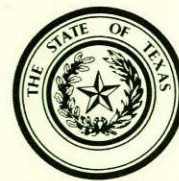


Guide Post



... A publication of the Texas Commission for the Deaf
January/February 1984

Attorney General gives opinion

Several months ago, Texas Commission for the Deaf (TCD) Executive Director Fred Tammen requested a formal opinion from the Attorney General regarding clarification of interpreter services in civil and criminal court proceedings. A reprint of Tammen's inquiry appeared in the July/August issue of the *Guide Post* newsletter.

Tammen requested legal opinion on three major issues:

- 1) Definition of the term "deaf person" in Article 38.22 and 38.31.
- 2) Reference to a deaf person, as defined by Article 38.31, "a witness who does not understand and speak the English language," and the following sub-issues:
 - court's discretionary power for appointing qualified interpreters;
 - court's discretionary power for hearings to determine if, in fact, the defendant or witness is deaf; and
 - court's financial responsibility for payment of interpreter expenses.
- 3) Effect of court's failure to appoint an interpreter when required.

The following is a reprint of Attorney General Jim Mattox's legal opinion:

Dear Mr. Tammen:

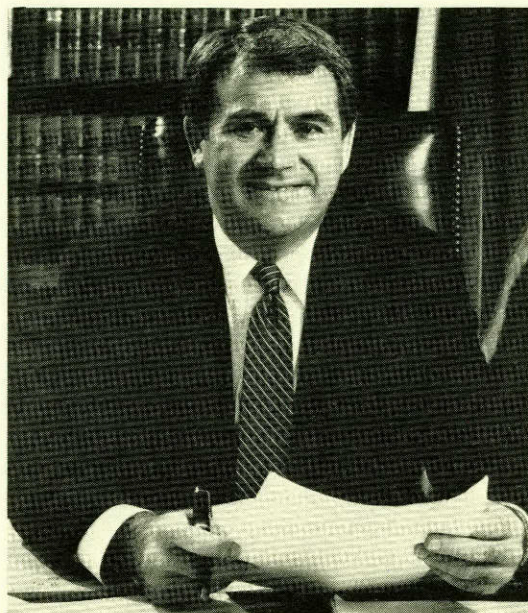
You have asked several questions relating to specific articles of the Code of Criminal Procedure that pertain to the use of interpreters for deaf persons.

You first ask whether the term "deaf person" in article 38.22 of that code means the same as the definition of "deaf person" in article 38.31. We conclude that the definition in article 38.31 applies to the entire Code of Criminal Procedure unless specifically provided otherwise. Subsection (g) of article 38.31 provides:

In this **Code**:

(1) 'Deaf person' means a person who has a hearing impairment, regardless of whether the person also has a speech impairment, that inhibits the person's comprehension of the proceedings or communication with others.

You also ask whether the phrase "a witness who does not understand and speak the English language" as



Attorney General Jim Mattox

used in article 38.30 refers to a deaf person as defined by article 38.31. We believe that article 38.30 applies to non-English speaking persons who do not comprehend the language of the forum and that article 38.31 applies to persons with hearing impairments that inhibit their comprehension of proceedings and communications with others. *Watson v. State*, 596 S.W.2d 867, 872 (Tex. Crim. App. 1980); *Ferrell v. State*, 479 S.W.2d 916, 917 (Tex. Crim. App. 1972). Article 38.30 refers to the interpretation of language other than the English language, and article 38.31 refers to interpretation of proceedings in a manner that a deaf person can understand, including but not limited to sign language. Statutes should not be construed in a manner that renders some language in a code redundant and superfluous. See *Perkins v. State*, 367 S.W.2d 140, 146 (Tex. 1963); *Eddins-Walcher Butane Company v. Calvert*, 298 S.W.2d 93, 96 (Tex. 1957). By construing article 38.30 to apply to persons who do not have sufficient knowledge of the English language and article 38.31 to apply to persons with hearing impairments, effect and meaning is given to both

Continued—page 2

Attorney General

from page 1

articles and neither article is redundant or superfluous.

You next inquire if a court, when notified by a party that a deaf person is appearing as a defendant or witness, has any discretion as to whether a sign language interpreter for the deaf will be appointed to interpret the proceedings. We conclude that, under such circumstances, a court does not have any discretion as to whether an interpreter will be appointed, but does have discretion as to whether it will appoint a person to interpret by the use of sign language or by the use of an alternative method of communication that is more appropriate to a specific deaf person.

