

TIPS FOR WORKING WITH INTERPRETERS

- APPROPRIATE INTERPRETATION -
WHAT DO YOU EXPECT?
- REGISTER
- MODES OF INTERPRETATION
 - SIMULTANEOUS INTERPRETATION
 - SIGHT TRANSLATION
 - CONSECUTIVE INTERPRETATION
- ETHICS

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Certification: In 1989, Washington State passed a law providing for the Court Interpreter Certification program. Since 1990 under RCW 2.43, appointing authorities have been required to appoint certified interpreters for non-English speaking participants; for an even longer period of time, the same requirement has been in effect under RCW 2.42 for deaf and hard of hearing persons in legal proceedings.

Court Interpreter certification now exists in 7 spoken foreign languages in Washington State, besides national certification for Sign Language interpreters:

- * Cambodian
- * Cantonese
- * Korean
- * Lao
- * Russian
- * Spanish
- * Vietnamese

In accordance with the law, the Office of Interpreter Services will strive to provide only court certified interpreters in the languages listed above and carefully screened and qualified interpreters in all other languages.

Training: The staff provides orientation sessions for interpreters as well as training for those who use interpreters including judges, attorneys and those working in other court related programs.

Language Bank: This office has provided interpreters in 111 languages for criminal and civil proceedings at the three sites listed above.

Inquiries: The staff fields scores of inquiries daily from interpreters, Courts, government and private agencies and attorneys (locally and statewide), for interpretation services and referrals, translation referrals, advice regarding interpreter needs and issues, coordination of interpreter programs and interpreter education. Please feel free to call us at the numbers listed above.

HOW DO YOU DETERMINE WHO NEEDS AN INTERPRETER?

A person who is not fluent in English learns to linguistically survive in most circumstances. The person will often guess when answering questions because they do not want to appear dumb by admitting they don't understand or want to avoid causing a disruption in court.

What questions should you ask that would help determine someone's ability to speak English? What should you avoid?

DO...

Ask open-ended questions, which require complete or near complete sentences to be answered.

Ask opinion questions, or questions where the answer would be unique to the person answering. Ask questions with no "right" answer.

Examples:

What has your work experience been prior to coming to Washington?

What do you like or dislike about your present employment?

How did your mother celebrate her last birthday?

DON'T...

Ask questions with "yes" or "no" answers.

Ask questions that can be answered with one or two words, particularly based on only understanding one or two words in the questions. For example, "What is your name?" would lead someone to answer with his/her name even if the only word the person understood was "name."

Ask questions that someone would already be exposed to over and over again by virtue of being in this country (where do you work? what is your name? what is your address?). Exposure to the pattern of the words in the question may be what is prompting the "right" answer, not understanding the question itself.

QUESTIONS TO ASK/CONSIDER WHEN QUALIFYING AN INTERPRETER

RCW 2.43.030 (2) states that:

If good cause is found for using an interpreter who is not certified or if a qualified interpreter is appointed, the appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the non-English-speaking person, that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:

- a. Is capable of communicating effectively with the court or agency and the person for whom the interpreter would interpret; and*
- b. Has read, understands, and will abide by the code of ethics for language interpreters established by court rules.*

The following is a list of questions recommended for judicial officers to use when qualifying a non-certified interpreter for a hearing:

1. Are you certified by the state of Washington as a court interpreter? Any other state? Any other credentials or certification?
2. What is your native language?
3. How did you learn English and the target language?
4. Can you read in both languages?
5. Did you formally study either language in school? What was your primary language in school? Where and how long did you attend school?
6. Have you had an opportunity to speak with the litigant(s)? Do you need a few minutes? Were there any particular communication problems?
7. Are you familiar with the dialectical or idiomatic peculiarities of the witness/parties?
8. Have you ever interpreted in court before? Where? How often? For what types of hearings or cases?
9. Have you received any special training in court proceedings?
10. Describe simultaneous interpreting and your experience with it.
11. Describe consecutive interpreting and your experience with it.

12. Do you ever summarize statements while interpreting? Do you understand the law requires you to interpret everything said by all parties?
13. Have you read the Code of Conduct for Court Interpreters? Describe briefly the topics covered (see GR 11.1).
14. Are you a potential witness in this case?
15. Do you now or have you ever met any of the parties/witnesses? In what circumstances?
16. Do you have any other potential conflicts of interest?
17. Have you ever worked for any of the parties/witnesses? In what capacity?
18. Do you believe you can communicate with the non-English-speaking person/party; i.e., have you talked with the person already or do you need a few minutes to talk now?
19. Can you readily communicate with the non-English-speaking person?

NUMBER OF INTERPRETERS NEEDED QUESTION & ANSWER

Question: How many same-language interpreters are needed for separate parties in the same hearing?

Answer: The court should afford each party a separate interpreter, if needed, to avoid a conflict of interest.

Question: What if a party and a witness need same-language interpreters in the same hearing?

Answer: The court should provide one interpreter for a party and a separate interpreter who can interpret for all witnesses (if a party's interpreter serves as an interpreter for a witness, the interpreter cannot assist in communications between the party and counsel).

Exception: When separate interpreters are not available, for example in rural communities, then the potential conflict should be disclosed and any waiver put on the record.

INTERPRETATION MODES: RULES AND TECHNIQUES

Overriding theme: The goal is to afford the non-English speaking or hearing-impaired party an opportunity to hear everything and to respond, just as an English speaking person. To achieve this goal, the interpreter must interpret every unit of meaning faithfully, reflecting the language register (level of language), errors, hesitations, etc., while at the same trying to be as unobtrusive as possible. There must be no paraphrasing or summarizing.

When there is a comment or a request to be made for or about the interpreter, the interpreter will refer to him/herself as "the Interpreter," never using the pronouns "I" or "you".

I. CONSECUTIVE INTERPRETATION

As the name indicates, the interpretation follows the statement. The interpreter first listens to the statement or question in one language, then interprets; the interpreter listens to the response and then interprets that.

This mode is used any time there is direct colloquy or dialogue with the non-English speaking person: e.g., court testimony, interview with attorneys, when the non-English speaking person is addressed directly. Using the simultaneous mode when speaking out loud at the same time the speaker is speaking out loud, results in great confusion.

It is important that the interpreter get into the habit of taking notes in order to avoid having to interrupt to ask for a repetition in case of a long statement. If pressed by the circumstances, the interpreter may ask the speaker to pause by using a hand signal.

The interpreter will use a loud and clear voice so that everybody in the courtroom can hear. At the witness stand, the interpreter will be careful not to obstruct anyone's view of the witness or any drawing that may appear on an easel.

The interpreter should emulate the inflections, modality and intonation of the witness, in order to convey the meaning and any emotional content of the statement. However, this does not extend to body language.

II. SIMULTANEOUS INTERPRETATION

As the name indicates, the interpretation occurs at the same time as the statement is being spoken. Or almost. In the simultaneous mode, the interpreter listens and speaks at the same time in a low whispered voice, with or without the use of a voice amplifier or assisted listening device. The device makes it

possible for the interpreter to speak in the lowest possible volume, while at the same time being properly heard, this avoiding interfering in any way with the proceeding. Since the interpreter must render units of meaning, it is necessary to first listen in order to hear enough words which will constitute a unit of meaning, and that is when the interpretation will start. Strict simultaneous interpretation is impossible. Different languages have different lag times, anywhere from 6-8 words to a whole sentence.

This mode is used any time the speaker is not addressing a statement at the non-English speaking person, i.e., during most court procedures. It is also employed during testimony: During testimony (interpreted in the consecutive mode), when there is an objection, the interpreter will switch instantly to the simultaneous mode, and continue in that mode until the judge has ruled on the objection. At that moment, the consecutive mode will be resumed. If the witness has started giving an answer before or after the objection is voiced, the interpreter will interpret that partial or complete answer since the English speaking witness' answer would have been heard.

III. SIGHT TRANSLATION

This is a hybrid mode rendering the meaning from a written document into oral language. Common documents that need to be sight translated are all types of court forms (plea forms, date settings, different types of orders, etc.) as well as letters and certificates of all sorts in both languages, to name a few.

Everything that appears in the document must be sight translated: dates, numbers, seals, signatures, all writing and indications. The interpreter will indicate where the seals, or any writing which is of the main body of the document, are located on the page (e.g., "Upper right hand corner"; or "In the left margin, vertically"; or "Superimposed on the body of the document, there is a seal which says...". Also indicate if it is only partly legible, or if it is illegible, etc.

The interpreter will speak in a loud and clear voice and will use a smooth and homogenous rhythm to allow a ready understanding of his/her rendition.

IMPORTANT TIPS TO REMEMBER

1. **DO** understand that the interpreter is neutral
 2. **DO** make sure that you and the non-English speaker wait for full interpretation and understanding.
 3. **DO** avoid double negatives. They result in ambiguity, even in English.
 4. **DO** strive to keep all speakers' voice levels up and to minimize other noise around you.
 5. **DO** speak slower when reading from documents or instructions.
 6. **DO** be aware of cultural differences.
 7. **DO** conduct the entire conversation in 1st and 2nd person as if there were o interpreter present.
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1. **DO NOT** interrupt the interpreter. Accuracy is compromised.
 2. **DO NOT** use long and involved questions.
 3. **DO NOT** permit any uninterrupted conversation to occur at all.
 4. **DO NOT** use "machine gun" style in questioning.
 5. **DO NOT** allow summarizing or paraphrasing by the interpreter.
 6. **DO NOT** allow more than one party to speak at any given time.
 7. **DO NOT** ask the interpreter's opinion about the non-English speaker unless it is to check the client's comprehension.
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IN THE INTERVIEW...

