

COURTHOUSES IN A MULTILINGUAL SOCIETY: MAINTAINING GOOD RELATIONS WITH YOUR COURT INTERPRETERS

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Interpreters in the United States have always had an image problem. Beginning in the 1970's, Spanish interpreters were increasingly in demand by state and federal courts. But for court administrators, interpreters were a nuisance. They were not a built-in part of the courthouse machinery, most were not full time employees, and some spoke English with noticeably foreign accents. Demand outstripped supply and so courts were always desperate to find interpreters, often at the last minute. Many clerks considered interpreters a luxury the courts could ill afford. Others suspected that the interpreter was a secret ally of the defendant, or resented the fact that a defendant had a right to an interpreter. "My grandmother didn't speak English, and no one ever interpreted for her," the clerk would say. "Sure he wants an interpreter—like he doesn't understand English better than I do," the bailiff would snicker behind the defendant's back.

While some defendants knew scattered English, most were utterly cut off from communication without an interpreter. With street crime and drug trafficking attaining new heights, the courts needed us, but had little notion of whether we could actually interpret correctly, what we needed to do our job right, or how much stress and uncertainty we were subjected to. Marginalized by the courthouses we worked in, we were pointed to courtrooms and left to navigate the criminal justice system as best we could. It was not a warm welcome.

Judges and attorneys viewed the interpreter as a cross between the furniture and a robot. Interpreters were supposed to sit next to the defendant like a statue and whisper

instantaneous, accurate, high-speed interpretation for hours on end. The courtrooms were cavernous echo chambers, attorneys spoke with their backs to us, judges intoned indistinct legalese, witnesses mumbled, the defendant interrupted at will, and extraneous noise from street construction or creaky air conditioners filled the room. Interpreters went into proceedings with no knowledge of the case, although everyone else was privy to it. Half the time, we didn't even know the correct name of the defendant because someone mispronounced it and we never saw it in writing. We stood before a judge not knowing the nature of the proceeding about to start, the nature of the alleged crime, how long the proceeding would take, or what issue would be decided.

While under oath to be true and accurate, we were forced to hunt for contextual clues amidst technicalities and the rapid-fire, veiled language of legal proceedings. The main players—judges, defense attorneys, prosecutors, defendants—were often irritable or in a rush. If we had time to request background information, they looked at us as if we had just come off a boat. Despite this, most interpreters enjoyed their jobs because they found it challenging, beneficial to society and endlessly fascinating for the variety of language use.

Things began to change when the Court Interpreter's Act (28 USC 1827) recognized that accuracy standards needed to be set for interpretation in federal courts. The 1979 law paved the way for federal certification in Spanish. In short order, state courts, too, began to examine their interpreter qualification procedures. Federal courts in major metropolitan areas created staff interpreter positions and used more contract interpreters; state courts beefed up their staffs and revised testing procedures. But for the

most part, judges and court administrators still expected interpreters to “just do it” without regard to the proper tools or policies they needed.

Court administrators labored under common misconceptions, such as the belief that an interpreter’s accuracy remains constant, even after many hours on task, or that an interpreter can hear just fine from anywhere in the courtroom, or that no special equipment is necessary, or that the interpreter doesn’t need to know anything about the case in order to interpret a court proceeding. Imagine telling a carpenter to use a nail file instead of a hammer, and you will understand how interpreters felt when ordered to interpret simultaneously for five defendants at once without electronic equipment.

In some districts, interpreters had to knock on doors to get any program or even moral support. Many were refused administrative staff or essential equipment. Policy guidelines were vague or non-existent. In their struggle to establish professional working conditions, interpreters had to gain credibility, find a sympathetic ear, explain the unique operational requirements for providing language service to the court, and battle bureaucratic inertia.

As professional communicators of other people’s thoughts, interpreters get little opportunity to express our own. Yet our work gives us a unique perspective on the communication process. Professional associations were formed to discuss issues of common concern, and in the past few years, the web has been an invaluable way of circulating information relevant to our work.

Interpreting departments now exist in a dozen or more of the 94 U.S. District Courts. The federal certification program has certified over 800 Spanish interpreters. Many of these interpreters are involved as leaders, trainers, mentors and role models in

academic interpreting programs or in courthouses. Staff offices have grown over time, incorporating more permanent staff, working with a larger pool of freelance interpreters in Spanish and other languages, moving from storage areas to actual offices.