The constitutional guarantees of due process in criminal trials include the right of a defendant to confront witnesses against him and the right to assist in his own defense. *See* U.S. Const. amend. 6; Tex. Const. art. I, §10; *Pointer v. Texas*, 85 S.Ct. 1065 (1965). In *Ferrell v. Estelle*, 568 F.2d 1128 (5th Cir. 1978), the Fifth Circuit agreed that a defendant can not exercise the right of cross-examination unless in some manner he is afforded knowledge of the testimony of the witness. We believe that the right to due process also requires the ability to communicate with a deaf witness. The Fifth Circuit concluded that the trial judge has the task of insuring the minimum understanding necessary to the protection of those constitutional rights and has the duty to explore alternative methods of communication that are appropriate for each person and that provide understanding in a manner that is reasonable and not disruptive to the proceedings. Such alternative methods may, for instance, include the use of sign language, finger spelling, lip reading, written communication, or stenographers to provide simultaneous transcriptions, or a combination of those methods, depending on a person's proficiency in the different systems of communication.

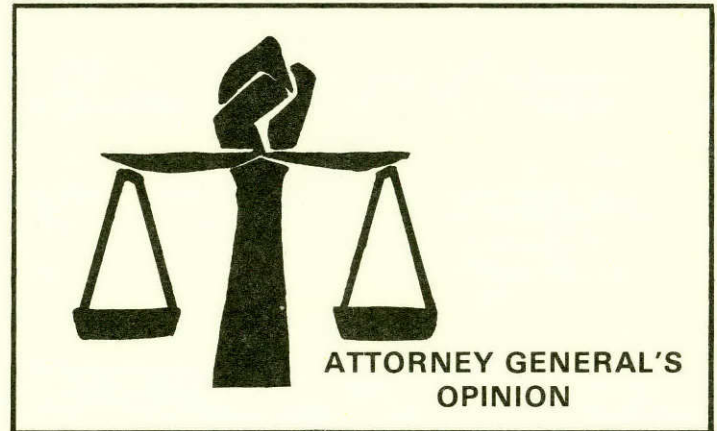
It appears that the legislature incorporated the Fifth Circuit decision into the Code of Criminal Procedure. Prior to *Ferrell v. Estelle*, article 38.31 provided that all deaf defendants were entitled to a qualified interpreter in a criminal prosecution. The following year, 1979, article 38.31 was amended to provide, among other things, that

[if] the court is notified by a party that the defendant is deaf and will be present at an arraignment, hearing, examining trial, or trial, or that a witness is deaf and will be called at a hearing, examining trial, or trial, the court shall appoint a qualified

interpreter to interpret the proceedings in *any* language that the deaf person can understand, including but not limited to sign language. (Emphasis added).

See 34 Southwestern L.J. 57, 545 (1980).

You also ask if it is within the court's discretion to have a hearing based on article 38.31(a) in which the issue is whether the defendant or witness is a deaf person. As we already have stated, we believe that, under article 38.31(a), a court does not have any discretion whether to appoint an interpreter when the court is notified by a party that a deaf person will appear as a defendant or witness in a criminal proceeding. This differs from



the appointment of a language interpreter where the court has discretion to determine if the person can understand and speak English when a motion for appointment is filed under article 38.30. *See Syed v. State*, 642 S.W.2d 200, 201 (Tex. Civ. App.—Houston [14 Dist.] 1982, no writ); *Vargas v. State*, 627 S.W.2d 785, 787 (Tex. Civ. App.—San Antonio 1982, no writ).

In 1979, Senate Bill No. 548 of the Sixty-Sixth Legislature amended article 38.30 to provide, in part, that

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 him.

The same bill added subdivision (10) to article 28.01 of the Code of Criminal Procedure, to provide, in part, that

Continued—page 8

Guide Post

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Executive Director - Fred Tammen
Editor - Valerie Keller

Guide Post

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Summer camp for deaf-blind

During the week of July 8 through July 14, the Texas Commission for the Deaf (TCD) will sponsor a camp for persons over the age of five who have hearing and visual disabilities.