1. Sit facing the non-English speaking client just as you would if there were no interpreter. The interpreter should be seated next to the client facing you. If you are using a sign language interpreter, this interpreter should be seated next to you facing the client.
2. Explain your function and the interpreter's function to the client. This includes the **confidentiality** of the conversation.
3. The interpreter should not explain anything; only interpret.
4. Explain how the treatment process works. Don't assume anything by our standards and norms.
5. Be aware of cultural differences and **level of education** of the client.
6. Keep eye contact with the client even during the interpretation.
7. Do not use the 3rd person (he/she) when referring to the client to whom you are speaking.
8. Keep questions uncomplicated.
9. Check periodically to be sure that the client is understanding.
10. Furnish the interpreter with all the pertinent information or materials concerning the process.
11. **Be patient!** Allow extra time if you are working with an interpreter.

INTERPRETER FATIGUE

This paper is a discussion of interpreter fatigue and its impact on the court record and on protecting the rights of linguistic minorities. (*New Study on Fatigue Confirms Need for Team Interpreting*, Mirta Vidal, February 1999.)

The demands placed on a legal interpreter are linguistically extraordinary. Nancy Festinger, the Chief Interpreter for the United States District Court, Southern District of New York (Manhattan), eloquently describes the interpreter's role as follows:

"... we perform mental gymnastics, jumping from an attorney's constitutional argument in a motion to suppress, to a drug addict's slurred explanation, to a witness's deliberately elusive answer, to the socio-psychological jargon of a probation report, to the small print of a statute, to a judge's syntactically convoluted charge to the jury—often, all in the space of a few hours. We repeat patent nonsense, veiled (or not-so-veiled bullying), impassioned pleas, righteous indignation, stern admonishments, nit-picking questions, ironic remarks, barbed answers, tearful confessions, and through it all we must pay unflagging attention, betray no sign of annoyance or incredulity, all the while maintaining composure, impartiality and linguistic fidelity."

The interpreter's role is an exacting role, both physically and mentally, and therefore requires an awareness of the proper working environment. It is imperative that an interpreter be able to be mentally alert at all times. Studies have presented unassailable evidence that a simultaneous interpreter's performance deteriorates markedly after a surprisingly short time. Frequently, judges will interrupt proceedings to give the court reporter a break, because they know that having an accurate record depends on having an alert reporter. They sometimes forget, however, that another important way to protect the record is to make sure that the interpreter is well rested and alert.

The court has an obligation to provide an interpreter a break whenever the interpreter feels that fatigue is beginning to interfere with the accuracy of the interpretation. This is to protect the record, and to protect the rights of the non-English-speaking person in the court.

PROPER ROLE of a COURT INTERPRETER

The Proper Role of a Court Interpreter Should Be:

- A conduit/facilitator of communications.
- To interpret accurately all communications to and from English and the target language.
- To interpret thoroughly and precisely, adding or omitting nothing, giving consideration to grammar, syntax, and level of language.

Ethical Considerations:

- Should be considered an officer of the court.
- Abide by a code of professionalism expected of any court officer to promote confidence and impartiality in the judicial process.
- The interpreter shall avoid any conflict of interest, financial or otherwise.
 - Shall not render services if a potential witness, associate, friend or relative of a party.
 - Shall not render services if he/she has a stake in the outcome.
 - Shall not render services where he/she has served as an investigator in a preparation of litigation.
- Shall not disclose any communication that is otherwise privileged without consent or court order.
- Shall not comment on a matter where he/she has served as an interpreter.
- Report any effort by another to solicit, entice, or induce the interpreter to violate any law or canon of conduct for interpreter.
- Shall not give legal advice and shall refrain from the unauthorized practice of law.

What You Should Expect From an Interpreter:

- He/she will request clarification if a phrase or word is not understood
- He/she will interpret in the first person and should address the court in the third person, in order to keep a clear record.
- He/she will have paper and pencils available at all times and may have a dictionary or other reference material with him/her.
- He/she will be as unobtrusive and professional as possible.
- He/she will not converse with the defendant or party except to interpret everything that is said in the courtroom.

Red Flags to Watch For:

- Beware of the interpreter who does not carry a Washington State interpreter badge.
- Be clear to identify the interpreter's level of certification (Washington State, Federal, other state).
- Beware if the interpreter is not interpreting everything that is being said in the courtroom. Summary and paraphrase interpreting have no place in the courtroom, under any circumstances.
 - By observation, you can determine if the interpreter is simultaneously interpreting the testimony, both questions and answers of witnesses, the closing arguments of counsel, etc. The party is entitled to hear everything that is happening, as it is happening.
- Beware if you observe the interpreter engaging in conversation with the non-English speaking party or witness.
- Beware if the interpreter is coaching or encouraging a party to answer in a certain way (such as nodding or using facial expressions). The interpreter should simply interpret everything that is being said in the courtroom, with no personal input whatsoever.
- Beware if the interpreter draws undue attention to himself/herself. A trained interpreter will be as unobtrusive as possible and professional in manner.

HOW TO USE INTERPRETERS PROPERLY IN THE COURTROOM

1. The interpreter must be able to hear and be heard. Allow the interpreter to sit wherever hearing is best facilitated, generally beside the witness or party unless the interpreter is using sound equipment.
2. Speak in phrases, with long pauses when needed for consecutive interpretation. Instruct and remind counsel to speak in phrases with long pauses. Do not be impatient. Few judges, parties, or witnesses are use to communicating through interpreters. If you coach those who are not familiar with the process, the proceeding will be smoother and less intimidating for all participants.
3. To prevent undue fatigue, keep the pace of the speech within the particular interpreter's ability.
4. Do not let two or more people talk at the same time.
5. Give the interpreter periodic recesses:
 - a. Generally, the interpreter cannot work efficiently for more than 30 minutes at a time. Often, the interpreter is the only one in the courtroom talking all of the time. Courts should provide periodic recesses.
 - b. In lieu of frequent recesses (proceedings that are likely to go longer than two hours), courts should provide two interpreters to relieve one another every half-hour.
6. Advise counsel to avoid false starts, questions within questions, and parenthetical statements
7. Speak directly to the party of witness, not to the interpreter, and advise counsel to do likewise. For example, do not say to the interpreter to "ask him where he was..." rather say, "where were you..." to the party.
8. Provide the interpreter in advance all relevant documents to enable him/her to prepare for expected interpretation and unique terminology such as medical terms.

9. Before trial, allow the interpreter to spend a few minutes conversing with the person who needs the interpreter. This enables the interpreter to determine the person's geographic origin, level of vocabulary, etc.
10. If available, provide accurately translated common legal forms.
11. Some legal concepts do not exist in some languages or cultures, including such fundamental concepts in the American legal system as the right to a jury trial. If an interpreter advises the court of this problem, the court should instruct the attorney or witness to rephrase the term in a less culturally bound way.

Code of Ethics

What is a code of ethics? A code of ethics prescribes ways in which people should act. A professional code of ethics sets out the standards of right and wrong that determine how a profession conducts itself. Most professions have established codes covering ethical conduct. Adherence to such codes protects clients, assures guidelines are being followed, and establishes protection for the professional. Such codes also assist members in not crossing over the boundaries during stressful associations.

Even though interpreting as a profession is still in its infancy, virtually all interpreting associations have developed codes of ethics. (Samples of codes of ethics from various organizations are included in Appendix B at the end of this guide.) The precise wording of each association's code may vary, but each code will include the following principles, or, as they are called, tenets:

Confidentiality

An interpreter must keep confidential everything that relates to the interpreting assignment, unless there is a legal¹ or professional² mandate to report. Secrecy is not the issue in retaining information confidential. The information is not yours. The communication you interpret belongs to the principals involved: lawyer and client, doctor and patient, teacher and parent. If these individuals shared a common language, the interpreter would not have been present at all. That is the way you, as interpreter, must behave: as if you had not been present. Should someone overhear you discussing an assignment, even though it was in open court or not specifically classified as confidential, they may come to the conclusion that you normally discuss all your assignments. Thus they may well lose trust in you as an interpreter.

Impartiality

By maintaining impartiality or neutrality, an interpreter assures fairness to all parties in an interpreting assignment. It means that the interpreter does not show favoritism or bias toward any person, nor makes any judgment on the proceedings. Impartiality may not be easy to maintain in some cases. As human beings, interpreters cannot help but react to what they see or hear. They may feel empathy or disgust for a certain individual. They may have an interest in the outcome of the case. However, interpreters should maintain a professional distance from

They're very understanding and they respect you if you take yourself off a case, because you admit that...you're not able to do a good job...and the key words are 'do a good job.' If you can't do a good job, take yourself off the case.

Shannon Guilbride

1. In certain cases, professionals are legally required to report instances of, for example, child abuse.
2. In extenuating circumstances where the safety of the patient is concerned, the health care interpreter may have the professional obligation to share information with the appropriate health care professionals.

the interpreted proceedings and the principals involved. If they find that their religious and political beliefs or their personal feelings interfere with their ability to give an impartial interpretation, they should ask to be excused from the interpreting assignment.

Interpreters should also make known any possible conflict of interest, such as being acquainted with the principals in the case or having a vested interest in the outcome. It is important not only to be impartial, but also to be seen to be impartial.

Accuracy

The interpreter's role is to faithfully transfer a message from one language to another. This must be done without any alteration, embellishment, omission, or explanation. While this may seem self-evident, many factors may interfere with the interpreter's ability to produce an equivalent message in the other language. To do so means the interpreter must remain true to the level of language of the original message—not lowering it to the level of the listener, nor filtering inappropriate language, nor altering the message for whatever reason. By remaining impartial and not becoming involved in the case, the interpreter will ensure that the interpreted message is a faithful reflection of the original message.