Over the past 20 years I have seen a significant change in the way interpreters interact with the bar, bench and court administration. This improvement is due in part to the permanent presence of dedicated interpreters in the courtroom and in the administrative structure. Standards are in place, the literature in the field is growing, and dedicated interpreter coordinators are shaping modern interpreting departments within the court systems where before there were none. Where interpreters used to be seen as “odd ducks” who kept mostly to themselves, now we circulate, are informed of court events, participate in court committees, help formulate policy and are consulted on matters of concern. Interpreters have finally come out of their shells, have formed networks both in person and on line in email discussion groups to help each other. We have slowly but surely come to be respected—dare I say, welcomed— as part of the court administration that permits the modern day courthouse to function.

The Training Conundrum

Still, court administrators are often not aware of some continuing problems in the field of court interpreting. For example, the caseload in Spanish is generally much greater than that of the other languages, so there is a tendency to view other languages as being of lesser importance. In addition, courts have always assumed that a fully-made interpreter of any language can be found and hired “off the rack.” On-site interpreter supervisors know this assumption to be faulty. So although generally not in the job description, it becomes an integral part of the coordinator’s job to locate, train and orient

interpreters in the lesser-used languages before they set foot in the courtroom. Otherwise, there will be two standards of interpretation: that of the Spanish interpreters, and that of everyone else. Federal and state court interpreter coordinators agree that the court systems' number one priority should be on interpreter training. But money is never appropriated for this purpose, and indeed the courts believe that they should have no training function. Lines of administrative authority are not clear for staff interpreters to make budget requests. In some courts, it goes to the extreme that contract interpreters cannot benefit from the same in-house training that permanent staff receives. Training has tended to be isolated in some courts rather than being offered systematically. Those states that are now taking up the cause of testing in languages other than Spanish are identifying relatively few interpreters, mainly because the candidate pool has not had enough prior training. Training needs to be more systematic, and gaining judicial and administrative support for training activities is the greatest challenge the courts face.

The Status of Contract Interpreters

One of the issues coming to the fore over the past several years all over the country is the employment status of contract interpreters in the courts that employ them. While contract interpreters are widely used in both state and federal courts, some nearly on a full-time basis, their employment status has been murky. Are they contract interpreters if the courts define their hours, work place and manner of performing their job? If they are de facto employees, do they have a right to contract negotiations, professional development, benefits, etc? It has been all too common for the courts to refuse pay increases, turn a deaf ear to interpreter needs, or treat contract interpreters as indentured servants by adopting a "take it or leave it" attitude. After many years of

frustration in public sector service to the courts, contract interpreters in several states (notably, California, New Jersey and Illinois) began to organize to obtain collective bargaining rights. Several other states have been grappling with these issues and new legislation has been or is being proposed to restore a balance to this undefined labor relationship. Most recently, California, the country's largest user of court interpreters, created a new employee position under the Trial Court Interpreter Employment and Labor Relations Act (effective January, 2003) called "court interpreter pro tempore."

The Modern Language Services Office

Any language services office these days needs computers, a decent library of reference materials (print, audio, video), equipment such as tape recorders and a TV monitor, transmitters and headphones for simultaneous interpreting, time set aside for administrative and research tasks, a computerized scheduling program and interpreter data base, work space for freelancers as well as staff, and good communication with other courthouse units.

Some courts have expanded their capability to provide and/or receive interpretation during telephone or videoconferencing. The federal courts and some state courts now use a telephone interpreting program for certain types of court proceedings, which is run through a staff interpreters office and supervised by the head of the unit. (In the federal courts, the program is run through the central district of California.) These sub-units of the interpreting department need separate office space and equipment to function, and interpreters need to receive special training in the use of the equipment and the proper protocol to follow when doing telephonic interpretation.

Planning for the Future

By working with their administrators and in judicial committees, judges can play a key role in requesting that their state or district establish a high-standard interpreter testing and training program. Interpreters work for the court and their goal is accuracy and completeness -- not a particular party's agenda. Judges are uniquely situated to understand the importance of accurate language skills in the courtroom, and should be given training in handling interpreter issues that may come up during trial. While interpreter testing and training require additional expenditure, it would cost far more in the long run to process appeals and retry cases resulting from faulty interpretation.

