

## ¿Mi Trabajo es su Trabajo? The Use of Licensed Court Interpreters in Municipal Court

Presented by  
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### Course Objectives – Why am I here?

- Identify the laws concerning the use of foreign language interpreters in municipal court
- Discuss the potential ethical and legal implications of using unlicensed/unqualified interpreters for court proceedings
- List resources available for municipal courts regarding the use of foreign language interpreters

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### 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.”

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**So what Difference does an Interpreter make?**



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**So what Difference does an Interpreter make?**



If there is not effective interpretation in Court, a criminal conviction will be overturned, as this violates the defendant's fundamental right to confrontation.

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**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

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**What are the Important Laws for Licensed Interpreters?**

- Chapter 57, Texas Government Code, "Court Interpreters"
- Title 16, Texas Administrative Code, Chapter 80, "Licensed Court Interpreters"
- Section 38.30, Code of Criminal Procedure, "Interpreter"

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**Where else is Information about Licensed Interpreters?**

- Texas Attorney General Opinion JC-0584, Nov. 2002
- 6<sup>th</sup> Amendment, U.S. Constitution (The Confrontation Clause)
- Case Law

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**Chapter 57  
Texas Government Code**

- Generally, 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)

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**57.001 Definitions  
“Certified” vs. “Licensed”**

- Certified court interpreter is an individual who is a qualified interpreter as defined in Article 38.31, Code of Criminal Procedure, or Section 21.003, Civil Practice and Remedies Code, or certified under Subchapter B by the Department of Assistive and Rehabilitative Services to interpret court proceedings for a hearing-impaired individual.
- Licensed court interpreter is 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.

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**57.002 - When is a Licensed  
Interpreter Necessary?**

- (a) A court **shall** appoint a licensed court interpreter if a motion is filed by a party or requested by a witness.
- (b) A court **may**, on its own motion, appoint a licensed court interpreter.
- (b-1) An appointed interpreter must hold a license that includes the appropriate designation that indicates the interpreter is permitted to interpret in that court (“basic” v. “master”).

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**Any Exceptions?**

Yes (of course . . . )

Section 57.002(c): Exceptions to Licensing Requirements

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

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**57.002(d) - What about for 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 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.

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**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.

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**Licensed Court Interpreter Board**

- Section 57.042. establishes a licensed court interpreter advisory board to advise the Texas Commission of Licensing and Regulation regarding the adoption of rules and the design of a licensing examination.

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**57.043 Issuance of License**

- (a) 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 . . . .
- (c) License is valid for one year

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**57.043(d) "Basic" v. "Master"**

A license must include at least one of the following designations:

- (1) a **basic** designation that permits the interpreter to interpret court proceedings in justice courts and municipal courts that are not municipal courts of record, other than a proceeding before the court in which the judge is acting as a magistrate; or
- (2) a **master** designation that permits the interpreter to interpret court proceedings in all courts in this state, including justice courts and municipal courts described by Subdivision (1).

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**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.

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**57.050 Prohibited, but is it a Crime?**

YES . . .

(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**.

Under (b) also subject to an administrative penalty.

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

- 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 court interpreters – “the rules”

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**80.20 Licensing Requirements**

(a) Prior to performing court interpretation services, a person first **must obtain a court interpreter license** from the department with a language endorsement for each language that the applicant will interpret.

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**80.70 Responsibility of an Interpreter**

- (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.

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**80.100 Interpreter Ethics**

- 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.

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**Code of Criminal Procedure,  
Art. 38.30 "Interpreter"**

- (a) When a motion for appointment of an interpreter is filed by any party or on motion of the court, in any criminal proceeding, it is determined that a person charged or a witness does not understand and speak the English language, an interpreter **must** be sworn to interpret for the person charged or the witness.

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(a-1) A qualified telephone interpreter may be sworn to interpret for the person in the trial of a Class C misdemeanor or a proceeding before a magistrate if an interpreter is not available to appear in person . . . .

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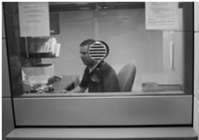
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**Texas Attorney General Opinion No. JC-0584 November 2002**

Chapter 57 does apply to a plea in Justice [or Municipal] Court  
But what about a clerk who converses with a defendant at the window?  
Are you being an Interpreter?  
What if you take his plea?



