

LANGUAGE AND LITIGATION

What judges and attorneys need to know about interpreters in the legal process

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1. **Use credentialed, preferably certified, court interpreters for in-court and out-of-court events. Verify the interpreter's credentials. If it is an in-court proceeding, make sure the interpreter is sworn in before the proceeding begins.**
 - Verify credentials by consulting your state or federal court roster, or by calling your local court (clerk's office or interpreter's office). Judges should conduct a *voir dire* of the interpreter and ask for credentials to be stated on the record.
 - Do not use untrained bilinguals. It is inappropriate to use family members, children, foreign language students or teachers, court staff, or law enforcement officers as interpreters.
 - Don't allow defendants to bring their own interpreters — not only does this practice create potential conflicts of interest, but the ad hoc person acting as "interpreter" may not be trained or competent.
 - Don't ask for a translator when you need an interpreter — they are not interchangeable. Translators work with written communication. Interpreters work with oral communication.
2. **Be aware that an interpreter creates an even playing field for limited-English speakers; an interpreter provides no advantage or disadvantage.**
 - Interpreters should never interject their own knowledge, comments, or opinions into the interpretation. Interpreters are prohibited from advocating for any party.
 - Don't ask interpreters what they think a defendant or witness might or might not have understood; it is not their area of expertise.
3. **Use the interpreter to facilitate direct communication with limited-English proficient parties, not as a "go-between."**
 - Address the client directly in English, as if he understood everything you are saying. The interpreter will then repeat what you have said in the required language. This avoids the use of indirect speech (e.g., "Ask him if..." or "He says that..."), which can create confusion and a flawed record.
4. **Check to make sure that all speech, by all parties, is being interpreted.**
 - If someone is speaking and the interpreter's mouth is not moving, there is a problem. If someone makes a lengthy statement and the interpretation is a few words, or vice versa, there is a problem. The interpreter's job is to interpret *everything* that is being said— no omissions, modifications, or additions.
5. **To be understood, speak clearly at a moderate speed and an audible volume.**
 - Unclear speech cannot be accurately interpreted. Avoid interruptions and overlapping voices. Avoid long, convoluted questions. Unfamiliar jargon or acronyms may cause a problem for the interpreter.
 - Although reluctant to interrupt the give-and-take of courtroom exchanges, interpreters have an ethical obligation to ask for a repetition if speech is too low, too fast, too lengthy or incomprehensible (due to the use of unknown references, heavy accent, jargon, abbreviations, or acronyms). Very long or complex questions and answers can result in interruptions or incomplete rendering by the interpreter, causing confusion.
6. **The interpreter's only task is to interpret. In order to conserve impartiality and confidentiality, the interpreter should not be asked to be alone with a defendant. Whenever possible, the interpreter will exit the room when the attorney exits the room.**
 - Interpreters may not reveal information they have interpreted, but no privilege protects them if communication occurs when the attorney is not present. Any explanations that need to be made should be made by the attorney and then interpreted. The interpreter may, however, note and report to the attorney any confusion due to culture or vocabulary, and make an appropriate request for clarification.
7. **Provide interpreters with the information and support needed to get the job done.**
 - The more information an interpreter has about a case, the better he or she can interpret. Arrange for interpreters to receive or have access to documents related to the assignment: complaints and indictments with supporting documents, investigative reports, motions and responses, witness and exhibit lists, bank and telephone records, PSRs, etc. Whenever possible, try to use the same interpreter for both in-court and out-of-court events in a given case.



LANGUAGE AND LITIGATION *continued from page 3*

- Whenever possible, inform defendants, court participants, and jurors about the interpreter's role.
8. **In order to ensure an accurate record, provide a team of two interpreters for any lengthy or complex proceeding.**
 - Studies have shown that interpreters, no matter how experienced or competent, suffer mental fatigue after about 30 minutes of continuous interpreting. The use of a team prevents interpreter fatigue and ensures accuracy. Teams act as a safety net, so that any errors may be corrected and terminology queries answered. When a large number of defendants will be present at a proceeding, it may be necessary to hire more interpreters to facilitate attorney-client consultations.
 9. **A conflict of interest is not the same for an interpreter as for an attorney. An interpreter can work for either side or both sides of a case. The only prohibition is that an interpreter cannot be a witness in the same case in which he is acting as a proceedings interpreter.**
 - Interpreters cannot be advocates or take sides. They are neutral officers of the court and thus may work for either side, or both sides, of a dispute. A proceedings interpreter should reveal to the judge and parties any prior contacts with the case. However, a conflict does arise if an interpreter may be called by one of the parties as a witness. An interpreter cannot testify as an expert

witness and also work as a proceedings interpreter in the same case.

10. **Foreign-language evidence should be handled appropriately. The party offering the evidence should obtain prior transcription and translation of any tape recordings. Foreign-language documents introduced into evidence should be accompanied by a translation. (The translation may be stipulated, or authenticated through testimony.) A sound file or tape recording should never be translated "on the spot" in court.**
 - Just as there are experts in fingerprint identification, there are experts in transcribing and translating recorded material for evidentiary purposes. Find and use an expert for this kind of work. Never ask an interpreter to render a simultaneous interpretation of recorded material in court — at best, the results will be approximate and guesswork, not evidence.

Interpreters are support staff for your court: please help promote an atmosphere of consideration, respect, and cooperation among those who work with them. When interpreters work in the judicial system, they need a table in the courtroom for notebooks or laptops, a cup of water, a place to store their belongings, and a place to rest when off duty. Your kindness is much appreciated.

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Wireless Communications Equipment for Interpreters

The use of wireless equipment for simultaneous interpretation frees the interpreter from having to sit next to the listener. The interpreter can now move to a spot offering the best hearing and visibility, where the interpreter can concentrate on the message without interruptions or distractions.

Although some courts provide this type of equipment for its interpreters, availability is not always guaranteed. And many courts and other venues don't even offer it.

For less than \$100, interpreters can now have their own set of wireless transmitter and receiver, including microphone and earphone. In many instances, the rental of similar equipment for just one day exceeds this purchase cost.

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In addition to our VHF single-channel equipment, we offer VHF 3-channel equipment and our newest addition, UHF 16-channel equipment. We also have battery chargers and rechargeable batteries and charging boxes for the 16-channel sets. Optional headset microphones and headphones are also available.

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