

Interpreters

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I know what you're thinking:
Can't the clerk just interpret?



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What we will cover:

- *NEED*
- *WHY*
- *LAW*
- *RESOURCES*

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Need



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Language	Number of Speakers
Spanish	6,983,380
Vietnamese	193,408
Chinese*	140,971
Tagalog	72,248
German	69,140
French	60,730
Hindi	59,602
Urdu	57,662
Korean	55,794
Arabic	55,304

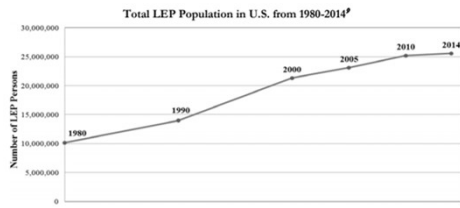
*Includes Cantonese, Mandarin and other Chinese languages

Source: 2009-2013 American Community Survey
Credit: Julie McCullough

Texas
languages 2016

*TOTAL
POPULATION
27,860,000*

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Growing Trend

*Language Access in State Courts
U.S. Department of Justice; Civil Rights
Division Federal Coordination and Compliance
Section
September 2016*

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Constantly
moving
target

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Limited English Proficient (LEP)

What does that look like?

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Recent immigrant's understanding

A person forplikter the angrepet overgrep if he begår angrepet of angrep as definert in følgende, and uses or utviser a dødelig weapon during forfølgelsen of lovbrud.

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Long-time resident's understanding

A person forplikter the overgrep assault if he begår assault of angrep as defined in følgende, and uses or utviser a deadly weapon during forfølgelsen of lovbrud.

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Native speaker's understanding

A person commits the offense of Aggravated Assault if he commits the offense of assault as hereinafter defined, and uses or exhibits a deadly weapon during the commission of the offense.

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I'm cool, I'm cool – I get it ...

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祝你有美好的一天

This language is:

1. Chinese
2. Korean
3. Japanese
4. You know I'm guessing, right?



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хорошего дня

This language is:

1. Greek
2. Russian
3. It's ALL Greek to me



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BONUS!

Who knows what both of those phrases said?

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WHY



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- Due process
- Access to courts
- Civil right?



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- The Department of Justice's position is also that it is the judge's obligation to provide language access in their court as a civil right.
- In their view, it doesn't matter if the litigant doesn't request one, if the judge has reason to believe the person may be an LEP person, they have a duty to make sure that person receives any necessary language access services even without a request.

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The Law



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Language access in Texas courts

- **Rule of Civil Procedure 183**
- **Civil Practice and Remedies Code Chapter 21**
- **Code of Criminal Procedure 38.30**
- **Government Code Chapter 57**
- **Rule of Evidence 604**
- Family Code Sections 81.002 and 81.003
- Health & Safety Code Sections 571.017 and 571.018
- Local Government Code Section 152.903
- Estates Code Section 1054.005 and 1155.151
- Texas Bill of Rights

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Civil

TRCP 183

The court **may** appoint an interpreter of its own selection and may **fix the interpreter's reasonable compensation**. The compensation shall be paid out of funds provided by law **or by one or more of the parties as the court may direct**, and may be taxed ultimately as costs, in the discretion of the court.

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Is that the BEST access to justice?

To have a party pay to truly participate?

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Civil Payment CPRC §21.051

- The clerk of the court shall collect an interpreter fee of \$3 as a court cost in each civil case in which an interpreter is used. The clerk shall collect the fee in the manner provided for other court costs and shall deposit the fee to the credit of the general fund of the county.

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Criminal

CCP §38.30

- Any motion, in any proceedings, for a defendant or witness that does not understand and speak the English language, **must** have a sworn interpreter
- Any person may be asked to act as interpreter
- If the only available interpreter is not doesn't have strong enough skills or is not familiar with slang, the defendant or witness ask for another person to act as intermediary between them and the appointed interpreter

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Criminal Payment

CCP§38.30

- A county commissioners court may set a payment schedule and expend funds for the services of interpreters in excess of the daily amount of not less than \$15 or more than \$100.

OR

- Interpreters appointed under this section will receive from the general fund of the county for their services not less than \$15 nor more than \$100 a day at the discretion of the judge presiding

ALSO

- When travel of the interpreter is involved all the actual expenses of travel, lodging, and meals incurred by the interpreter pertaining to the case the interpreter is appointed to serve shall be paid at the same rate applicable to state employees.

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Criminal Phone Support

CCP §38.30



- Can use a **qualified telephone interpreter** if an interpreter is not available to appear in person if the interpreter does not have strong enough skills or is not familiar with slang

"qualified telephone interpreter" means a telephone service that employs:

- (1) licensed court interpreters as defined by Section 157.001, Government Code; or
- (2) federally certified court interpreters.