The camp, known as Camp ONE—for *Outdoor Nature Experience*, will be held at Camp Soroptimist and conducted by their staff. Camp Soroptimist has 42 wooded acres and is specifically designed to allow deaf-blind multihandicapped persons to enjoy and participate in camping activities. Located 25 miles north of Dallas in Denton County, the camp features one staff member for every two campers. The camper-to-staff ratio of 2-to-1 affords intensive instruction and individual attention for each camper. Moreover, a 24-hour nurse is on duty.

Some of the activities planned for the deaf-blind campers are swimming, cookouts, arts and crafts, sleep-outs and nature studies. The activities are geared toward the fun of living with others in an outdoor setting, enjoyment of nature, development of a measure of independence, new experiences and working



A volunteer counselor at Camp Soroptimist leads children on an exploration of the camp.

together with others.

Applications for the camp are available from deaf-blind education programs or from the TCD, P.O. Box 12904, Capitol Station, Austin, Texas 78711; telephone 512/475-2492 (Voice or TDD). A \$5.00 registration fee is required and will be used to pay for a **Camp ONE** T-shirt. A physical examination form must accompany the application and be received by

TCD no later than **March 15, 1984** to be considered for acceptance. For further information contact Mark Bushkin, Specialist for Deaf-Blind Services, 512/475-2492 (Voice or TDD).

Camp ONE was authorized by the 68th Texas Legislature through House Bill 279, and is part of the Commission's overall services for deaf-blind Texans.

Commission receives report

A booklet compiling all references to deaf persons in the **Texas Code of Criminal Procedures** and the **Code of Civil Statutes** is being prepared by the Office of the Attorney General (AG). The announcement was made by Steve Martin, a representative of the AG's Office at a Texas Commission for the Deaf (TCD) meeting December 10.

Martin said that the booklet will follow the Attorney General's opinion on the provision of interpreters for the deaf in civil and criminal court proceedings. (For complete story on the opinion, see **page 1**.)

In other action, TCD Executive Director Fred Tammen presented Commissioners with a staff report on across-the-board recommendations from the Sunset Advisory Commission. The report will be reviewed by Commissioners and discussed at the next Commission meeting in March.

Tammen also submitted a proposed contract between TCD and Camp Soroptimist for an outdoor summer training program for deaf-blind individuals. The Commission approved the contract which will provide a one-week overnight summer camp program for approximately 50 deaf-blind persons six years of age and older.

The Board for Evaluation of Interpreters (BEI) submitted names of eight interpreters for certification.

Aging the Texas way

The third annual Joint Conference on Aging, "Coming of Age the Texas Way," will be held April 29—May 1 in Corpus Christi.

The conference is co-sponsored by the Texas Department on Aging, the Administration on Aging, the Texas Association of Area Agencies on Aging, the Texas Association of Nutrition Projects and Service Providers, the Texas Association of Senior Centers and the American Association of Retired Persons (AARP).

For more information about the conference, contact: Ivan Arceneaux, Conference Chairman, Coastal Bend Area Agency on Aging, P.O. Box 9909, Corpus Christi, Texas 78469; telephone 512/883-5743.

TDD number for Sunset

The Texas Sunset Commission is evaluating the programs operated by the Texas Commission for the Deaf (TCD). The Sunset staff has obtained a TDD (telecommunications device for the deaf) from TCD so that deaf persons who wish to share their thoughts concerning the operations and programs of TCD may do so more easily. The Sunset analyst in charge of the review is Kathy Hutto and she may be reached at 512/475-1718 (Voice/TDD).

Heavy demand for ser

There are approximately 130,000 deaf Texans and nearly one million who are hearing impaired. The incidence of deafness and hearing impairment is on the rise, both nationally and in Texas. This increase is the result of greater noise pollution, use of new drugs harmful to the hearing mechanisms of the ear, industrial accidents, other types of accidents, disease and unknown factors. As the rate of deafness and hearing impairment increases, persons experiencing hearing loss are needing more services which help them to function with greater independence.

Across Texas, TCD contracts with 17 local councils for the deaf to provide direct services to deaf and hearing impaired persons. Through contracts, TCD pays for these services. The councils are located in geographical areas in which a significant number of deaf persons are living. To obtain help, deaf and hearing impaired persons can contact their nearest council.