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**Texas Attorney General Opinion No. JC-0584 November 2002**

“A court clerk who merely converses with a defendant in a language other than English does not ‘act as a licensed court interpreter’ . . . provided that the clerk is not acting as a translator between the defendant and a third person.”

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**Texas Attorney General Opinion  
No. JC-0584 November 2002**

- Court will have discretion in deciding the appropriateness of appointing an interpreter upon motion of defendant or request of witness (i.e. does the person really not understand and speak the English language)
- In criminal cases must remember defendant has constitutional right to interpreter.

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**Texas Attorney General Opinion  
No. JC-0584 November 2002**

Remember, Chapter 57 applies to a plea in Justice [or Municipal] Court  
But what happens when a defendant comes to the window and . . .  
He's asking for help in court?  
Is this a "motion" . . .  
Do you call for an Interpreter?



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**What about case law?  
Ridge v. State**

Ridge v. State, 205 S.W. 3d 591, 595-97  
(Waco 2006, pet. ref'd)

When a licensed court interpreter is required by statute, no objection is needed to preserve error

Where the record is silent as to the interpreter's qualifications, error cannot be presumed.

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## So I know I need one . . . How do I Find an Interpreter for my Court?

SEARCH: <http://www.tdlr.state.tx.us/>

WHY? In County larger than 50,000 must appoint a LICENSED court interpreter.

Remember, if other than Spanish, 57.002(d) of the Government Code requires the court to make a finding that there is no licensed court interpreter within 75 miles who can interpret in the language that is necessary in a proceeding BEFORE appointing a non-licensed interpreter

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The screenshot shows the TDLR website homepage. At the top, the URL [www.tdlr.state.tx.us](http://www.tdlr.state.tx.us) is displayed. Below the header, there is a navigation menu with links for Home, Board / Commission Meetings, Press Releases, Employment, E-Mail Updates, About TDLR, and Contact. A search bar is also present. The main content area features the text: "The Umbrella Licensing Agency of Texas" and "The Texas Department of Licensing and Regulation is the state's umbrella occupational regulatory agency, responsible for the regulation of 29 occupations and industries." Below this, there are several icons representing different services: Renew / Apply for a License with TDLR, Search Licenses and Registrations, Tools for Licensing and OPI, CAREERS - report on license board, APERT - report on maintenance, and Pay Penalties Online. A horizontal menu below the icons lists: Apply for or Renew a License, Search Licenses or Projects, TDLR Licensed Programs, Continuing Education, and TDLR Information. The footer contains various policy links such as Privacy and Security Policy, Accessibility, Open Records Policy, Link Policy, and Compact with Texas.

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This screenshot is identical to the one above, but with a mouse cursor hovering over the "Search Licenses or Projects" link in the horizontal menu. The cursor is positioned over the text "Search Licenses or Projects".