*What we have to do is...
remember at all times that all we
are is a language bridge. We
really have no place in the court
except for the fact that we narrow
that gap and we make
communications possible.*

Yolanda Hobrough

Limits of Expertise & Self-Evaluation

The first part of this tenet refers to each interpreter's recognition of one's own limits—linguistic, cultural, emotional, physical. This self-awareness is only possible through self-evaluation. In each interpreting assignment, an interpreter must evaluate his or her capabilities and responsibilities in various areas such as the parameters of the role of the interpreter, linguistic and cultural competence, personal capabilities, and suitability for a specific assignment. If found wanting in any aspect, the interpreter should decline the assignment. Only then is the interpreter acting in an ethical and professional manner.

*Adherence to a code of ethics
assists the Interpreter to act in a
professional manner and serves
to create confidence in the
Interpreter's trustworthiness
among the persons who must
rely on the Interpreter to speak
for them.*

Yolanda Hobrough

GR 11.1 CODE OF CONDUCT FOR COURT INTERPRETERS

PREAMBLE. All language interpreters serving in a legal proceeding, whether certified or uncertified, shall abide by the following Code of Conduct:

A language interpreter who violates any of the provisions of this code is subject to a citation for contempt, disciplinary action or any other sanction that may be imposed by law. The purpose of this Code of Conduct is to establish and maintain high standards of conduct to preserve the integrity and independence of the adjudicative system.

- (a) A language interpreter, like an officer of the court, shall maintain high standards of personal and professional conduct that promote public confidence in the administration of justice.

Comment – Court Interpreter Task Force (1986)

The Code of Judicial Conduct (CJC) Canons 1 and 3(B) (2) require high standards of conduct of judges and their staff and court officials. As officers of the court, such standards apply to interpreters as well. Interpreters are the vital link in communication between litigants and the court. Conflicts of interest may consciously or subconsciously affect the quality or substance of an interpretation or translation. The need for unquestioned integrity among interpreters is obvious. These Canons apply to interpreters and translators for both the hearing-impaired and for individuals who speak a language other than English.

CJC 3(B) (2) requires court personnel and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge.

- (b) A language interpreter shall interpret or translate the material thoroughly and precisely, adding or omitting nothing, and stating as nearly as possible what has been stated in the language of the speaker, giving consideration to variations in grammar and syntax for both languages involved. A language interpreter shall use the level of communication that best conveys the meaning of the source, and shall not interject the interpreter's personal moods or attitudes.

Comment – Court Interpreter Task Force (1986)

The interpreter should utilize the same level of language used by the speaker. This means that the interpreter will interpret colloquial, slang, obscene or crude language as well as sophisticated and erudite language, in accordance with the exact usage of the speaker. It is not the interpreter's task to tone down, improve or edit phrases.

Unless the interpreter is faithful to this concept of accurate interpretation, he or she may act as a filter or buffer in the communication process. This could damage the integrity of the trial process, which is based on an adversarial system with vigorous examination and cross-examination. Consequently, the substance of questions posed and answers given during the testimony should not be altered more than absolutely necessary to assure comprehension.

The interpreter should not assume that it is his or her duty to simplify statements for a witness or defendant whom the interpreter believes cannot understand the speaker's statements. Like witnesses who do not use an interpreter, interpreted witnesses can and should request counsel or the court to explain or simplify matters if necessary.

An interpreter should never characterize or give a gratuitous explanation of testimony. The court or attorneys will request clarification from the speaker if necessary. The court and counsel should be sensitive to possible confusion by the witness. During testimony, the interpreter may volunteer to the court his or her belief that the witness does not understand a particular question or comment.

Idioms, proverbs and sayings rarely can be interpreted literally. The interpreter should seek an equivalent idiom or relate the meaning of the original idiom or saying.

While interpreting a non-English spoken language, the interpreter should not offer an explanation or repeat a witness' gesture or grimace which has been seen by the trier of fact.

Interpreters for the deaf or hearing-impaired should use the method of interpreting most readily understood by the deaf or hearing-impaired witness. For example, the witness may be more articulate in American Sign Language than in Manually Coded English or finger-spelling.

- (c) When a language interpreter has any reservation about ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the parties and to the court. If the communication mode or language of the non-English speaking person cannot be readily interpreted, the interpreter shall notify the appointing authority or the court.

Comment – Court Interpreter Task Force (1986)

A court interpreter or legal translator is often faced with new technical terms, slang, regional language differences, and other problems posing difficulty in accurate interpretations or translations. The interpreter must take time, and be given appropriate time by the court, to determine an appropriate and accurate interpretation or translation of the material. If unable to interpret or translate the material, the parties and the court must be advised so the court can take appropriate action. When necessary, another, better qualified interpreter should be substituted. Before such substitution, the court may determine whether another linguistic approach can be used for the same result in communication. For example, a different choice of words to be interpreted may solve the problem.

- (d) No language interpreter shall render services in any matter in which the interpreter is a potential witness, associate friend, or relative of a contending party, unless a specific exception is allowed by the appointing authority for good cause noted on the record. Neither shall the interpreter serve in any matter in which the interpreter has an interest, financial or otherwise, in the outcome. Nor shall any language interpreter serve in a matter where the interpreter has participated in the choice of counsel.

Comment – Court Interpreter Task Force (1986)

The purpose of this canon is to avoid any actual or potential conflict of interest. CJC Canon 3(C) requires similar disqualification of a judge because of a conflict of interest. Interpreters should maintain an impartial attitude with defendants, witnesses, attorneys and families. They should neither conceive of themselves nor permit themselves to be used as an investigator for any party to a case. They should clearly indicate their role as interpreters if they are asked by either party to participate in interviews of prospective witnesses outside of the court. Interpreters should not "take sides" or consider themselves aligned with the prosecution or the defense.

See comment to Canon 6 which discusses the use of interpreters in client and witness interviews. Care must be taken to avoid exposing an interpreter unnecessarily to the conflict of becoming a potential witness on the merits.

Both court interpreters and juror should be apprised of the identity of each during voir dire to help determine whether any juror knows the interpreter.

The fees and remuneration of a court interpreter or legal translator shall never be contingent upon the success or failure of the cause in which she or he has been engaged.

Interpreters and translators shall not interpret in any matter in which his or her employer has an interest as an advocate, litigant otherwise.

Interpreters shall be limited to the role of communication facilitators.

No interpreter who has served as an investigator assisting in preparation for litigation shall serve as a court interpreter in that cause.

- (e) Except in the interpreter's official capacity, no language interpreter shall discuss, report, or comment upon a matter in which the person serves as interpreter. Interpreters shall not disclose any communication that is privileged by law without the written consent of the parties to the communication. Or pursuant to court order.

Comment – Court Interpreter Task Force (1986)

To promote the trust and integrity of the judicial system, it is important that court officials, including interpreters and translators, refrain from commenting publicly regarding an action. Interpreters and translators shall not offer an opinion to anyone regarding the credibility of witnesses, the prospective outcome of a case, the propriety of a verdict, the conduct of a case, or any other matter not already available by public record.

- (f) A language interpreter shall report immediately to the appointing authority in the proceeding any solicitation or effort by another to induce or encourage the interpreter to violate any law, any provision of the rules which may be approved by the courts for the practice of language interpreting, or any provisions of this Code of Conduct.

- (g) Language interpreters shall not give legal advice and shall refrain from the unauthorized practice of law.

Comment – Court Interpreter task Force (1986)

The interpreter shall never give legal advice of any kind to the non-English speaking person or to any other person, whether solicited or not. In all instances, the non-English speaking person should be referred to counsel. The interpreter may give general information to a non-English speaking person regarding the time, place and nature of court proceedings. However, in matters requiring legal judgment, the individual should be referred to an attorney.

The interpreter should never function as an individual referral service for any particular attorney or attorneys. This kind of activity has the appearance of impropriety. When asked to refer a non-English speaking person to a particular attorney, the interpreter should refer such individual to the local bar association or to the Office of the Public Defender.

RULE 11.2 TELEPHONIC INTERPRETATION

- (a) Interpreters may be appointed to serve by telephone for brief, nonevidentiary proceedings, including initial appearances and arraignments, when interpreters are not readily available to the court. Telephone interpretation is not authorized for evidentiary hearings.
- (b) RCW 2.43 and GR 11.1 must be followed regarding the interpreter's qualifications and other matters.
- (c) Electronic equipment used during the hearing must ensure that the non-English speaking party hears all statements made by the participants. If electronic equipment is not available for simultaneous interpreting, the hearing shall be conducted to allow consecutive interpretation of each sentence.
- (d) Attorney-client consultations must be interpreted confidentially.
- (e) Written documents which would normally be orally translated by the interpreter must be read aloud to allow full oral translation of the material by the interpreter.
- (f) An audio recording shall be made of all statements made on the record during their interpretation, and the same shall be preserved.

[Adopted effective September 1, 1994.]

RID Code of Ethics



In an effort to protect and guide interpreters, transliterators, and consumers, RID members established principles of ethical behavior. The organization enforces this Code of Ethics through its national Ethical Practices System. Underlying these principles is the desire to ensure for all the right to communicate.

This Code of Ethics applies to all members of the Registry of Interpreters for the Deaf, Inc. and to all certified non-members.

1. Interpreters/transliterators shall keep all assignment-related information strictly confidential.
2. Interpreters/transliterators shall render the message faithfully, always conveying the content and spirit of the speaker using language most readily understood by the person(s) whom they serve.
3. Interpreters/transliterators shall not counsel, advise or interject personal opinions.
4. Interpreters/transliterators shall accept assignments using discretion with regard to skill, setting, and the consumers involved.
5. Interpreters/transliterators shall request compensation for services in a professional and judicious manner.
6. Interpreters/transliterators shall function in a manner appropriate to the situation.
7. Interpreters/transliterators shall strive to further knowledge and skills through participation in workshops, professional meetings, interaction with professional colleagues, and reading of current literature in the field.
8. Interpreters/transliterators, by virtue of membership in or certification by RID, Inc., shall strive to maintain high professional standards in compliance with the Code of Ethics.