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GOVERNMENT CODE §57
COVERS BOTH CRIMINAL & CIVIL

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All Cases

Gov't Code §
57.002

•SHALL appoint upon
motion of a party or
request by a witness

•MAY appoint on its
own motion

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What does 'may'
mean here?



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All Cases

Gov't Code §
57.002

- Interpreters appointed by the court must be licensed UNLESS

- the court is in a county with less than 50,000 people;
- is on the border; OR
- is in a county of more than 50,000 people, AND the language requested is not Spanish AND the court makes a finding that there is no interpreter within 75 miles that can interpret in that language.

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All Cases Gov't Code § 57.002

- If not 'licensed' then, the interpreter
 - **must** be qualified by the court as an expert under the Texas Rules of Evidence;
 - **must** be at least 18 years of age; and
 - **may** not be a party to the proceeding.

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What is an 'expert' under TRE?

- TRE 702: A witness who is qualified as an expert by **knowledge, skill, experience, training, or education** may testify in the form of an opinion or otherwise if the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue.



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How to qualify as an expert under TRE

Possible questions:

- *How long have you spoken (x language)?*
- *Are you familiar with slang from (x language)?*
- *Do you have any professional training in (x language)?*
- *Have you interpreted before?*

(don't have to meet all of these, just ideas)

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DON'T FREAK OUT!

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	County with population of at least 50,000	County with a population under 50,000	County that borders Mexico
Must appoint a licensed court interpreter	When language is Spanish	No	No
May appoint an unlicensed court interpreter	1. When language is not Spanish; 2. The judge makes a finding that there is no licensed court interpreter available within 75 miles; and 3. The interpreter is: a. qualified by the court as an expert under the Texas Rules of Evidence; b. at least 18 years of age; and c. not a party to the proceeding.	If the interpreter is: a. qualified by the court as an expert under the Texas Rules of Evidence; b. at least 18 years of age; and c. not a party to the proceeding.	If the interpreter is: a. qualified by the court as an expert under the Texas Rules of Evidence; b. at least 18 years of age; and c. not a party to the proceeding.

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So:
Can't the clerk just interpret?

Yes!
If they meet
the criteria



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What about statement of inability to pay
court costs?

Rule 145(c) *Costs defined.*

- (1) any fee charged by the court or an officer of the court that could be taxed in a bill of costs
- (2) court-appointed professional

Interpreters fit into both categories. Likely, CANNOT charge for interpreters

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Deaf PErsons

CPRC §21

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Who is a 'deaf person'?

- "an individual who has a hearing impairment, regardless of whether the person also has a speech impairment, that inhibits the person's comprehension of proceedings or communication with others."
- In a civil case a deaf person who is a party or witness or a juror is entitled to have the proceedings interpreted by a **court-appointed** interpreter.
- The proceedings must be interpreted in a language, including sign language, that the deaf person can understand.
- CPRC §21.001 -.002

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What does qualified mean?

- Must hold a current legal certificate issued by the National Registry of Interpreters for the Deaf or a current court interpreter certificate issued by the Board for Evaluation of Interpreters in the Department of Assistive and Rehabilitative Services.

CPRC §21.003

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Deaf interpreter's role in the courtroom

The court may not start proceedings until the appointed interpreter is in court in a position not more than 10 feet from and in full view of the deaf person.



CPRC §21.004

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Deaf Person Costs

CPRC §21.006

- The interpreter shall be paid a reasonable fee determined by the court after considering **the recommended fees of the Texas Commission for the Deaf and Hard of Hearing**.
- The interpreter's actual expenses of travel, lodging, and meals relating to the case shall be paid at the same rate provided for **state employees**, if the interpreter is required to travel.
- The interpreter's fee and expenses shall be paid from the **general fund of the county** in which the case was brought.

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Deaf Persons Other Points CPRC§21.007-.009



- If asked to, a court may order a video recording of a deaf witness's testimony and the interpreter's interpretation of that testimony, you can deny because you are not a court of record.
- Privilege applies to the interpreter if the deaf person is communicating about privileged issues (like a criminal defendant), and the interpreter cannot be made to testify about those communications.
- The interpreter appointed for a juror may be present and assist the juror during the jury deliberation. This does not affect the validity of a verdict.

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Resources

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<https://www.txcourts.gov/tcris/>

TEXAS COURT REMOTE INTERPRETER SERVICE (TCRIS)

SCHEDULE AN INTERPRETER

Spanish licensed court interpreter available to courts via speakerphone or videoconference.

Overview & Scope

The Office of Court Administration's (OCA) Texas Court Remote Interpreter Service (TCRIS) provides:

- free Spanish language interpreting services by state licensed court interpreters^[1] in all case types,
- for short, non-contested and non-evidentiary hearings that would typically last 30 minutes or less^[2] by advanced scheduling or on demand, as available^[3],
- by telephone or by video conference, using the court's existing equipment.^[4]

For interpretation and translation needs not covered by TCRIS, please see the OCA Language Access Program.

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<https://www.lep.gov/>

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Thank you!

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