

FROM THE DESK OF DAVID L. SCHUTZER

AMERICAN JUSTICE IN A FOREIGN LANGUAGE

L.A. is known as a mecca for court interpreters, but when a defendant or witness speaks a rare dialect, officials may resort to unusual remedies.

By Victoria Kim
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The international phone line connecting a downtown Los Angeles courtroom to a cellphone 1,500 miles away in Texcoco, Mexico, was repeatedly disconnected and difficult to hear at times.

But on that line hung the constitutional rights of Candido Ortiz, accused of drunkenly stabbing a man with a broken beer bottle and charged with attempted murder. Ortiz, 20, spoke only a variant of *Mixe*, a language used by about 7,000 people in the mountains of the southern Mexican state of Oaxaca.

In a case that is unusual even for Los Angeles, a place that some call the mecca of court interpreters, officials were unable to find anyone in the United States who could translate for Ortiz. A three-month search eventually led officials to Eduardo Diaz, a university student in Mexico.

At Ortiz's preliminary hearing earlier this month, Diaz was teleconferenced in from Mexico to interpret over a speakerphone. A Spanish interpreter in court translated the proceedings from English to Spanish, then Diaz translated the Spanish into *Quetzaltepec Mixe*, also spelled *Mije*.

LEGAL GUARANTEE

California law guarantees a defendant the right to an interpreter in all criminal proceedings. In Los Angeles County, where more than a third of the population is foreign-born and more than half speaks a language other than English at home, that sometimes means court officials are sent scrambling for speakers of *Chuukese*, *Marshallese*, Mexican Sign Language or *Q'anjob'al*, a Mayan variant.

"We're proud of the fact that over 100 languages are represented among our interpreters," said Greg Drapac, who headed the court's interpreter assignment operation from 1997 to 2005. "Which is great, until you realize there are over 6,000 living languages."

As the ears and mouths of non-English speakers, court interpreters hold the key to whether criminal defendants understand the proceedings and their rights in the justice system. Inadequate interpretation can lead to inaccurate testimony, wrongful convictions or plea deals in which defendants sign over their rights without realizing what the consequences are, experts say.

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In most cases, only the interpreter's English translation is entered into the court record. Juries are often instructed to rely on the interpreter's version, even if they understand the original language.

The demand has been growing for interpreters of indigenous languages spoken in Latin America because of an influx of migrant laborers from those communities. Court officials, who once automatically assigned Spanish interpreters to everyone who looked Latino, are becoming increasingly sensitive to the diversity and nuances that exist within immigrant communities, Drapac said.

Indigenous migrants from Mexico, who are largely monolingual and often speak only limited street Spanish, are used to being treated poorly in Mexico and often don't complain when they are assigned an interpreter who doesn't speak their language, experts said. Sometimes, they said, a defendant's silence is mistaken as a sign of mental illness.

UNUSUAL CHALLENGE

Ortiz was arrested in August after an incident in which he was carrying two beer bottles and drunkenly stumbled into a room where two men were asleep, a district attorney's spokeswoman said. According to prosecutors, Ortiz allegedly threatened one of the men, then smashed the bottles together and stabbed the second man.

Police officers were able to communicate with Ortiz in basic Spanish, but a court interpreter recognized oddities in the way Ortiz spoke. He gave very short answers, didn't answer some questions and got most of his tenses wrong, said Spanish interpreter Eric Valdez, who translated at this month's preliminary hearing.

When the public defender on the case asked Ortiz if he understood Spanish, he replied, "*No todo*"—not everything, Valdez recalled.

If defendants or witnesses speak a rare language, it can be a challenge simply to figure out what it is because no one can communicate with them.

In Ortiz's case, attorneys initially thought he would need a *Zapotec* interpreter, court records indicate. A Spanish interpreter told officials he thought Ortiz spoke *Mixe*, an indigenous language spoken in eastern Oaxaca by an agrarian people who have increasingly been migrating to northern Mexico and the United States to find work.

So began the search for an interpreter for Ortiz.

Even among the indigenous populations in Oaxaca, *Mixe* is spoken by few people. And the language has four to eight variants that have grown apart over centuries as they were passed down orally with no standardization. Different variants of *Mixe* can be as different as French is from Catalan or Romanian, said David Tavárez, a linguistic anthropologist at Vassar College.

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WRONG DIALECT

An interpreter flown in from San Francisco spoke *Mixe alto*, which is used in the northern part of the Mixe region, and could not communicate with Ortiz, said Michele Oken, who heads the Superior Court's interpreter division.

An interpreter for *Mixe bajo* was then brought in, only to discover it was again the wrong variant. The court eventually discovered Ortiz was from the town of *San Miguel Quetzaltepec*, where *Quetzaltepec Mixe*—also classified as *Mixe medio del este*—is spoken. After contacting agencies across the U.S., Oken said, her office found Diaz in November through the National Institute of Indigenous Languages in Mexico. Diaz could not be flown into the country because of visa problems and had to interpret over the phone, Oken said.

Prosecutors were skeptical of whether the search for an interpreter was necessary. In court papers, they argued that Ortiz might have been pretending not to understand Spanish in an attempt to get his case dismissed by delaying prosecutors.

At the end of Ortiz's three-hour preliminary hearing, a judge ordered him to stand trial for attempted murder. Ortiz did not speak during the hearing and gave no sign of how much he understood, said Valdez, the Spanish interpreter.

The qualifications of interpreters used to translate rare languages vary widely. In most cases, they are not trained in interpretation, much less simultaneous or legal interpretation. For 13 state-certified languages, the state administers a stringent test that 9 out of 10 people fail. But for rare languages, court officials said, they have to resort to finding someone with the highest education level possible—in Ortiz's case, a student in his last semester of university.

John Haviland, an anthropology professor and an interpreter for *Tzotzil*, another indigenous language spoken in Mexico, said understanding American legal terminology and concepts and translating them into indigenous languages is no small feat.

Judges and attorneys "can get very impatient—they can't see why a simple question like 'Do you waive your right to a jury?' takes three paragraphs to translate," said Haviland, who researches indigenous Mexican populations and linguistic access to justice at UC San Diego.

"In the case of someone from an Indian village, there is nothing equivalent to a trial or a jury or a legal right," he said. "I usually have to tell a little narrative about what the issues are."

Relay interpreting between more than two languages, often inevitable for rare languages, also opens up more room for error. A publication of the National Assn. of Judiciary Interpreters and Translators calls the process "fraught with pitfalls and far from ideal" but "a better solution than working directly into sadly inadequate English."

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Regardless of how rare a language is, court officials say, they do everything in their power to find the right interpreter. Drapac and Oken said they have never had a case dismissed because an interpreter could not be found. [Judges have dismissed cases, Drapac said, when they decided the expense of providing an interpreter was exorbitant given the offense.]

When given the task of finding an interpreter in a rare language, court officials say, they start by calling other courts or their federal counterparts. Then they turn to professional agencies, educational institutions or religious organizations that research languages for proselytizing.

When all else has failed, Drapac said, he has even resorted to sending staff out to restaurants around the city—he once found a Mongolian speaker that way.

“You traverse those waters, and you provide the best possible person,” Drapac said.

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