About RID



The Registry of Interpreters for the Deaf, Inc. (RID) is the only national association dedicated to the professional development of interpreters and transliterators. Founded in 1964, RID has played a leading role in establishing a national standard of quality for interpreters and transliterators. The association encourages the growth of the profession, educates the public about the vital role of interpreters and transliterators, and works to ensure equal opportunity and access for all individuals.

RID's Mission

It is the mission of the Registry of Interpreters for the Deaf, Inc. to provide international, national, regional, state and local forums and an organizational structure for the continued growth and development of the profession of interpretation and transliteration of American Sign Language and English.

Programs and Services

RID fulfills its mission through many Programs and Services, including:

- National Certification Program
- Biennial Convention
- Affiliate Chapter Network
- Public Information and Outreach
- Membership Directory
- RID Publications
- Career Information
- Scholarships and Awards
- Professional Development Program

Registry of Interpreters for the Deaf
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Silver Spring, MD 20910
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USE OF CERTIFIED DEAF INTERPRETERS

A Certified Deaf Interpreter (CDI) is an individual who is deaf or hard of hearing and has been certified by the Registry of Interpreters for the Deaf as an interpreter.

In addition to excellent general communication skills and general interpreter training the CDE may also have specialized training and/or experience in use of gesture, mime, props, drawings, and other tools to enhance communication. The CDI has an extensive knowledge and understanding of deafness, the deaf community, and/or Deaf culture which combined with excellent communication skills, can bring added expertise into both routine and uniquely difficult interpreting situations.

A Certified Deaf Interpreter may be needed when the communication mode of a deaf consumer is so unique that it cannot be adequately accessed by interpreters who are hearing. Some such situations may involved individuals who:

- *Use idiosyncratic non-standard signs or gestures such as those commonly referred to as "home signs" which are unique to a family*
- *Use a foreign language*
- *Have minimal or limited communication skills*
- *Are deaf-blind or deaf with limited vision*
- *Use signs particular to a given region, ethnic or age group*
- *Have characteristics reflective of Deaf Culture not familiar to hearing interpreters.*

As a Team Member

Often a Certified Deaf Interpreter works as a team member with a certified interpreter who is hearing. In some situations, a CDI/hearing interpreter team can communicate more effectively than a hearing interpreter alone or a team of two hearing interpreters or a CDI alone. In the CDI/hearing interpreter team situation, the CDI transmits message content between a deaf consumer and a hearing interpreter; the hearing interpreter transmits message content between a deaf consumer and a hearing interpreter; the hearing interpreter transmits message content between the CDI and a hearing consumer. While this process resembles a message relay, it is more than that. Each interpreter receives the message in one communication mode (or language), processes it linguistically and culturally then passes it on in the appropriate communication mode. In even more challenging situations, the CDI and hearing interpreter may work together to understand a deaf individual's message, confer with each other to arrive at their best interpretation, then convey that interpretation to the hearing party.

For Deaf-Blind Individuals

When a consumer who is deaf-blind is involved, the CDI may receive a speaker's message visually, then relay it to the deaf-blind individual through the sense of touch or at close visual range. This process is not a simple relay in which the CDI sees the signs and copies them for the person who is deaf-blind. The CDI processes the message, then transmits it in the mode most easily understood by the individual who is deaf-blind.

Solo

The CDI sometimes works as the sole interpreter in a situation. In these instances, the CDI may use sign language or other communication modes that are effective with a particular deaf individual; and may use, with the hearing consumer, a combination of speech, speech reading, residual hearing, and written communication.

On the platform

The CDI sometimes functions as Interpreter before an audience. This may involve the CDI watching a hearing interpreter and restating the message to the audience in a different sign mod. At other times, the CDI may be in front of the audience to "mirror" comments or questions from a signing member of the audience so that the rest of the audience can see them.

USE OF CERTIFIED DEAF INTERPRETERS

CODE OF ETHICS

In an effort to protect and guide interpreters transliterators, and consumers, Registry of Interpreters for the Deaf ("RID") members established principles of ethical behavior. The organization enforces this Code of Ethics through its national Ethical Practices System. Underlying these principles is the desire to ensure for all the right to communicate.

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Benefits of Using a Certified Deaf Interpreter are:

- Optimal understanding by all parties
- Efficient use of time and resources
- Clarification of linguistic and/or cultural confusion and misunderstanding(s)
- Arrival at a clear conclusion in the interpreting situation.

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WHAT COURT INTERPRETERS WOULD TELL YOU IF THEY WERE HERE

[Taken from Court Interpreting, Legal Translating and Bilingual Services Section, New Jersey Administrative Office of the Courts, September 6, 1988 (revised October 25, 1988; November 18, 1988; February 9, 1989).]

- I. Take some time to become familiar with my profession. I'd like very much for you to understand the professional services I am responsible for rendering. When you do that, you will be more likely to respect and treat me as a professional. You will be less likely to view me as a glorified clerk or someone of dubious professional (certainly not equal to court reporters!) standing. It may be a helpful guide if you would treat me the way you tend to treat your reporter or any officer of the court

Once you understand my job better, here are some things you will no longer do. Please understand that this isn't just me talking. The following examples represent the best thinking of judges, lawyers, and court administrators – as well as professional interpreters, of course – who have pondered the role of the interpreter in great depth. These examples are based on the Code of Professional Responsibility I'm expected to follow.

- A. Don't ask me to explain or restate what you or anyone else says. I can only put into another language exactly what a person has said.
- B. Don't allow attorneys appearing before you to ask me to explain or restate what someone says. When I decline to perform this task for them, please support me and do not expect me to violate the Code.
- C. Don't ask me to take the persons) for whom I'm interpreting to an office, counter, etc.
- D. Don't let two or more people talk at the same time. There's no way I can interpret everything that's being said!
- E. Don't ask me not to interpret something. I'm professionally and ethically bound to interpret everything that's said.
- F. Don't forbid me to interpret simultaneously during a proceeding because it interferes with your concentration or otherwise bothers you. There are many situations in which I'm professionally, ethically, and legally bound to interpret in the simultaneous mode. If my whispered simultaneous interpreting gets too loud, respectfully ask if I can speak more quietly. I'll do my very best to be as unobtrusive as possible.
- G. When an attorney or someone else alleges that I have made an error in interpretation, don't automatically assume that I have made one. Remember that the attorney is in an adversary relationship and I am not. I do make mistakes sometimes and I will be the first person to admit a mistake when I recognize one. But ask me if I agree with an attorney's allegation before concluding that I have actually made a mistake. As a neutral party and a linguist, I should have more credibility before the court than virtually any attorney on such matters.

- H. Don't talk to me when you are really talking to a witness, defendant or someone else. If you say, "Ask him if..." or "Tell him that..." remember that I am required to say exactly that in the interpretation or to remind you to talk directly to the person you are addressing. If I do the former, the person with whom you are attempting to communicate will often be confused. If I do the latter, you may get upset.
2. Avoid rapid-fire delivery of what to you is very routine material and help attorneys avoid excessively fast speech. Understand that when we are interpreting into other languages, it is often the case that it will take more words for me to convey a message accurately and completely. Be patient and understanding if I have to keep reminding you or others to slow down so I can do my job, too.
 3. I need breaks every bit as much as your reporters do, maybe even more. I am often the only person in the courtroom who is taking all of the time. While everyone else is only having to understand what is being said, I have to both understand it and put it into another language. This is intensely demanding work.

Furthermore, if the proceeding I am interpreting is a proceeding which involves simultaneous interpreting for more than an hour, two interpreters should be assigned to the case. We should be able to switch off every 30 minutes or so.
 4. Please make efficient use of my services. I have other commitments to attend to when I finish interpreting for the case before you for which you have summoned me. Take my case as quickly as possible in order to prevent incurring the extra costs of having me wait and inconveniencing the other courts or court support services that may be waiting for my services.
 5. Understand the human limits of my job. My main interest here is that you comprehend the fact that no person knows all of the words in any one language, much less all of the words of all the dialects of that language – and, much, much less, all of the words of all the dialects of two languages (not to mention the professional and legal jargon for which there is often no equivalent at all in other languages)! Sometimes I need to obtain clarification. It is unethical for me to make up an interpretation or guess at an interpretation of something I do not understand. Instead of viewing such a request as casting doubt upon my professional credentials, consider viewing it in terms of my commitment to accuracy.
 6. Many of my colleagues are not very well qualified and want very much to improve their interpreting skills. They need support for attending courses and professional seminars. Please do everything you can to enable on-the-job training, so do not hesitate to take them – and me, sometimes – under your wing when there is something we need to learn.
 7. Before you expect me to start interpreting for a given matter, give me the opportunity to find out what the nature of the proceeding is, who is involved, etc. Furthermore, let me speak to the linguistic minority person briefly to size up the person's communicative style and needs so I can make whatever adjustments may be necessary and appropriate to improve communication – or perhaps even discover that I might not be able to communicate sufficiently with the individual! Like any other professional, the better prepared I am, the better job I'll be able to do and the smoother the whole proceeding will flow.

ability to understand the proceedings and communicate with counsel was unimpaired (the court allowed the defendant to interrupt the proceedings at any time to consult privately with counsel through the interpreter).

State v. Bell, 57 Wn.App. 447 (1990). Where no evidence of personal interest in outcome, wrongdoing or untrustworthiness, use of a police victim advocate as an interpreter for the victim is within the sound discretion of the court. State v. Boulet, 5 Wn.2d 654 (1940).

Failure to Swear In Interpreter

State v. Sengxay, 80 Wn.App 11 (Div. III 1995). Failure to swear interpreter is not error absent objection.

Attorney Client Privilege

State v. Aquino-Cervantes, 88 Wn. App. 699, 945 P.2d 767 (Div II 1997). Trial court erred in allowing interpreter to testify regarding defendants demeanor during attorney-client conversations. Communications and observations by interpreter during confidential attorney-client interviews are not admissible. Interpreters' testimony regarding their in-court observations of the defendant were permissible, except for privileged communications. (Issue of allowing hearing interpreter to be witness during same hearing despite prohibition of Code of Conduct, GR 11.1, was not addressed.)