A Worldwide Phenomenon

The United States may be the largest user of court interpreters in the world, but it is not alone in seeking to incorporate professional language assistance into a domestic judicial system. Last June in Paris, the 6th International Forum on Legal Translation and Court Interpreting, which brought together interpreter practitioners and trainers from six continents, concluded that while much has been achieved in recent years, much remains to be done in interpreter training, planning and management. Those who dealt with court administrations cautioned that in many places, there is the danger that mere lip service is being paid to the concept of equal access. The cost of engaging competent interpreters seems to be the major concern in most countries, and most legal professionals, it was agreed, have little awareness of the issues involved in the provision of language service.

The International Criminal Tribunal for the former Yugoslavia was pointed to as a shining example, for which interpreting services are treated not as Cinderella but as a crucial element in the administration of justice.

How a Court Administrator Can Interact with the Interpreters Unit

There are many things a court administrator can do to ensure that the interpreter's unit is running smoothly and working effectively:

- Hire a dedicated unit chief who is an experienced interpreter with credibility among colleagues, people skills, organizational skills and a vision of how the unit can develop
- Provide administrative assistance as needed for data entry, correspondence, phones, etc.
- Do not micromanage, but show an interest in interpreter activities and issues. Have regular communication with the unit. Establish goals with supervisor of the unit and work toward meeting them.
- Ensure that the courtrooms are outfitted properly for electronic transmission for foreign language interpretation and the hard of hearing
- Clarify procedure for requesting books, resources, equipment, space, furniture.
- Designate a judge the interpreters can go to for advice on ethical problems
- Provide ID cards for contract interpreters
- Create material on interpreters unit for public; post on court's internet site.
- Keep the unit in the loop on court activities, seminars, induction ceremonies, etc.
- Make training a priority: encourage training workshops, set aside money annually for this purpose. Offer courthouse facilities for interpreter training programs or conferences. Offer to speak or obtain speakers for such functions.
- Provide all staff with computers, internet access, glossary management tools.

- Permit staff flexibility in combining court work with administrative, computer and training activities
- Review policy and procedure for interpreters: scheduling, team policy, overtime. Disseminate and enforce policy throughout courthouse.
- Encourage continuing education for staff interpreters. Permit attendance at 2 professional conferences yearly.
- Show occasional appreciation by saying thank you, offering a special coffee hour at holiday time, etc.
- Solicit information regularly about recurrent problems the unit is having
- Analyze scheduling problems and consider revising way of scheduling interpreted matters for maximum efficiency
- Provide interpreters with access to electronically filed case documents so that they can study them before appearing in a case
- Review usage statistics periodically to see how operations can be improved
- Encourage exchange programs so that interpreters from other areas can visit the court
- Include interpreter issues when orienting new judges and court employees
- If your interpreting dept is small, create opportunities for them to network with colleagues

How the Interpreter Coordinator Manages the Unit

An active interpreter supervisor wears many hats. In addition to actual interpreting, time needs to be devoted to the following activities:

- Assess current and future court trends and implement interpreter recruitment and training where needed
- Prepare curriculum and training materials for interpreters of different languages'
- Hold orientation and other training workshops
- Communicate with judges and courthouse personnel about interpreter office policy
- Compile a reference library (print, audio, video) with a wide variety of information readily available for judges, attorneys, interpreters, researchers, students
- Create a website with information for public and court personnel on how best to work with interpreters
- Organize the office to accommodate staff and freelance interpreters, with work and study space for freelance interpreters
- Get to know freelancers personally, observe them in court, develop an atmosphere of trust so that they are not afraid to ask questions, assist them by providing information and sharing knowledge about the field
- Develop house style for all translations; proof read translations for judges
- Keep accurate statistics of interpreter usage, accurate scheduling and case information of interpreted events both in and out of court
- Motivate staff and freelancers to improve skills, contribute to glossary projects and compile educational material

- Encourage staff to be role models to others, to share knowledge by teaching, writing, mentoring
- Keep up with publications in the field, email discussion lists on language; attend professional conferences, write articles
- Participate in court and other committees preparing policy on language issues
- Write regular reports on unit activities
- Talk to school groups, etc. about interpreters and what they do

It is all the thinking that goes on behind the scenes that makes this job look easy to others.

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