

IMMIGRATION COURT INTERPRETERS:  
THEIR STANDING AS PROFESSIONALS

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Immigration Court Interpreters: Their Standing as Professionals(\*1)

EXECUTIVE SUMMARY

The United States Immigration Court is an Executive Branch administrative tribunal located within the Executive Office for Immigration Review, U. S. Department of Justice. The Immigration Court's jurisdiction lies in conducting hearings in which Federal immigration laws and regulations are at issue. Approximately 85% of these hearings require an interpreter. Immigration Court interpreters consider themselves to be professionals-members of a profession that requires formal training and advanced study in the specialized field of court interpretation. They seek recognition as professionals who maintain as part of their occupation adherence to high standards in the performance of their duties, and they seek the respect and appreciation attributable to such well established professionals as lawyers, doctors, and engineers.

This report examines the current professional standing of Immigration Court Interpreters as perceived by court personnel, including judges, administrators, support staff, and interpreters. Is there a difference in the way Immigration Court interpreters view themselves and their profession and the way they are viewed by their non?interpreter court colleagues? The report indicates that there are major differences in the court personnel's perceptions as they relate to the professional standing of Immigration Court interpreters.

Professional standing is viewed in large part as a reflection of the role of the interpreter within the Immigration Court. To what extent is court interpretation viewed as a bonafide "profession" for which an independent and unique role has been established, and, to what extent are Immigration Court interpreters viewed as true "professionals" fulfilling such a role? This issue is of particular importance because interpreters are viewed by some as being too quick to raise the flag of "professionalism" to defend a position that is at times contrary to the interpreter role and function that are expected within the Immigration Court. As a consequence, the legitimate concerns of interpreters in their quest to be

recognized as professionals often get distorted by, or even lost in, the debate on professionalism because of misconceptions or misunderstandings concerning the court interpreting profession.

It is a commonly held belief among many court interpreters, including Immigration Court interpreters, that the great majority of problems faced by members of their profession has a direct correlation with the level of awareness and understanding that administrators, judges, other court personnel, and lawyers have regarding the role of the court interpreter. The professional court interpreter takes his or her role very seriously, especially in light of the serious consequences associated with the execution of their duties -- basic due process and accessibility to justice within the judicial system. For this reason, the research methodology undertaken, which consisted primarily of an opinion survey of Immigration Court personnel, focused on examining the differences and similarities between the views and beliefs of the four major Immigration Court employee groups: interpreters, administrators, judges, and support staff (support staff is comprised primarily of legal technicians).

The survey was used to capture information targeted specifically at the beliefs and opinions held by Immigration Court personnel. This information only attempts to measure the respondent's beliefs and perceptions, and was not meant to equate to any factual situation within the court. Data was collected using a document entitled "Immigration Court Interpreter Survey." The survey contained a total of 31 questions. The questions contained in the survey addressed five distinct issues: 1) the perception of interpreters as professionals; 2) the perceived qualifications and abilities of the interpreters; 3) the perceived training and resources available to interpreters; 4) the perceived role of the interpreter in ensuring due process and access to justice for immigration hearings; and, 5) the perceived role of interpreters within the Immigration Court. The data sample size consisted of the entire Immigration Court population, and out of the 684 surveys that were distributed, 172 responses were received, representing a 25% response rate.

Based on the results of the survey, it is apparent that the Immigration Court understands the importance of court interpreters, and recognizes to some extent their expertise in eliminating the language barrier faced by the non-English speaking respondents who come before the Court. The survey found that 92% of the interpreters, 86% of the judges, 73% of the administrators, and 62% of the support staff view interpreters as being professional officers of the court. Nevertheless, 64% of the interpreters view themselves as not being respected as highly skilled professionals. This is also evident in the number of non-interpreter court personnel who are not familiar with the professional standards interpreters believe they observe, and with the perception some court personnel have as to interpreters belonging to a non-professional occupation.

The court personnel also agree that the interpreters are qualified to interpret in court, and to a large extent gave credence to a legal definition of professional by implying that a positive education requirement is required for these positions, though not necessarily a four-year college degree. This was further validated by the high percentage of interpreters who possess an education level beyond high school.

When exploring the fundamentals of judicial integrity and fairness to all the parties participating in immigration proceedings, interpreters and judges appear to have competing interests in determining who is responsible for ensuring that due process and access to justice for non-English speaking respondents in immigration hearings are protected, though both groups strongly believe that interpreters are instrumental in ensuring the immigration hearing process will be fair to all parties, namely, 90% of the judges and 84% of the interpreters. Without qualified, trained interpreters, these individuals are basically denied due process and equal justice rights, regardless of how cognizant and deliberate the judges are in their attempts to preserve these rights. At the same time, the remaining court personnel struggle with acknowledging that ensuring due process and equal access to justice is a

duty properly required of the interpreter. Surprisingly, all four groups disagree at a substantially high rate that interpreters should interpret everything said during the course of a hearing, both on and off the record, yet they expect interpreters to safeguard the rights of respondents to be "linguistically" present at their hearings.

Interpreters clearly have a strongly held belief and expectation that they belong to a distinguishable class of professionals whose skills and abilities cannot be subjugated by any duties not related to interpreting. This perception is apparently not shared by others within the Immigration Court, and the difference may be due simply to the fact that this is not the function that is expected of Immigration Court interpreters. One cannot examine issues surrounding interpreter services and the professional standing of interpreters within the Immigration Court without considering how these issues directly impact many of the administrative, procedural, and operational functions of the court. Immigration Court interpreters have historically been tasked with various administrative duties and functions that are in direct contradiction and conflict with the role and function of the court interpreter, as promulgated by the court interpreter profession. These duties, however, are inherent in the purpose and function of the Immigration Court interpreter position.

The question on many interpreters' minds is whether it is time for a change within the Immigration Court, a change that better reflects the changes that have taken place in the field of court interpretation and the advances that have been made in recognition of court interpreting as a true profession. Within the Immigration Court, the timing may never be exactly right, the budget will never be adequate, support staff positions will always be in short supply, but does this mean that the dual role of interpreters as clerk and interpreter will continue indefinitely? Does this mean that due process and access to justice for linguistic minorities, and other related matters, will remain issues that, as a court, we hold in high regard and take measures to safeguard, but, unless specifically mandated by Congress they will remain issues for which pro-active measures will not be taken?

Given the Court's recent history and direction, it appears that steps will be taken to evaluate these concerns. Through continuing employee development, the establishment of national guidelines on interpreter usage, and policy changes in the area of providing full and complete interpretations, interpreters will be able to provide fundamental access and extend full participation in complex immigration proceedings to all non-English speakers.

Professionalism of the interpreters, beyond the mere perception of such, can be accomplished within the Immigration Court. Hopefully this report will prove beneficial in trying to guide the Immigration Court's efforts toward realizing a higher level of professionalism for interpreters within the Immigration Court.

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(\*1) The views expressed in this report are those of the author and do not purport to be nor do they necessarily reflect the official policy or position of the Immigration Courts, the Office of the Chief Immigration Judge, the Executive Office for Immigration Review, the U.S. Department of Justice, or the U.S. Government.

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