Good Cause for Appointing an Uncertified Interpreter under RCW 2.43

State v. Pham, 75 Wn. App. 626, 879 P.2d 321 (Div III 1994). The trial court properly concluded that the circumstances of this case, involving a Vietnamese-speaking child rape victim, constituted good cause for appointing an uncertified female interpreter to interpret her testimony even though a male certified interpreter was present in court. A defendant has the constitutional right to a 'competent' interpreter, but not necessarily to a certified interpreter. RCW 2/43/030(1)(b) allowing use of an uncertified interpreters for good cause when "services of certified interpreters are not reasonably available", in not exclusive.

Defense Attorney's Interview through an Incompetent Interpreter is Ineffective Assistance of Counsel

Chacon v. Wood, 36 F.3d 1459 (9th Cir. 1994). In this federal habeas corpus action challenging a Washington state court conviction, the Ninth Circuit vacated the defendant's guilty plea as involuntary on the ground that trial counsel was ineffective because the court interpreter who interpreted pre-trial attorney-client conversations

vastly understated the probable sentence the defendant would receive if he pleaded guilty.

Trial Counsel Must Preserve Record of Deficient Interpreting

State v. Serrano, 95 Wn. App. 700, 977 P.2d 47 (Div. III 1999). Since defense counsel did not object to the court's appointment of a qualified rather than a certified interpreter at trial, the defendant may not raise the issue on appeal for the first time unless the error was of constitutional magnitude. The defendant failed to prove his trial counsel was ineffective for not objecting to the uncertified Spanish interpreter, because nothing in the record suggests the interpreter was incompetent or that the defendant did not really speak Spanish.

Interpreted Confessions are Hearsay

State v. Garcia-Trujillo, 89 Wn. App. 203, 948 P.2d 390 (Div. I 1997), State v. Huynh, 49 Wn. App. 192, 742 P.2d 160 (Div. I 1987), review denied, 109 Wn.2d 1024 (1988), State v. Aquino-Cervantes, 88 En. App. 699, 945 P. 2d 767 (Div. II 1997). Foreign language statements interpreted for law enforcement may not be admitted through officers' testimony unless the interpreter was engaged by the non-English speaking party as the party's agent, or the statement is not offered to prove the truth of the matter asserted – that is, the interpreter testifies to what the interpreter asserts the other party said.

Proving an Interpreter is Incompetent

Perez-Lastor v. I.N.S., 208 F. 3d 773 (9th Cir. 2000). Three types of evidence tend to prove an interpretation was incompetent. The first is direct evidence of incorrectly interpreted words that would have been interpreted differently by a more competent interpreter. Second, unresponsive answers to interpreted questions by a witness provide circumstantial evidence of interpretation problems. Third, incompetent interpretation may be established if a witness expressed difficulty in understanding the interpreter's statements.

Tomayo-Reyes v. Keeney, 926 F. 2d 1492, (9th Cir. 1991), rev'd on other grounds, 504 U.S. 1 (1992.) In a habeas corpus action, proof of inadequate interpreting can be established by putting the interpreter on the stand, asking the interpreter questions relevant to the claim, and calling an expert witness. Defense attorney's method of deposing the interpreter was insufficient because the attorney did not ask how he interpreted material phrases and also failed to call an expert witness. The interpretation accuracy issue was remanded by the Court of Appeals for an evidentiary hearing. (This case was reversed by the Supreme Court on separate federal habeas corpus standards grounds.)¹

Selected Cases on Legal Interpreting

By Joanne I. Moore and Ron A. Mamiya, Judge

Right to or Need for Interpreter

State v. Lopez, 74 Wn.App. 264, 872 P.2d 1131 (Div. I 1994), State v. Mendez, 56 Wn.App. 458, 784 P.2d 168 (Div. I 1989), State v. Woo Won Choi, 55 Wn. App. 895, 781 P.2d 505 (Div. I 1989). The trial court's failure to appoint an interpreter for a limited English speaking defendant will be upheld if counsel failed to request an interpreter or advised the court that the defendant spoke sufficient English to participate in the proceedings.

State v. Woo Won Choi, 55 Wn.App. 895 (1989). No right to an interpreter if defendant's language skills are adequate to understand trial proceedings and present his defense. The trial court need not inquire directly of the defendant nor engage in interpreter waiver colloquy until court has determined that an interpreter is necessary; court may rely on counsel's representation that the interpreter is not necessary.

State v. Mendez, 56 Wn.App. 458, 784 P.2d 168 (Div. I 1989). Trial court has no affirmative duty to appoint an interpreter where defendant's lack of fluency or facility in English is not apparent.

State v. Serrano, 95 Wn.App. 700 (1999). No constitutional right to a "certified" interpreter thus issue may not be raised for the first time on appeal. The trial court's only inquiry was whether the interpreter was "certified or qualified". Defense did not object at the trial level and record does not indicate the interpreter was incompetent.

State v. Harris, 97 Wn.App. 647 (1999). Hearing impaired probationer was not entitled to a sign interpreter at meetings with his probation officer when he can communicate in writing; RCW 2.42.120(3) requiring sign interpreters at court-ordered treatment programs, unconstitutionally violates one-subject rule.

Non-English Speaking Defendant's Right to a Complete Interpretation of the Proceedings

Tomayo-Reyes v. Keeney, 926 F.2d 1492 (9th Cir. 1991), rev'd on other grounds, 504 U.S. 1 (1992). If the interpreter failed to translate the mens rea elements of the charge on the state guilty plea form, and interpreted 'manslaughter' as 'less than murder,' the defendant has established a basis for overturning his nolo contendere plea.

State v. Gonzales-Morales, 138 Wn. 2d 374, 979 P.2d 826 (1999). Defendant's 6th amendment right to assistance of counsel was not violated by the court's 'borrowing' of Spanish interpreter to interpret a State witness' testimony, as long as the defendant's

Miranda Warnings

State v. Cervantes, 62 Wn. App. 695, 814 P.2d 1232 (Div. III 1991). Law enforcement's use of co-defendant as interpreter during defendant's custodial interrogation was a reversible violation of due process.

State v. Teran, 71 Wn. App. 668, 862 P.2d 137 (Div III 1993). Even though the translation was not perfect, defendant validly waived his Miranda rights after law enforcement officers played a translated Spanish cassette tape of Miranda warnings and one officer read them to him in Spanish, because the defendant understood that he did not have to talk to law enforcement and that any statement could be used against him.

Court Interpreter Costs Assessments are Unconstitutional

State v. Marintorres, 93 Wn. App. 447, 969 P. 2d 501 (Div. II 1999). Statute authorizing the trial court to order non-English speaking parties to pay costs of the court interpreter violates equal protection, because costs may not be imposed for interpreters appointed for hearing-impaired parties.

Tips on Communicating through Interpreters

Hiring the interpreter

It is cheaper and more reliable to hire directly than to go through an agency. To find an interpreter: King County Superior Court Interpreters Office can give referrals: (206) 296-9358
Directory of all court certified interpreters: www.courts.wa.gov/programs/interpret

The federal courts certify Spanish, Haitian Creole and Navajo interpreters only. Washington State Administrative Office of the Courts certifies for Spanish, Russian, Vietnamese, Cambodian, Cantonese, Korean, and Lao.

If the courts do not certify interpreters in the language that you need, or if no certified interpreter is available, look for other levels of certification. Your next best bet in Washington State is medical then social service. If an interpreter tells you that they are "certified" check at what level. Though translation (written) is a different art, it is a good sign if an interpreter is accredited by the American Translators Association. Their directory is at www.atanet.org. Some translators work in several languages so make sure the accreditation is for the appropriate language combination.

Any less common languages are not certified and never will be. If you must use a non-court certified interpreter inquire as to their education and language skills.

The following questions are suggested *before* contracting an uncertified interpreter:

1. When and how did you learn English and ____?
2. What is your level of formal schooling?
3. Do you have any training as an interpreter?
4. What experience do you have as an interpreter? (When and where have you interpreted?)
5. Please define a few English legal terms that will be used in this case, such as negligence, respondent, domestic violence, abuser, victim, etc. What are the translations for these terms? (you probably won't know the translation but can judge if they hum and haw before giving it)

It is helpful to ask ALL interpreters the following questions on the phone before hiring them:

1. "Do you know any of the parties or witnesses?" Some language communities are so small that it may be hard to find an interpreter who does not know the client, in which case you should ask, "Are you a potential witness in this case?"
2. "Have you ever interpreted before for either of the parties?" (You don't really want as an interpreter for a victim someone she saw interpret for the abuser last week in court, for example).
3. Do you think there might be any conflict of interest or reason why you should not interpret for this case? There may be a conflict within a language group that determines the choice of an interpreter; for example in the Seattle area there is a division between Pentecostal and Jewish Ukrainians. An Eritrean interpreter who speaks Tigrinia as a first language may be preferable to an Ethiopian

interpreter who speaks Tigrinia as well as Amharic. You can't possibly know all of these politics so simply ask the interpreter before hand.

Gender. In hiring know that the gender of the interpreter may make a difference in the comfort of the client. A woman interpreter is generally preferable for a victim of domestic violence.

Using a family member or friend, even an acquaintance, *should be avoided at all costs*, even if they happen to be professional interpreters. It inevitably skews what the client will say to you, how they say it, what will be interpreted and in what fashion. It also may have a negative impact on the relationship between the client and the person serving as the interpreter in the future. When the interpreter relationship is not formalized and the interpreter is not an agent of the attorney the interpreter could be subpoenaed and breach atty./client privilege. This is unlikely, but something to consider.

Book well ahead. Do not expect an interpreter to be available on a day's notice. Good interpreters are much in demand.