Direct Services

The range of services provided



Cindy Love, of Travis County Services for the Deaf in Austin, provides message relay service to a deaf client. Using two telephones, Love relays a message for a deaf person, who has called on one telephone through a TDD, to a hearing person on the other telephone.

through TCD's Direct Services Program include:

- interpreter service
- message relay
- information and referral
- services to older hearing impaired Texans (SOHIT)
- skills training

Interpreter Service is provided on request to deaf and hearing impaired persons when interpreters are needed in medical, economic, legal and government situations. These situations include:

Medical situations—

- 1) emergency visits to the hospital or emergency medical attention;
- 2) medical appointments for dental, optical, audiological or clinical services;
- 3) admission to hospital and non-emergency hospital procedures; and
- 4) family planning or counseling in birth control, pregnancy or parenting classes.

Economic situations—

- 1) job interviews, initial job placement, job orientation, and meetings with supervisors—but not situations related to rehabilitation;
- 2) banking and financial transactions with loan companies, savings and loan associations and credit unions;
- 3) real estate and leasing transactions such as buying a house, leasing an apartment, and arranging for utility services; and
- 4) transactions involving purchases of necessary, non-luxury items like automobiles and major appliances, and making necessary prearrangements such as for funerals.

Legal situations—

- 1) legal consultation with a lawyer and legal aid clinics for wills, titles, deeds or professional advice; and
- 2) police-related matters such as arrests, bookings or witnessing.

Government situations—

- 1) include contact with government-sponsored public agencies to obtain needed services.

To obtain an interpreter, deaf and hearing impaired persons should contact the nearest council for the deaf and explain their need. Councils must be contacted before an interpreter is needed to allow time for an interpreter to be located. Local councils, through contracts with TCD, provide an average of 1,000 hours of interpreting during 500 interpreting assignments per month.

Message Relay is designed to help a deaf individual make telephone calls to a person who does not have a TDD (telecommunications device for the deaf). Deaf persons who need to make appointments or send messages by telephone to individuals or organizations which cannot be contacted by TDD can call the local council for the deaf and have messages relayed for them.

For example, a deaf individual who owns a TDD and needs to make an appointment with a doctor who does not have a TDD, may contact the local council to request help in calling the doctor. The council will take the message and call the doctor's office to set up an appointment for the deaf person. The council will then call the deaf person by TDD and relay the appointment time to him.

Deaf Texans have access to the message relay service if they own a TDD and have a local council for the deaf which contracts with the TCD to provide this service. Local councils, under contract with TCD, make an average of 2,500 message relay calls per month.

Information and Referral is a service which provides general information or referral to another organization. Questions about services that are available to deaf Texans are answered when a person contacts the local council for the deaf by telephone, letter or walk-in basis. The council will provide the information requested or refer the person to another organization which can provide the assistance needed.

Information and referral service includes community outreach activities. The local council can provide speakers for community service clubs such as the Lions or Rotary Clubs, public schools, colleges,

Services

police departments and other organizations. Speakers discuss the activities and services provided by the council and present other information about deafness. Local councils, under contract with TCD, average 950 information and referral contacts per month.

Services to Older Hearing Impaired Texans (SOHIT) is a program designed to serve deaf and hearing impaired persons who are 60 years of age and older. Eight of the 17 local councils offer services for the elderly deaf. These are:

- Corpus Christi Area Council for the Deaf, Corpus Christi
- Deaf Action Center, Dallas
- Deaf Council of Greater Houston, Houston
- El Paso Center of the Deaf, El Paso
- Hear-Say, Houston
- Tarrant County Services for the Hearing Impaired, Fort Worth
- Texoma Council for the Deaf, Sherman
- Travis County Council for the Deaf, Austin

The elderly deaf program includes direct and indirect services:

1) Direct services for elderly provide assistance with the following activities:

Personal—cooking, washing clothes, writing letters, shopping for food, personal and household items, cleaning house and contacting friends or relatives.

Medical—help with medical appointments, transportation to a medical facility, and getting prescriptions filled.

Legal—assistance with wills, leases and other legal matters.

Economic—assistance with bank-related problems, problems paying bills, Social Security benefits or help making appointments with the Social Security Administration.

Social—an ongoing social program, or working with programs that already exist, for older hearing impaired individuals.

