserved. While interpreting or translating, court interpreters are to use the same grammatical person as the speaker. Guessing should be avoided. Interpreter errors should be corrected for the record as soon as possible.

Canon 2

Representation of Qualifications

Interpreters shall accurately and completely represent their certifications, accreditations, training, education, and pertinent experience. Court interpreters shall bring to the judge's attention any circumstances or conditions that impede full compliance with any canon of this code, including, but not limited to: interpreter fatigue, inability to hear, or inadequate knowledge of specialized terminology, and must decline assignments under conditions that make such compliance unattainable. Acceptance of a case by an interpreter conveys linguistic competency in legal settings.

Canon 3 Impartiality and Avoidance of Conflicts of Interest

Interpreters shall be impartial and unbiased and shall refrain from conduct that may give an appearance of bias. Interpreters shall immediately disclose to the Court and all parties any real, potential or perceived conflicts of interest. Interpreters shall abstain from comment on cases in which they serve. An interpreter who is also an attorney should not serve in both capacities in the same matter, unless agreed to by the judge and all parties.

Canon 4

Professional Demeanor

Interpreters shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.

Canon 5

Confidentiality

Interpreters shall not disclose privileged or confidential communications or information acquired in the course of interpreting or preparing for interpretation, unless authorized by the Court or by law.

Canon 6

Scope of Practice

Interpreters shall limit themselves to interpreting or translating, and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter. An interpreter may convey legal advice including the explanation of forms and/or services to a person only while an attorney is giving it.

Canon 7 Assessing and Reporting Impediments to Performance

Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment competently, they shall immediately convey that reservation to the judge.

Canon 8

Duty to Report Ethical Violations

Interpreters shall report to the judge any effort to influence or impede the performance of their duty, or their compliance with any legal requirement, any provision of this code, or any other official policy governing court interpreting. An interpreter having knowledge that another interpreter has committed a violation of any provision of this code shall inform the judge and/or the appropriate licensing authority.

Canon 9

Professional Development

Interpreters shall continually improve their skills and knowledge and advance the profession through activities such as professional training and education, and interaction with colleagues and specialists in related fields. Interpreters should keep informed of all statutes, rules of courts and policies of the judicial system that relate to the performance of their professional duties.

How can I keep up with this?

- www.license.state.tx.us (Texas Department of Licensing and Regulation) - CHECK IT OUT!
 - <http://www.license.state.tx.us/newsletters/TDLRnotificationLists.asp> subscribe to receive automated notification of new and changing information from TDLR
 - Also, to search court interpreter licenses.

Where can I get more Info?

- www.tajit.org (Texas Association of Judiciary Interpreters and Translators) They also provide CE courses.
- www.najit.org (National Association of Judiciary Interpreters and Translators)
- www.oag.state.tx.us (Office of the Attorney General)

THANK YOU

Michael Acuña, Municipal Court Judge

City of Dallas

2014 Main Street, Room 210

Dallas, Texas 75201

214-670-5573

michael.acuna@dallascityhall.com