Payment. Establish the payment rate clearly and in advance. Ask the interpreter what their rates are. Rates vary widely depending upon language. It is always cheaper to go directly to an interpreter, since agencies keep up to 50% of their fees. Interpreters charge by the hour. Many have a 2 hour (or more) minimum charge and a 48 hour cancellation policy. Some interpreters also charge for travel time, generally at a lower rate. Some interpreters will charge mileage or parking.

Volunteers and reduced fees. If you are doing pro bono work yourself for a worthwhile cause some interpreters, when you describe the project, may consider reducing their fees or donating their services, but do not expect this. Expect the same ethics and standards from volunteers – do not use an unqualified interpreter simply because they are free! It can be far more expensive in the long run when they misinterpret information.

After hiring and before the appointment:

Give the interpreter background information and tell them what to expect. Establish the context and the nature of the visit for the interpreter. For example, "This will be my initial visit with Juana to prepare her self-petition. This is a process whereby she can ask for legal immigrant status on the basis of being married to an abusive citizen or resident who refuses to petition for her. She and I will be going over the history of her abuse, which includes things like rape and abuse of the children." If you are going to review documents send them to the interpreter before hand, or at least have the interpreter come early to review them. Alert the interpreter to any unusual vocabulary that may come up. Give an estimated end time for the visit. Understand that the interpreter may book another appointment after yours, so confirm time constraints on the day of the visit.

If they are not a certified court interpreter send them more background material to prepare with (such as the self-petition explanation handouts) and remind them to tell you if they don't understand terms you use or the terms aren't easily translated. Interpreters who are not court certified should also be sent a copy of the code of ethics for legal interpreters beforehand, copy attached.

The day of the appointment

Introduce yourself to *both* your client and the interpreter.

Confirm language. Ask the interpreter to speak briefly to the client and confirm that they can understand each other, and do not have problems due to accent or dialect. It is increasingly common in the U.S. to have Latin Americans who speak an indigenous language as their first language and Spanish as their second language, so if you have any suspicion that this might be the case ask your client, through the interpreter obviously, if they are fully comfortable speaking in Spanish.

Confidentiality. The first thing that you say to the client through the interpreter, after introductions and hellos, should be a brief reassurance that the conversation is entirely confidential and that the interpreter is also bound to uphold the confidentiality of the conversation.

Common mistakes to avoid

Speaking to the interpreter. Speak directly to the client, never use the third person "tell her that ...". Also tell your client to speak directly to you, and not to the interpreter. When you are speaking *look* at your client, and make sure that she too is looking at you when she speaks, rather than at the interpreter. If you do need to speak to the interpreter make it clear that's who you are speaking to, for example don't ask "Are you available Monday?" ask "Is the interpreter available on Monday?" Note that the interpreter should still be interpreting this question so that your client can understand what you are saying.

Role and confidentiality. Explain your role to the client, and at the same time review the role of interpreter. Make it clear that the interpreter is neutral, can't talk to them or befriend them, but that they can expect that the interpreter will interpret *everything* and will never repeat anything said outside of the room.

Speed and volume. Do not speak any more loudly than you normally would. You do not need to speak super slowly or pause between words. If you tend to speak very fast you might slow down a tad bit, but generally you should be able to speak in a normal voice and rhythm. Take care not to mumble. Avoid acronyms and abbreviations.

When to pause. If using simultaneous interpretation pause, at normal syntactical breaks, for the interpreter to catch up. If using consecutive interpretation don't break it up into gibbles, be sure not to break until a complete thought or phrase has been expressed, but be aware of the limits of the interpreter's memory. Professional interpreters will have good note taking and memory skills and be able to interpret much longer phrases. They should also be comfortable telling a speaker when to stop or continue. Be sure to not cut the fragments so short that they are meaningless, but not to make them so long that the interpreter may miss some of the content in the rendition. If your client says a particularly long statement, and you are working with an inexperienced interpreter who has not cut her off or taken good notes, know that some of the content may have been lost. Be aware that it can be hard to interrupt speakers in the middle of emotional testimony, or to ask them to repeat disturbing statements, and this is one of the many reasons it is crucial to have a qualified interpreter who can handle long statements.

Cultural concepts. If the client is expressing a culturally embedded concept which you do not understand do not expect the interpreter to be a cultural expert. They are not sociologists, and may well come from a very different background than the client (for example, a rich urban Mexican woman may have little in common with an indigenous rural Mexican woman). Interpreters come with their own world

views and who knows, their personal understanding of a cultural issue may not be accepted in their own cultural group. It is always best to ask cultural questions like this directly to the client, "How do you do this, what does this mean to you, etc.". Ideally if you are expressing a concept which the interpreter thinks may not transfer culturally she will let you know that, by saying something like, "The interpreter is not sure that the concept of a jury is being understood." I recommend the cultural profiles of major immigrant groups at www.xculture.org. They are written for doctors but have a lot of pertinent information about common misunderstandings. On the culture note please avoid the use of sports metaphors and idioms in general, such as out of the frying pan and in to the fire. These generally don't transfer well.

Bilingual clients and attorneys. Beware, if the client speaks some English they may think that they are understanding what you are saying in English when in fact they don't. Imagine if you were living in a foreign country where you spoke some basic Farsi, say, even if you had been there for years, would you really be able to conduct legal business in that language? If the attorney speaks some Farsi, say, it's great to use it for introductions, but unless the attorney has experience in and is comfortable with legal terminology in that language it is safest to use an interpreter.

Interruptions. Please do not speak before the interpreter has finished. The notes she takes are very cryptic and only serve to guide her memory for the next few moments. If you throw her off track she will probably not be able to reconstruct what your client said and that information will be lost, since we know that clients never repeat themselves exactly. Please wait until she has finished interpreting before responding, even if you think that the information she is interpreting from your client is irrelevant. There may be some nugget of information there that is useful, and it will help keep the interpreter centered and focused if you do not interrupt her. If your client is rambling a lot please wait until the interpreter is done and then ask your client to please give short direct answers to your questions only. If your client is interrupting the interpreter please give them the same instruction through the interpreter.

Register. Early on ask your client what their educational level is and what experience they have with the legal system so that you can keep the literacy level of your client in mind. If you are speaking in legalese in English the interpreter must render it in legalese in the target language. Some immigrant groups are more likely to have a much lower level of education. Don't assume this though, the best thing to do is simply ask them how many years of schooling they've had. If they say 3 that does not generally mean 3 years of higher education, it may well mean that they've only been through the third grade. If they say a very low number like that you might ask them if they are comfortable reading and writing in their own language. But don't automatically dumb it down just because they are an immigrant, they may in fact be a PhD.

Legal concepts. Many immigrants come from vastly different legal systems, and may not understand basic legal concepts here. I highly recommend an outstanding book that outlines the common misunderstandings about the criminal courts held by several major immigrant groups and what basic explanations are helpful for each group. The book is *Immigrants in Courts* by Joanne Moore, published by the University of Washington Press. The University of Washington bookstore will mail it to you in the U.S. with no shipping charge, they are at 1-800-335-READ, www.bookstore.washington.edu.

Breaks. The interpreter may be sitting still, but an extraordinary number of her cognitive wheels are spinning. Interpreter fatigue can have a great effect on the quality of interpretation services, so please offer frequent breaks, water, and do not schedule overly long appointments. In an ideal world interpreters work in teams and alternate every 20 minutes. Realistically you might provide short breaks every hour and not expect an interpreter to work for more than 2 and a half hours steadily.

Comments. Please don't ask the interpreter to comment on the content of the meeting or the case, as this is against our code of ethics. Instead when the appointment is over is complete, don't be afraid to provide constructive feedback to the interpreter and ask her if she has any tips for you. We can always improve!

Interpreter scenarios to watch out for and how to respond

If communication seems vague and unclear, and your client's answers don't correspond to your questions stop and inquire of the interpreter if in fact they are able to communicate well with the client. Perhaps the source communication from the client is also unclear, or they may be having some other difficulty that clouds communication, such as mental illness issues. It may be that the client speaks an indigenous language and speaks, for example, Spanish only as a second language but was embarrassed to admit this to the interpreter when initially asked. Or you may have an interpreter who is in over her head.

The most common complaint about unprofessional interpreters is that they seem to be abbreviating. Some languages do simply take much longer to speak. It takes 6 times longer to say something in Russian than in Chinese. However if there are several instances where a long statement is rendered with a very short interpretation stop and express your concern to the interpreter and reiterate that they interpret fully and exactly. Similarly if the interpretation seems much longer than your client's statement you might stop and make sure the interpreter is not adding anything.

There should not be any back and forth conversation between the interpreter and your client. If the interpreter needs to ask the client what a term they have used means, or couldn't make out what the client said and needs a repetition, the interpreter should tell you that this is what she is doing, with something like, "The interpreter needs to clarify a term used". If there is unexplained cross-talk stop and ask the interpreter to explain the discussion and remind her to please interpret everything completely.

Other scenarios to watch out for:

- Interpreter is coaching the client (uses body language to suggest answer)
- Mumbling client or interpreter
- Can't understand the interpreters English
- Interpreter using He says, she says
- Interpreter looks lost with terminology but doesn't say so

In general I suggest that you address these problems by briefly stating the problem, reminding them of the value, and requesting a clear solution.

Problem: Be specific, describe the behavior don't judge or label it, don't label the person

Value: In this scenario this is almost always clear communication, or direct, effective, etc.

Solution: Be specific, describe the behavior or give an example.

Example: Interpreter, I just heard my client give a long answer in Russian and you just rendered it in English with only 3 words. I want to be sure everything is communicated accurately and completely, please give me a full interpretation of absolutely everything that my client says. What exactly did my client just say?

One last reminder of my pet peeve: Interpretation is oral and Translation is written.