Transportation—for persons who cannot drive a car, do not receive ser-

Variety of services offered by councils

	Interpreter Service	Message Relay	Information and Referral	Services for Older Hearing Impaired Texans	Skills Training Program
Central Texas Council for the Deaf	•	•	•		
Corpus Christi Area Council for the Deaf	•	•	•	•	
Deaf Action Center	•	•	•	•	•
Deaf Council of Greater Houston	•	•	•	•	•
East Texas Deaf & Hearing Association	•	•			
El Paso Center of the Deaf	•	•	•	•	
Hear-Say	•	•	•	•	
Highland Council for the Deaf	•	•			
Lubbock County Services for the Deaf	•	•			
Panhandle Council for the Deaf	•	•			
San Antonio Council for the Advancement of Services to the Deaf	•	•			
San Jacinto Council for the Deaf	•	•			
Southeast Texas Council for the Hearing Impaired	•	•			
Tarrant County Services for the Hearing Impaired	•	•	•	•	
Texoma Council for the Deaf	•	•	•	•	
Travis County Council for the Deaf	•	•	•	•	
West Texas Services for the Deaf	•	•			

Continued—page 6

Demand

from page 5

vices from the mobility unit of the City Public Transportation Department, do not have a public transportation ID card for the elderly, or need help getting to various appointments and socials.

Nutrition—for persons who need nutritional information, who rely heavily on the “tea and toast syndrome” for most meals, or who have health problems which require a special diet.

Needs assessment—to determine individual needs in coping with the hearing impairment and old age. This may include follow-up activities such as sign language classes, hearing evaluation, hearing aid training or other activities to assist in daily living.

Hearing evaluation—for persons who have a problem hearing or talking on the phone, in a group of peo-

ple, listening to the radio, television or doorbell, or making others understand personal wants and needs.

Workshops/Education—a mini class in an area of interest, field trips, presentations by special guests, or workshops on specific topics.

Other—additional services such as holiday greeting cards or monthly cards and calendars.

2) Indirect services include public awareness programs about deafness and aging and community outreach to other organizations serving the elderly to ensure that deaf and hearing impaired persons are included in existing programs.

Older deaf and hearing impaired persons can contact a council offering these services or be referred by family, friends or doctors. A member of the council staff may also go to the places where the elderly gather—like senior citizens’ centers, health fairs or nursing homes, to assess needs and identify persons who desire

assistance.

Each service provided to the elderly deaf is called a service unit. Nearly 12,000 service units were provided by the SOHIT program through six councils offering services to the elderly deaf and hearing impaired last year. This year the eight councils offering services to older hearing impaired Texans have, on the average, provided from 1,200 to 1,500 service units per month.

Skills Training is designed to help deaf and hearing impaired persons develop “basic living skills” and “job-seeking skills.”

Basic living skills training provides a means for interested deaf and hearing impaired persons to improve their understanding and skills in such aspects of daily living as:

- budgeting and money management
- nutrition and food preparation

Continued—page 7

Councils provide services locally

The Texas Commission for the Deaf (TCD) contracts with 17 local councils for the deaf to provide services to deaf and hearing impaired Texans. Councils can be contacted by telephone (Voice/TDD), by mail and on a walk-in basis. If you are interested in visiting the office of your local council or contacting them by mail, addresses are listed below:

Central Texas Council for the Deaf
P.O. Box 4612
Waco, Texas, 76705

Corpus Christi Area Council for the Deaf
4122 Weber Road
Corpus Christi, Texas 78411

Deaf Action Center
3115 Crestview
Dallas, Texas 75235

Deaf Council of Greater Houston
P.O. Box 20549
Houston, Texas 77025

East Texas Deaf & Hearing Association
#1 Heritage South Mall Offices
Tyler, Texas 75703

El Paso Center for the Deaf
1005 East Yandell
El Paso, Texas 79902

Hear-Say
2525 Murworth
Houston, Texas 77025

Highland Council for the Deaf
P.O. Box 1935
Big Spring, Texas 79721

Lubbock County Services for the Deaf
4325 22nd Place
Lubbock, Texas 79410

Panhandle Council for the Deaf
909 S. Bivins
Amarillo, Texas 79104

San Antonio Council for the Advancement of Services to the Deaf
6487 Whitby Road
San Antonio, Texas 78240

San Jacinto Council for the Deaf
c/o Hearing Impaired Program
P.O. Box 818
Baytown, Texas 77520

Southeast Texas Council for the Hearing Impaired
c/o Lamar Speech & Hearing Clinic
P.O. Box 10076, Lamar Station
Beaumont, Texas 77710

Tarrant County Services for the Hearing Impaired
c/o Goodrich Center for the Deaf
2500 Lipscomb
Fort Worth, Texas 76110

Texoma Council for the Deaf
800 N. Travis
Sherman, Texas 75090

Travis County Council for the Deaf
2201 Post Road, Room 100
Austin, Texas 78704
Council provides services through the Travis County Services for the Deaf, address above.