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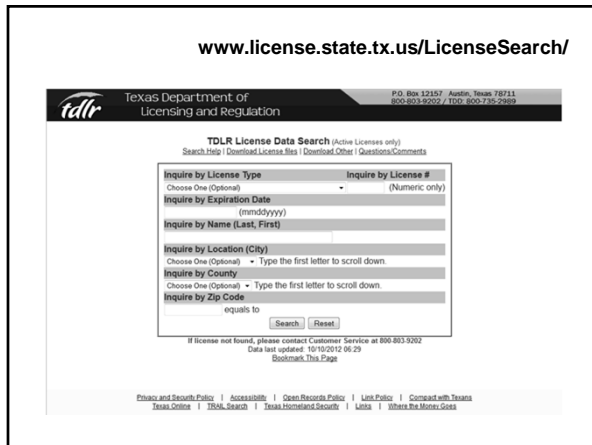
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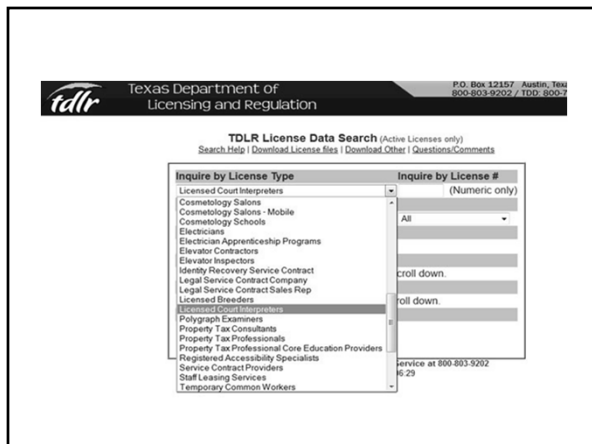
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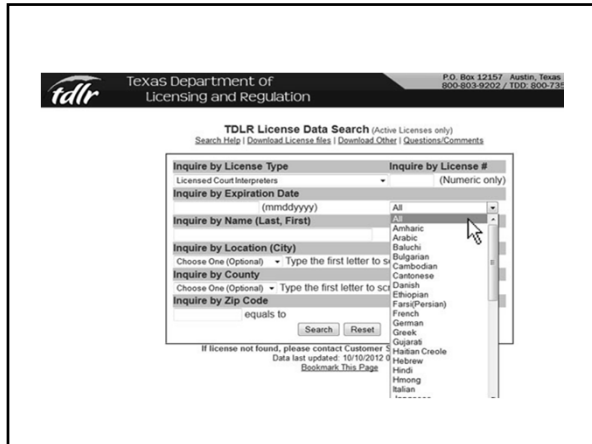
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**Hypothetically . . .  
What Would YOU do?**

Q: A defendant's friend comes along to translate in court for Spanish speaking defendant because he doesn't know English . . . Do you let him?

If you are in a county of LESS than 50,000 people, this is okay. No requirement.

If you are in a county of more than 50,000 people, NOT okay – need licensed court interpreter

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**Hypothetically . . .  
What Would YOU do?**

Q: A defendant's friend comes along to translate in court for German speaking defendant because he doesn't know English . . . Do you let him?

If you are in a county of more than 50,000 people, because the language is not Spanish may be okay **IF** no interpreter within 75 miles . . .

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Texas Department of Licensing and Regulation  
 License Data Search Results: Search Name | Back  
 Licensed Court Interpreters 3 Records Found  

License#	Exp Date	Name	City	Zip	County	Phone
LCL_3338	01/16/2013	GAJANE, CHRISTIANE	SUGAR LAND	77478	FORT BEND	(281) 491-4362
LCL_3338	05/15/2013	VARGAS, ALFREDO	MCALLEN TX	78204	MIDALGO	(956) 330-7370
LCL_3338	03/19/2013	STOCK, KATHI	LEWISVILLE TX	75067	DENTON	(214) 990-1164

If license not found, please contact Customer Service at 800-803-8202

[Privacy and Security Policy](#) | [Accessibility](#) | [Open Records Policy](#) | [Link Policy](#) | [Compact with Texas](#)  
[Texas Online](#) | [TRAIL Search](#) | [Texas Homeland Security](#) | [Linda](#) | [Where the Money Goes](#)

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**Hypothetically . . .**  
**What Would YOU do?**

Q: A defendant's friend comes along to translate in court for German speaking defendant because he doesn't know English. No licensed German Interpreter w/in 75 miles . . . Do you let him? Must first determine if he is qualified, an expert.

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**Hypothetically . . .**  
**What Would YOU do?**

What if you find out this German speaking person is his cousin?  
 Legally the relationship to each other is not relevant.

What if you find out this German speaking person is his 16 year old cousin?  
 NO, not okay now, must be 18 years of age.

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**Hypothetically . . .  
What Would YOU do?**

What if you find out this German speaking person is the complainant?  
The interpreter used can't be a party  
– but wait, is the complainant a party?

