

Working with Interpreters in Children's Cases

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Presenters

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Agenda

- What is interpretation?
- The right to interpretation
- Ethical obligations of advocates and interpreters
- Common challenges and best practices



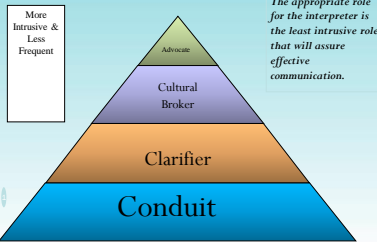
What is Interpretation?

- Interpretation refers to the activity of conveying the meaning of spoken words from one language to another in a particular context.
- Court interpretation is a **linguistically true and legally appropriate interpretation** in which the **form and style are of equal importance to the content stated in the text.**
 - (From *Fundamentals of Court Interpretation*, 2012)



The Interpreter's Role The "Pyramid Model" or Model of Progressive Intervention

Adapted from "Bridging the Gap", Interpreter Training Program, Courtesy of Cindy Roat, Cross-Cultural Health Care Program



Cultural Sensitivity/Competence

- Interpreters are NOT intercultural experts
- Culture is complex and changes regionally
- Interpreters should be AWARE of cultural differences; they can be a source of information



Interpreting Modes

Consecutive Interpretation-Short consecutive

Used when there is dialogue. Recommended for interviews. Most accurate. It takes longer.

Simultaneous Interpretation

Used for ongoing discourse (motions, instructions, decisions). Faster than CI. Can be confusing (two people speaking simultaneously in two languages)

Sight Translation

Oral rendering of written documents on the spot without previous preparation. Accuracy?



The Right to Interpretation

- Sources of Authority
 - US Constitution
 - Title VI of the Civil Rights Act
 - Executive Order 13166
 - Case Law
- EOIR's standards
- Humanitarian, philosophical, and social justice arguments



Ethics and Best Practices: Advocates

- ABA Model Rule 1.3: Diligence
- ABA Model Rule 1.4: Communication
- 8 CFR 1003.102



Ethics and Best Practices: Interpreters

- US Administrative Office of the US Courts
<https://www.uscourts.gov/services-forms/federal-court-interpreters>
- National Center for State Courts
<https://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access.aspx>
- National Association of Judiciary Interpreters (NAJIT)
<https://najit.org/resources/>



Ethics and Best Practices: Interpreters

Judiciary interpreter v. legal interpreter

Ethics v. Social justice

Ethics v. Keeping your job



Common Challenges and Best Practices

State of the Field

- In general, services offered do not cover need
- Great differences in implementation and provision of services. Many legal areas underserved (civil, immigration)
- **Immigration:** There a number of legal sources including statutes, decisions, executive orders, manuals, precedent, and briefs that **acknowledge the need for extended linguistic access, although they fail to provide universal and adequate access and protection to linguistic access.**
- Private sector is unregulated. Quality, confidentiality and cost issues



Assessment of Interpretation Needs

Assessment and self-assessment

Monolingual, multilingual, dual-role professional, ad-hoc interpreter, or professional interpreter?

- Ability to explain complex legal ideas and situations
- Establishing quickly a good rapport with the client



Working with / as interpreters

- Communicating effectively allows you to obtain and convey information, understand your client's point of view and gain their confidence.
- Conducting an important interview with a **sketchy command of language** increases the likelihood of miscommunication.
- A good interpreter can expand and reach the scope of your inquiry. A bad one can break the case.