KING COUNTY SUPERIOR COURT INTERPRETER PAYMENT PROCEDURES

Payment for interpretation services are subject to the following guidelines. These guidelines can be exceeded only in extraordinary circumstances and only with written authorization of the court.

- (A) (1) The Court will provide interpreters for the deaf and hard of hearing in civil and criminal cases per Revised Code of Washington (RCW) Chapter 2.42.
- (2) In criminal matters, the Court will provide interpreters for non-English speaking parties in criminal cases per RCW Chapter 2.43.
- (3) In civil matters, for non-English speaking parties or witnesses, the Court will provide an interpreter at public expense if the party requesting interpreter services proves indigency through completion of an In Forma Pauperis (IFP) form and Financial Disclosure form. The Court will pay a maximum of one (1) hour service for an interpreter to assist in document preparation.
- (4) In Family Law matters, the Audit and Interpreter Committees have given Family Law Commissioners the authority to make findings of indigency and approve the appointment of interpreters at public expense in Family Law matters up to \$300 per case.
- (5) In dependency matters:
 - (a) Deaf and Hard of Hearing: The court will pay for sign interpreters for both at-court services and out-of-court attorney preparation.
 - (b) Non-English speaking: The court will pay for out-of-court attorney preparation, but the State Department of Children and Family Services (DCFS) will pay for all at-court services.
 - (c) Speech impediments: The County and the State will each pay one-half of the cost for these services.
- (6) Unified Family Court Planning Conferences

The court will pay for a maximum of one and one half (1 ½) hours service for an interpreter to assist each non-English speaking party at a UFC Planning Conference. At the Planning Conference, the Court will determine whether an

IFP form should be approved for payment of further interpretation services for the parties. In cases where the Department of Children and Family Services (DCFS) is a party to any action which is being heard at the planning conference, standard Interpreter Payment Procedures in dependency matters will apply.

- (B) (1) The court will pay for actual time spent (rounded to the nearest five (5) minute interval) in providing interpreter services including waiting time from the assigned time of arrival as specified by the Office of Interpreter Services until the completion of the services for that event. The interpreter will be paid for a minimum of one-hour service for the first appointment of the day. If service is for more than one hour, or there are subsequent appointments during the day, payment will be based on actual time incurred, rounded to the nearest five (5) minute interval. Interpreters will be paid a second one-hour minimum in cases where they have performed services in the morning and need to return for a second appointment in the afternoon. However, a subsequent appointment, any part of which occurs during the initial hour of service shall not be separately compensated and shall be included in the one-hour minimum compensation.
- (2) Interpreters requested to work at both the Downtown and Regional Justice Center sites on the same day will be compensated in the following manner:
- (a) Interpreters working at both sites during the morning or both sites during the afternoon shall be compensated a total of \$25.00 for travel time and mileage.
 - (b) Interpreters working at one site in the morning and the other site in the afternoon will not be compensated for travel time or mileage between sites.
- (3) Sign Language interpreters for deaf and hard of hearing jurors will be compensated as follows:
- (a) If the deaf or hard of hearing juror is selected, Superior Court will pay for all time during which interpretation services were rendered, or for four days, whichever is greater.
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- (b) If the deaf or hard of hearing juror serves less than four days, the Court will pay for the interpreters' time secured for four days less the time for which the interpreters are able to find work. (The four days of interpretation services secured are for two days of mandatory jury duty and two succeeding days of possible trial time.) The interpreters will provide written verification to the Court that they were not able to secure any replacement work for any of the cancelled time.
 - (4) The Office of Interpreter Services has the authority to approve payment of interpreter services that may occur under 'Special Circumstances' not otherwise covered under these policies. Authorization for payment will be accompanied by either documentation and/or written explanation attached to the interpreter's voucher submitted for payment.
- (C) Cancellation policy for matters other than trial:
- In the event of cancellation¹ by the Court², the interpreter³ will only receive payment for reserved time for matters other than trial as follows:
- (1) No payment shall be made if the interpreter is notified more than 24 hours prior to the start time of the requested service that interpretation services are no longer needed.
 - (2) If the interpreter has been reserved by the Superior Court Office of Interpreter Services for more than three (3) hours, then the interpreter shall be paid three (3) hours, or for the actual time spent waiting for notification of cancellation after the scheduled service delivery time, whichever is greater.
 - (3) If the interpreter is scheduled by the Superior Court Office of Interpreter Services for less than three (3) hours, the interpreter shall be paid for the time scheduled or the actual time waiting for notification of cancellation after the scheduled service delivery time, whichever is greater.
 - (4) In the event that an interpreter appears at the Family Law Calendar upon

¹ Cancellation. Termination of reserved time without provision of services.

² Court: means the King County Presiding Judge, the Criminal Presiding Judge, the Superior Court Judges, the Office of Interpreter Services, the King County Superior Court Administrator or their designated agents.

³ Interpreter: means any certified or qualified interpreter for the deaf, hard of hearing or non-English speaker as defined by RCW 2.4 and 2.43.

request of the Court's Office of Interpreter Services and the party fails to appear, the commissioner is authorized to approve the interpreter's appearance fee (up to a maximum of 1½ hours) even though no IFP form has been entered.

If the Court is able to utilize the interpreter's services for any other matter during this "canceled time", then the interpreter will be paid for at least the amount set forth above or for the alternate service, whichever is greater. For example, an interpreter is scheduled for 4 hours and the appointment is canceled when the interpreter shows up to work. The Court finds work for 2 hours of the interpreter's time. Under the provisions of this policy, the interpreter would receive 2 hours of pay for actual time worked plus an additional 1 hour of cancellation time.

(D) Reserved Time for a Trial for Interpreters for Litigants and Impaneled Jurors:

In the event of cancellation by the Court, the interpreter will only receive payment for service as follows:

- (1) No payment shall be made if the interpreter is notified more than 24 hours prior to the start time of the requested time that the interpreter's services are no longer needed.
- (2) If the interpreter has been reserved for more than three (3) hours for a trial by the Superior Court Office of Interpreter Services and the trial ends sooner than expected, the interpreter shall be paid for three (3) hours beyond the time of actual service.

(E) Payment process

- (1) An original Superior Court Interpreter Service Voucher form shall be used in all cases for payment, not to exceed \$35/hr for non-certified or \$45/hr for a Washington State Court certified interpreter.
 - (2) In civil cases, the Superior Court Interpreter Service Voucher form must include written notification that an order appointing an interpreter in forma pauperis has been approved.
 - (3) In cases exceeding the standard payment rates, a Superior Court Motion, Affidavit and Order Authorizing Service at Public Expense shall be approved by
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the Court prior to performance of interpretation services. The original Superior Court Interpreter Service Voucher form must be accompanied by a copy of the approved order before payment will be rendered. The Office of Interpreter Services may authorize payment exceeding the standard rates in 'Special Circumstances.' [See (B) (4)]

- (4) Vouchers must be submitted within thirty (30) days of date of interpreter service rendered or the voucher may not be honored and paid. If voucher is submitted and paid after the thirty days, a research fee of \$15.00 or 10% of the amount due, whichever is greater, will be deducted from the amount due and paid.
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Page 1

West's RCWA 2.42.010

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West's Revised Code of Washington Annotated Currentness

Title 2. Courts of Record (Refs & Annos)

Chapter 2.42. Interpreters in Legal Proceedings (Refs & Annos)

→ 2.42.010. Legislative declaration--Intent

It is hereby declared to be the policy of this state to secure the constitutional rights of deaf persons and of other persons who, because of impairment of hearing or speech, are unable to readily understand or communicate the spoken English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the appointment of such interpreters.

CREDIT(S)

[1989 c 358 § 12; 1983 c 222 § 1; 1973 c 22 § 1.]

HISTORICAL AND STATUTORY NOTES

Severability--1989 c 358: See note following RCW 2.43.010.

Laws 1983, ch. 222, § 1, following "impairment of hearing or speech" inserted ", or non-English-speaking cultural background" and preceding "language" inserted "English".

Laws 1989, ch. 358, § 12, in the first paragraph, following "speech," deleted "or non-English speaking cultural background".

LIBRARY REFERENCES

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C.J.S. Criminal Law § 1152.

C.J.S. Trial § 95.

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5A Wash. Prac. Series § 604.1, Purpose and History of Rule 604.

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West's Revised Code of Washington Annotated Currentness
 Title 2. Courts of Record (Refs & Annos)
 → Chapter 2.42. Interpreters in Legal Proceedings (Refs & Annos)

2.42.010. Legislative declaration--Intent

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It is the intent of the legislature in the passage of this chapter to provide for the appointment of such interpreters.

2.42.020. Repealed by Laws 1991, ch. 171, § 5

2.42.030. Repealed by Laws 1991, ch. 171, § 5

2.42.040. Repealed by Laws 1991, ch. 171, § 5

2.42.050. Oath

Every qualified interpreter appointed under this chapter in a judicial or administrative proceeding shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or other agency conducting the proceedings, to the best of the interpreter's skill and judgment.

2.42.110. Definitions

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Impaired person" means a person who, because of a hearing or speech impairment, cannot readily understand or communicate in spoken language; and includes persons who are deaf, deaf and blind, speech impaired, or hard of hearing.

(2) "Qualified interpreter" means a visual language interpreter who is certified by the state or is certified by the registry of interpreters for the deaf to hold the comprehensive skills certificate or both certificates of interpretation and transliteration, or an interpreter who can readily translate statements of speech impaired persons into spoken language.

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(3) "Intermediary interpreter" means a hearing impaired interpreter who holds a reverse skills certificate by the state or is certified by the registry of interpreters for the deaf with a reverse skills certificate, who meets the requirements of RCW 2.42.130, and who is able to assist in providing an accurate interpretation between spoken and sign language or between variants of sign language by acting as an intermediary between a hearing impaired person and a qualified hearing interpreter.

(4) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision.