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**How do I keep up with this?  
Where can I get more info?**

- Sign up TDLR E-mail Subscriber Notification <http://www.license.state.tx.us/newsletters/TDLRnotificationLists.asp>.
- [www.tajit.org](http://www.tajit.org) (Texas Association of Judiciary Interpreters and Translators)
- [www.najit.org](http://www.najit.org) (National Association)
- [www.oag.state.tx.us](http://www.oag.state.tx.us) (Office of the Attorney General)

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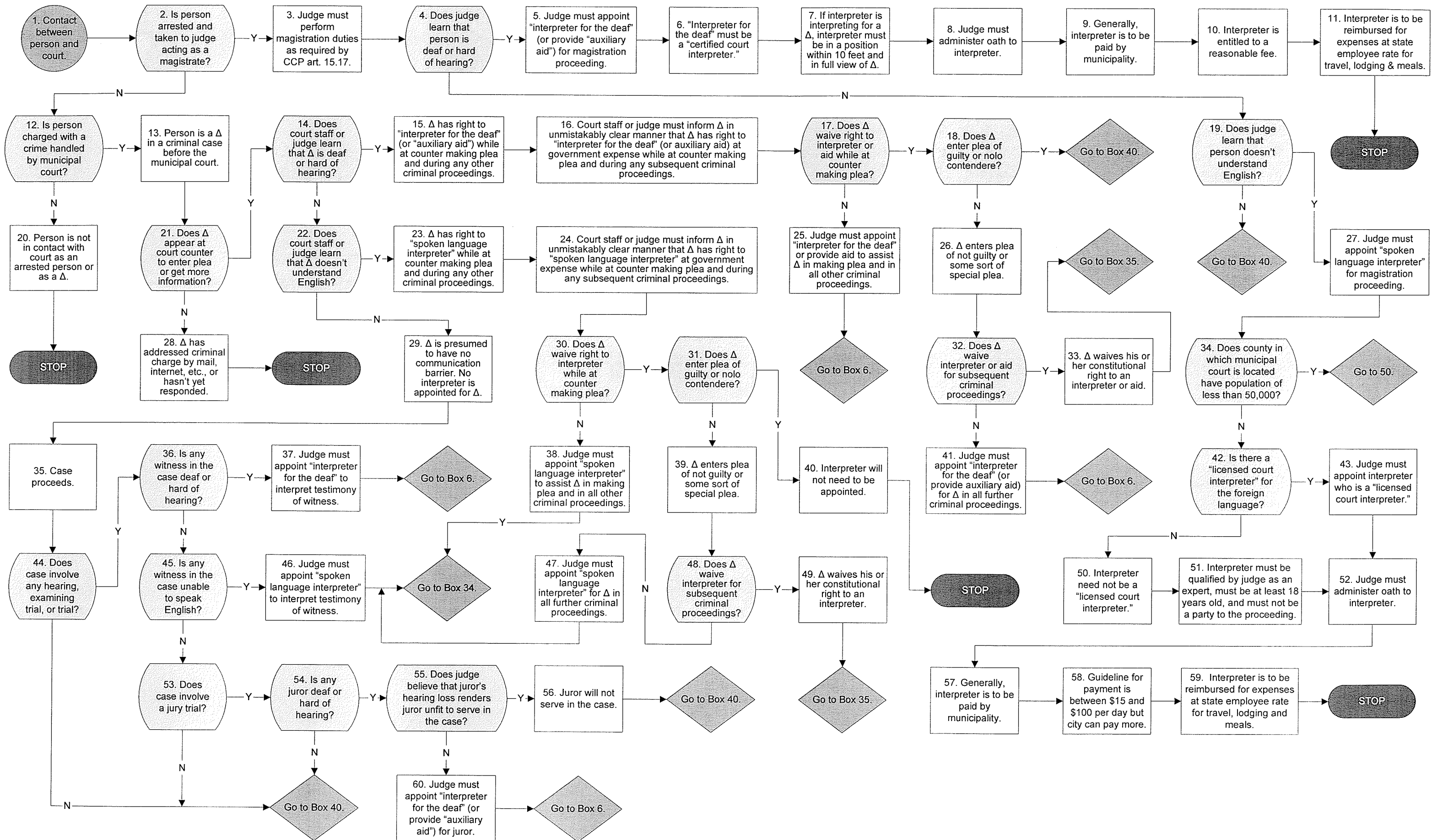
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# FLOWCHART FOR COURT INTERPRETERS IN MUNICIPAL COURTS -- OCTOBER 2004



Δ = defendant