West Texas Services for the Deaf
1216 Mimosa
Abilene, Texas 79603

Demand

from page 6

- consumer information
- appropriate use of interpreters
- knowledge of insurance programs
- basic legal transactions
- community involvement

Many deaf and hearing impaired persons have the skills necessary to perform the duties of a particular job. These job skills were gained through formal schooling, or perhaps in training from agencies like the Texas Rehabilitation Commission (TRC). The deaf or hearing impaired person who is trained and "job ready" can benefit from *job-seeking skills training*. This training helps persons understand how to seek employment and includes:

- preparing a resume
- interviewing techniques
- filing applications
- learning of job openings from the Texas Employment Commission (TEC)
- reading and understanding employment "want ads."

To learn when basic living skills and job-seeking skills training is offered, interested persons should contact their local council or the Coordinator of Direct Services at the TCD, P.O. Box 12904, Capital Station, Austin, Texas 78711 or telephone 512/475-2492 (Voice/TDD).

Obtaining Direct Services

Contacting a council for the deaf to learn about, and arrange for, services is as easy as calling the service provider and explaining your needs. Below are the names of the service providers at the 17 local councils and their telephone numbers:

Central Texas Council for the Deaf
(Waco)

Jean Cox, 817/754-4247

Corpus Christi Area Council for the Deaf
(Corpus Christi)

Susan Tiller, 512/855-0581

Deaf Action Center (Dallas)

Ann Phillips, 214/521-007

Deaf Council of Greater Houston
(Houston)

Lucy Chimelak, 713/667-8524

East Texas Deaf and Hearing Association
(Tyler)

DJ Sorenson, 214/581-1400

El Paso Center of the Deaf (El Paso)
Elizabeth Snyder, 915/544-6032

Hear-Say (Houston)
Linda Hall, 713/666-2625

Highland Council for the Deaf
(Big Spring)
Shelly Massey, 915/267-6779

Lubbock County Services for the Deaf
(Lubbock)
Edith Tillery, 806/795-2345

Panhandle Council for the Deaf
(Amarillo)
Darrell Bonjour, 806/355-3397

San Antonio Council for the Advancement of Services to the Deaf
(San Antonio)
Julie Reding, 512/699-3311
512/696-0231 (TDD)

San Jacinto Council for the Deaf
(Baytown)
Marie Utley, 713/420-3430

Southeast Texas Council for the Hearing Impaired
(Beaumont)
Barbara Tippet, 409/838-8180

Tarrant County Services for the Hearing Impaired
(Fort Worth)
Joan Lathrop, 817/926-5305

Texoma Council for the Deaf
(Sherman)
Flora McElreath, 214/892-6531

Travis County Council for the Deaf
(Austin)
Nancy Riley, 512/448-7597;
through Travis County Services for the Deaf

West Texas Services for the Deaf
(Abilene)
Saundra Streigler, 915/677-7372

TSID schedules conference

The Texas Society of Interpreters for the Deaf (TSID) will hold their annual conference on March 30, 31 and April 1 at the Rest Western Sandy Shores Motel in Corpus Christi.

The theme of the 1984 conference is "Sailing the Seven C's," which refers to the *seven c's of interpreting*: confidence, concentration, comprehension, congeniality, companionship, celebration and communication.

Featured speakers are: T. J. O'Rourke, Betty Colonos, Melinda McKee, Rob Granberry, Andrew Diskant and Jonnie Duncan. The Registry of Interpreters for the Deaf (RID) will be represented at the conference by Janice Hawkins of Iowa.

Registration fees may be paid for individual workshops, or conference attendees may purchase a combination ticket which includes all events.

For more information about the conference or registration forms, contact Susan Tiller, 233 Cape Henry, Corpus Christi, Texas 78412 or telephone 512/991-5739 (Voice/TDD) evenings.

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When state funds are used to publish periodicals which are furnished without charge to readers, persons desiring to continue receiving the publication must indicate so in writing once each year.

By state law, persons currently receiving the **Guide Post** newsletter, or persons who want to be placed on the mailing list, must contact the Texas Commission for the Deaf (TCD) in writing to receive future issues.