2.42.120. Appointment, pay

(1) If a hearing impaired person is a party or witness at any stage of a judicial or quasi-judicial proceeding in the state or in a political subdivision, including but not limited to civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a hearing impaired person may be subject to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

(2) If the parent, guardian, or custodian of a juvenile brought before a court is hearing impaired, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

(3) If a hearing impaired person participates in a program or activity ordered by a court as part of the sentence or order of disposition, required as part of a diversion agreement or deferred prosecution program, or required as a condition of probation or parole, the appointing authority shall appoint and pay for a qualified interpreter to interpret exchange of information during the program or activity.

(4) If a law enforcement agency conducts a criminal investigation involving the interviewing of a hearing impaired person, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. Whenever a law enforcement agency conducts a criminal investigation involving the interviewing of a minor child whose parent, guardian, or custodian is hearing impaired, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(5) If a hearing impaired person is arrested for an alleged violation of a criminal law the arresting officer or the officer's supervisor shall, at the earliest possible time, procure and arrange payment for a qualified interpreter for any notification of rights, warning, interrogation, or taking of a statement. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(6) Where it is the policy and practice of a court of this state or of a political subdivision to appoint and pay counsel for persons who are indigent, the appointing authority shall appoint and pay for a qualified interpreter for hearing impaired persons to facilitate communication with counsel in all phases of the preparation and presentation of the case.

2.42.130. Source of interpreters, qualifications

(1) If a qualified interpreter for a hearing impaired person is required, the appointing authority shall request a qualified interpreter and/or an intermediary interpreter through the department of social and health services, office of deaf services, or through any community center for hearing impaired persons which operates an interpreter referral service. The office of deaf services and these community centers shall maintain an up-to-date list or lists of

interpreters that are certified by the state and/or by the registry of interpreters for the deaf.

(2) The appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the hearing impaired person, that the interpreter is able in that particular proceeding, program, or activity to interpret accurately all communication to and from the hearing impaired person. If at any time during the proceeding, program, or activity, in the opinion of the hearing impaired person or a qualified observer, the interpreter does not provide accurate, impartial, and effective communication with the hearing impaired person the appointing authority shall appoint another qualified interpreter. No otherwise qualified interpreter who is a relative of any participant in the proceeding may be appointed.

2.42.140. Intermediary interpreter, when

If the communication mode or language of the hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the appointing authority who shall appoint and pay an intermediary interpreter to assist the qualified interpreter.

2.42.150. Waiver of right to interpreter

(1) The right to a qualified interpreter may not be waived except when:

- (a) A hearing impaired person requests a waiver through the use of a qualified interpreter;
- (b) The counsel, if any, of the hearing impaired person consents; and
- (c) The appointing authority determines that the waiver has been made knowingly, voluntarily, and intelligently.

(2) Waiver of a qualified interpreter shall not preclude the hearing impaired person from claiming his or her right to a qualified interpreter at a later time during the proceeding, program, or activity.

2.42.160. Privileged communication

(1) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any communication the interpreter interprets under circumstances where the communication is privileged by law.

(2) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any information the interpreter obtains while interpreting pertaining to any proceeding then pending.

2.42.170. Fee

A qualified and/or intermediary interpreter appointed under this chapter is entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The fee for services for interpreters for hearing impaired persons shall be in accordance with standards established by the department of social and health services, office of deaf services.

2.42.180. Visual recording of testimony

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At the request of any party to the proceeding or on the appointing authority's initiative, the appointing authority may order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use in verification of the official transcript of the proceeding.

In any judicial proceeding involving a capital offense, the appointing authority shall order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use in verification of the official transcript of the proceeding.

2.42.200. Recodified as § 2.43.010 by Laws 1990, ch. 183, § 2

2.42.210. Recodified as § 2.43.020 by Laws 1990, ch. 183, § 2

2.42.220. Recodified as § 2.43.030 by Laws 1990, ch. 183, § 2

2.42.230. Recodified as § 2.43.040 by Laws 1990, ch. 183, § 2

2.42.240. Recodified as § 2.43.050 by Laws 1990, ch. 183, § 2

2.42.250. Recodified as § 2.43.060 by Laws 1990, ch. 183, § 2

2.42.260. Recodified as § 2.43.070 by Laws 1990, ch. 183, § 2

2.42.270. Recodified as § 2.43.080 by Laws 1990, ch. 183, § 2

Current with 2006 legislation effective through May 8, 2006
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West's Revised Code of Washington Annotated Currentness

Title 2. Courts of Record (Refs & Annos)

→ Chapter 2.43. Interpreters for Non-english-speaking Persons (Refs & Annos)

2.43.010. Legislative intent

It is hereby declared to be the policy of this state to secure the rights, constitutional or otherwise, of persons who, because of a non-English-speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the use and procedure for the appointment of such interpreters. Nothing in chapter 358, Laws of 1989 abridges the parties' rights or obligations under other statutes or court rules or other law.

2.43.020. Definitions

As used in this chapter:

- (1) "Non-English-speaking person" means any person involved in a legal proceeding who cannot readily speak or understand the English language, but does not include hearing-impaired persons who are covered under chapter 2.42 RCW.
- (2) "Qualified interpreter" means a person who is able readily to interpret or translate spoken and written English for non-English-speaking persons and to interpret or translate oral or written statements of non-English-speaking persons into spoken English.
- (3) "Legal proceeding" means a proceeding in any court in this state, grand jury hearing, or hearing before an inquiry judge, or before an administrative board, commission, agency, or licensing body of the state or any political subdivision thereof.
- (4) "Certified interpreter" means an interpreter who is certified by the administrative office of the courts.
- (5) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision thereof.

2.43.030. Appointment of interpreter

- (1) Whenever an interpreter is appointed to assist a non-English-speaking person in a legal proceeding, the appointing authority shall, in the absence of a written waiver by the person, appoint a certified or a qualified interpreter to assist the person throughout the proceedings.
- (a) Except as otherwise provided for in (b) of this subsection, the interpreter appointed shall be a qualified interpreter.

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(b) Beginning on July 1, 1990, when a non-English-speaking person is a party to a legal proceeding, or is subpoenaed or summoned by an appointing authority or is otherwise compelled by an appointing authority to appear at a legal proceeding, the appointing authority shall use the services of only those language interpreters who have been certified by the administrative office of the courts, unless good cause is found and noted on the record by the appointing authority. For purposes of chapter 358, Laws of 1989, "good cause" includes but is not limited to a determination that:

(i) Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of a certified interpreter are not reasonably available to the appointing authority; or

(ii) The current list of certified interpreters maintained by the administrative office of the courts does not include an interpreter certified in the language spoken by the non- English-speaking person.

(c) Except as otherwise provided in this section, when a non- English-speaking person is involved in a legal proceeding, the appointing authority shall appoint a qualified interpreter.

(2) If good cause is found for using an interpreter who is not certified or if a qualified interpreter is appointed, the appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the non-English-speaking person, that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:

(a) Is capable of communicating effectively with the court or agency and the person for whom the interpreter would interpret; and

(b) Has read, understands, and will abide by the code of ethics for language interpreters established by court rules.

2.43.040. Fees and expenses--Cost of providing interpreter

(1) Interpreters appointed according to this chapter are entitled to a reasonable fee for their services and shall be reimbursed for actual expenses which are reasonable as provided in this section.

(2) In all legal proceedings in which the non-English-speaking person is a party, or is subpoenaed or summoned by the appointing authority or is otherwise compelled by the appointing authority to appear, including criminal proceedings, grand jury proceedings, coroner's inquests, mental health commitment proceedings, and other legal proceedings initiated by agencies of government, the cost of providing the interpreter shall be borne by the governmental body initiating the legal proceedings.

(3) In other legal proceedings, the cost of providing the interpreter shall be borne by the non-English-speaking person unless such person is indigent according to adopted standards of the body. In such a case the cost shall be an administrative cost of the governmental body under the authority of which the legal proceeding is conducted.

(4) The cost of providing the interpreter is a taxable cost of any proceeding in which costs ordinarily are taxed.

2.43.050. Oath

Before beginning to interpret, every interpreter appointed under this chapter shall take an oath affirming that the interpreter will make a true interpretation to the person being examined of all the proceedings in a language which the person understands, and that the interpreter will repeat the statements of the person being examined to the court

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or agency conducting the proceedings, in the English language, to the best of the interpreter's skill and judgment.

2.43.060. Waiver of right to interpreter

(1) The right to a qualified interpreter may not be waived except when:

- (a) A non-English-speaking person requests a waiver; and
- (b) The appointing authority determines on the record that the waiver has been made knowingly, voluntarily, and intelligently.

(2) Waiver of a qualified interpreter may be set aside and an interpreter appointed, in the discretion of the appointing authority, at any time during the proceedings.

2.43.070. Testing, certification of interpreters

(1) Subject to the availability of funds, the administrative office of the courts shall establish and administer a comprehensive testing and certification program for language interpreters.

(2) The administrative office of the courts shall work cooperatively with community colleges and other private or public educational institutions, and with other public or private organizations to establish a certification preparation curriculum and suitable training programs to ensure the availability of certified interpreters. Training programs shall be made readily available in both eastern and western Washington locations.

(3) The administrative office of the courts shall establish and adopt standards of proficiency, written and oral, in English and the language to be interpreted.

(4) The administrative office of the courts shall conduct periodic examinations to ensure the availability of certified interpreters. Periodic examinations shall be made readily available in both eastern and western Washington locations.

(5) The administrative office of the courts shall compile, maintain, and disseminate a current list of interpreters certified by the office.

(6) The administrative office of the courts may charge reasonable fees for testing, training, and certification.

2.43.080. Code of ethics

All language interpreters serving in a legal proceeding, whether or not certified or qualified, shall abide by a code of ethics established by supreme court rule.

Current with 2006 legislation effective through May 8, 2006
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