Assessing Your Client's Needs

- Do you need an interpreter? (Is your command of the other language good enough?)
- Does your client need an interpreter?
 - Determine language spoken by your client (it can be challenging)
 - Info in ORR files useful but not always accurate
 - Indigenous language may be first language
 - Use telephonic interpreter if other than Spanish to verify language and regional variation



Securing Interpreters

- **Using bilingual staff and volunteers**
- Work with professional, reliable, certified (if available) interpreters (contribute to the professionalization of the field).
- Establish a relationship
- Develop resources if volume requires it
- Work with the community (**SUPERVISED** volunteer interpreters and translators program)



Setting the Stage for Effective Interpretation

- **Interview and brief the interpreter**
 - Explain role and goals. Mention any language doubts
- **Allow interpreter to introduce herself to client** (opp to locate regional variety, responsiveness)
- **Speak clearly and in short sentences** (facilitate "short consec")
- **Give time and opportunities to interpreter and client to process information**



Setting the Stage for Effective Interpretation

- Offer opportunities to address doubts, concerns
- Ask for comprehension (explain back)
- Avoid jargon, legalese whenever possible
- Monitor the performance
- Address concerns about methods, quality, if any—**IMPORTANCE OF PROTOCOLS**



Interviewing Children (with an Interpreter)

- Paucity of research on **effective communication with children with LEP**
- **Communicating with children is difficult**
- Interviewing children can be **emotionally charged**
- **Get help from the pros**, experts in forensic interviewing with abused and/or traumatized children
- **Children with LEP add another layer of complexity**
 - Language and cultural barriers and the need to interpret their utterances
 - Traumatic circumstances



Interviewing Children (with an Interpreter)

- **Create a space where children feel welcome**
- Assess language fluency, educational level, maturity
- **Find a register that is effective**
 - **Speak in short sentences. Avoid legalese. Explain.**
- **Do not depend on the interpreter to use language that is kid-friendly.** Check for understanding, questions
- Take breaks as needed, frequently
- **Adjust your expectations to the situation and possibilities**



Working with Indigenous Language Speakers/Interpreters

- Frequently misclassified as *fluent* Spanish speakers
- Suspicions of malingering
- Courts ill-prepared, not willing to acknowledge the issue
- Ascertaining language/dialect can be difficult
- Interpreters for indigenous languages are scarce
- Cultural differences and literacy issues need major support, not available



Working with Indigenous Language Speakers/Interpreters

- Document these issues with (qualified, willing) interpreter, psychologist, anthropologist / cultural/country expert
- Bring issues that have to do with **quality or lack of interpretation (ALSO IN SPANISH)** to the Court's attention, on the record.
Object!
- Retain experts and fight back.
- We must do better!!



Over the Phone and Video-remote Interpreting (OPI, VRI)

- OPI
 - Frequently only option, substandard, impersonal
 - Can't see, can't read expression, can't monitor
 - Weird, foreign, unnatural for children
 - Quality of sound/connection frequently bad
 - Low requirements for interpreters (HS diploma)- may be good or not so good
 - Expensive (some languages, uses)



Over the Phone and Video-remote Interpreting (OPI, VRI)

- VRI—Yeah, it is “Remote”
 - Better than OPI
 - Fragmented screen: Tiny faces, sometimes can't be seen
 - Interpreter not on screen!
 - Quality of connection frequently bad
 - Unnatural for non-technological folks
 - Impersonal
 - Can't monitor body language
 - Remote participants frequently doing other things



Immigration Court Hearings

- Put it on the record!
- Address lack of resources, quality of Interpretation, misinterpretation on the record
- Correct the record
- **Document these issues with (qualified, willing) EXPERTS: interpreter, psychologist, anthropologist / cultural/country**



Conclusion

High quality communication with people with LEP needs attention, skill and adequate services.

- Communicating by means of an interpreter takes time.
- Communicating with children with LEP requires even more time, skill and special techniques. It is best to consult with specialists and get training.

Strengthen linguistic access for people and children with LEP by

- Assessing your client's needs carefully.
- Assessing your proficiency in your second language and making sure you have the required fluency.
- Working with reliable interpreters when needed.
- Demanding interpreters and adequate resources for all languages in court proceedings and related matters, to provide meaningful linguistic access for people with LEP.
- Getting advice and training from professionals in pediatric services about communicating effectively with children.



Brief Recommended Bibliography

González, R. et al. (2012) *Fundamentals of Court Interpretation*

<https://www.guilford.com/books/Interviewing-Clients-across-Cultures/Lisa-Aronson-Fontes/9781606234051>



QUESTIONS?



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Thank you very much!

¡Muchas gracias!





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