This notice shall be placed in three consecutive issues of **Guide Post** (September/October 1983, November/December 1983, and January/February 1984). Following publication of the notice, only persons requesting a subscription in writing may receive future issues.

If you wish, you may use the area below to respond. Fill in the information needed, cut this corner out of the newsletter, place the clipping in an envelope and mail to: TCD, P.O. Box 12904, Austin, Texas 78711. Please Print

Name _____

Address _____

City _____ State _____ Zip _____

I would like to continue receiving Guide Post.

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Attorney General

from page 2

The court may set any criminal case for a pre-trial hearing before it is set for trial upon its merits . . . The pretrial hearing shall be to determine any of the following matters:

....
(10) Motion for appointment of interpreter.

The Sixty-Sixth Legislature clearly authorized the court to conduct a pretrial hearing for determination of a motion for appointment of an interpreter for a person who does not understand and speak the English language. The same session of the legislature amended article 38.31 in a manner that requires appointment of an interpreter for a deaf person when the court is notified by a party that the deaf person will be present and made no provision for a motion to determine if the defendant or witness is, in fact, a deaf person.

Your next question concerns the responsibility for payment of the fees and expenses of sign language interpreters appointed by a court. The Texas Commission for the Deaf is directed to adopt a schedule of reasonable fees recommended for the payment of interpreters that are required by law to be provided in court proceedings. See Human Resources Code, §81.0061. All interpreters for the deaf appointed under article 38.31 are entitled to a reasonable fee determined by the court after considering the recommendations of the Commission for the Deaf. Also, all the actual expenses of travel, lodging, and meals incurred by the interpreter pertaining to the case he is appointed to serve shall be paid at the same rate applicable to state employees. See article 38.31(f). Article 38.31 does not expressly provide the fund from which those payments will be made. Article 38.30, however, expressly provides that language interpreters appointed under that article will be paid fees and expenses "from the general fund of the county." Also, article 3712a(d), V.T.C.S., which relates to interpreters for deaf persons in civil cases, contains the identical provisions as article 38.31(f) for the payment of fees and expenses for interpreters for deaf persons, except that article 3712a(d) also expressly provides that the fees and expenses "shall be paid from the general fund of the county in which the case was instituted." Therefore, we believe that the statutes, when read together, imply that interpreters appointed by the court under article 38.31 to interpret for deaf persons in criminal proceedings are entitled to receive payment of their fees and expenses from the general fund of the county.

Your last question asks the effect under article 38.31(d) of a court's failure to appoint an interpreter as required by that article. Article 38.31(d) provides:

(d) A proceeding for which an interpreter is required to be appointed under this Article may not commence until the appointed interpreter is in a position not exceeding ten feet from and in full view of the deaf person.

As we have previously indicated, a basic reason that the statutes provide for interpreters is the guarantee of the right of confrontation under the Texas and United States Constitutions. Every person accused of crime is entitled to be tried in accordance with law. Strict conformity with the statutes and constitutions is the only safe guide for a court or magistrate in the protection of such a constitutional right. A failure to comply with any provision of article 38.31 may constitute a denial of the constitutional right of confrontation and, unless the right is knowingly and intelligently waived, may result in reversible error. See *Baltierra v. State*, 586 S.W.2d 553 (Tex. Crim. App. 1979); *Bell v. State*, 24 S.W. 418 (Tex. Crim. App. 1893).

SUMMARY

The definition of "deaf person" in article 38.31 applies to the entire Code of Criminal Procedure. A person who does not understand and speak the English language as used in article 38.30 does not refer to a deaf person as defined by article 38.31. A court, when notified by a party that a deaf person is appearing as a defendant or witness, does not have discretion as to whether an interpreter will be appointed but does have discretion as to an appropriate method of communication for a specific deaf person. The statutes do not provide for a hearing to determine if a defendant or witness is, in fact, a deaf person. Interpreters appointed by the courts for deaf persons are entitled to reasonable fees determined by the court and actual expenses to be paid from the general fund of the county. Failure to comply with the statutes for interpreters for deaf persons may result in a denial of constitutional rights.

One of the most important functions of the Attorney General is to issue legal opinions as they are requested by the Governor, heads of all State Departments, and certain other officials. These interpretations of Texas' statutes and its Constitution are of great importance because the Attorney General's opinions have come to be looked upon as quasi-judicial, bearing the weight of law unless, and until, changed by the courts.

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