

# QUALIFIED INTERPRETERS IN THE GRAND JURY: Important or an Afterthought?

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*“The primary function of the modern grand jury is to review the evidence presented by the prosecutor and determine whether there is probable cause to return an indictment.”*  
<http://www.abanet.org/media/faqjury.html>

The Grand Jury setting is essentially a one-sided review of the evidence to be evaluated. The prosecutor presents evidence in a light most favorable to its cause and the defense is not allowed to intervene in the proceeding. Some of this evidence may be in the form of oral testimony, and so some may be interpreted testimony. Despite the fact that the Grand Jury is part of the court process, the interpreter, if needed, is often provided by the prosecutor’s office. In some jurisdictions the Grand Jury interpreter is not subject to the same standards as court interpreters, such as testing, training or even familiarity with the canons of professional conduct. In New York City for example, Grand Jury interpreters are hired by the District Attorney’s office and since the city does not have an active certifying process, the prosecutor’s offices devise their own ad hoc qualifying methods. New York State does have a certification process for court interpreters and some district attorney’s offices (municipal agencies) consider those interpreters who have taken and passed the certification exam. However, the consideration can go both ways. An interpreter on the state list is likely to resign from the DA’s office and take a better paying job with the courts.

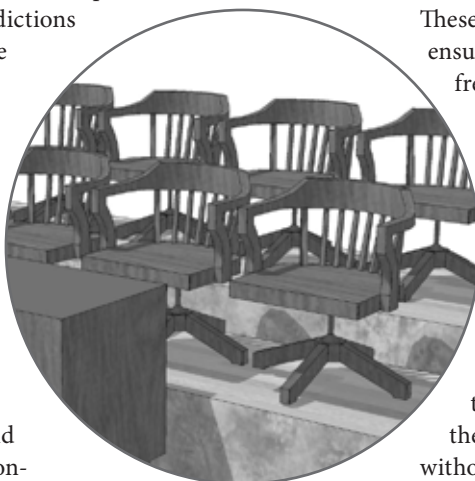
Just how grey this area of judiciary interpreting is becomes more apparent in the following excerpt.

### 9-11.244 Presence of an Interpreter

Attorneys for the government should ensure that any interpreter used in a grand jury proceeding is aware of his or her secrecy obligation, and that the interpreter has received the necessary security clearance and has been properly sworn.  
<http://www.usdoj.gov/usao/eousa/foia•reading•room/usam/title9/11mcrm.htm#9-11.244>

As can be seen in the above caption, there is no reference to accuracy, clarity, or scope of knowledge, and quality control is left to the prosecutor. These shortcomings may have a profound impact on impartiality and accuracy. Grand Jury presentations occur after arraignments. This is the first opportunity a defendant, witness or victim gets to tell his or her version of the facts, prompted by

prosecutorial questioning— and if the testimony is in a language other than English, aided by an interpreter who is retained by the prosecutor. Grand Jury testimony is preserved in written form by a Grand Jury stenographer. These minutes become part of discovery, open to scrutiny during pre-trial proceedings and trial. Highlighting inconsistencies in Grand Jury and trial testimony is a tried and true legal strategy to undermine the credibility of the witness. How reliable is the testimony rendered by an interpreter who has not undergone a standardized qualifying method, who is also on the payroll of one of the parties? Is the integrity of the case jeopardized by these elements?



These questions need to be answered in order to ensure accuracy and loyalty to the source language, free of any encumbrances resulting from lack of adequate professional credentials or affiliation with any of the litigating parties. Courts and bar associations need to objectively analyze the issue to ensure optimal and uncompromised language access to foreign language litigants. The Grand Jury presentation is a precedent-setting event in the life of a criminal case. Persons testifying in the Grand Jury through an interpreter are entitled to have their testimony memorialized with the same accuracy as that of an English speaker, without any possible appearance of inadequacy or bias. ▲

*[The author is an interpreter in Bronx County Supreme Court and Chapter Vice-Chair of District Council 37, Local 1070, AFSCME.]*

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### MESSAGE FROM CHAIR RAÏNOF *continued*

multiple organizational venues to expand and complement our own individual efforts.

It seems as if the only limit to the network we are building is the volunteer time and energy that it takes to develop and maintain these links. Please don’t hesitate to be in touch with me, my fellow directors, or headquarters if you have an idea for reaching out, or if you want to help. Together we are changing the landscape for judiciary interpreting in the United States and around the world. Your support is vital to this endeavor. ▲

Alexander Raïnof, Chair  
NAJIT Board of Directors