

HOW TO WORK WITH INTERPRETERS AND ADDRESS PROBLEMS

PREPARING THE CLIENT ABOUT WORKING WITH AN INTERPRETER

1. Assess a client's English fluency/lack of proficiency objectively.

Does a victim speak English well enough to:

- a. Tell a story and answer questions?
- b. Listen to communications in English and understand them?
- c. Be understood by the court?
- d. Understand everyone in the court (considering regional accents, speed, etc)?

If client doesn't want an interpreter because she/he speaks some English; explain that limited English isn't enough to understand court proceedings.

2. Prepare client to understand court and interpretation procedures: this increases empowerment; remember the interpreter is a conduit for telling a victim's story.
3. Explain the interpretation process to the client, specifically:
 - a. The interpreter is a conduit
 - b. Speak 1-2 sentences at a time, speak clearly
 - c. The interpreter may ask you to slow down, or repeat something
 - d. Don't interrupt interpreter, let her/him finish
 - e. The interpreter will interpret everything
 - f. Don't ask the interpreter not to interpret something
 - g. Don't ask questions or raise concerns to interpreter, ask the speaker
 - h. Don't have side conversations with interpreter
4. If advocate is going to have to interpret, explain: "I'll be in a different role, I will repeat everything that's said whether it is true or not."

PRE-SESSION PREPARATION BETWEEN ADVOCATE & INTERPRETER

1. Schedule additional time for any meeting where an interpreter is needed.
2. Check with interpreter and client before interview that they do not know each other.
3. Inform the interpreter in advance about the nature of the proceeding, who is involved, special terminology or vocabulary that will be used, etc. so the interpreter is well prepared.
4. English fluency is essential for competent interpretation. Difficulty speaking and understanding English is a strong indication that the interpreter is not qualified. If you and the interpreter are having difficulty communicating in English, then you should get another interpreter.
5. Let interpreter speak briefly to LEP person to size up their communicative style and needs (i.e., 'register'); that way interpreter can make necessary adjustments to improve communication.
6. For telephonic interpretation, ask interpreter for her/his identification number.
7. For untrained community/ad hoc interpreters:
 - a. Assess if they have knowledge, skills and abilities to do the job.

b. Instruct them:

- Do interpret everything: do not omit, edit, guess, or polish what is said
- Do ask speakers to pause, slow down, repeat, clarify
- Don't answer for LEP person
- Don't explain, restate or answer questions to client, have side conversations or give advise, even if client asks you – interpret everything back

IN THE INTERVIEW

1. Speak directly to and maintain eye contact with LEP individual.
2. Use first person.
3. Use plain English, avoid jargon, do not use acronyms.
4. Speak slowly and clearly with regular pauses.
5. Speak one sentence at a time (sentence-by-sentence interpretation may seem awkward, but a rhythm is quickly established, and the interview flows smoothly).
6. Ask one question at a time.
7. Allow the interpreter to finish interpreting before speaking again.
8. Don't allow the interpreter to answer for the LEP person.
9. Don't ask interpreter to explain, restate, or not interpret something that was said.
10. If you think the interpreter is editing, adding, subtracting, or summarizing remind the interpreter to repeat everything that is said.
11. To fill out forms or review documents, ask interpreter to provide sight translation of written materials. The interpreter should only be translating the written material verbally for the LEP person. The interpreter should not be filling out the forms for the LEP person, or answering any questions about the forms. Any questions should be directed to the advocate.
12. Cues that the interpretation is not going well are:¹
 - a. Interpretation is too short or too long.
 - b. Interpreter keeps asking for information to be repeated or clarified.
 - c. Interpreter is having side conversations with client.
 - d. Client corrects or seems to disagree with interpreter.
 - e. Client starts speaking in broken English.
13. If you're having trouble understanding the interpreter's English, ask for clarification. If you're still having problems get a different interpreter.
14. Debrief with interpreter at the end about how the interview went and any concerns; this helps all parties work better together.
15. Do not ask interpreters to:
 - a. Explain procedures, forms, or services.
 - b. Take LEP individual they are interpreting for to an office, counter, or appointment.
 - c. Console, set at ease, or reassure LEP clients to help them cope with difficult testimony or proceedings.
 - d. Provide cultural explanations or information because the interpreter 'understands' the client's culture.

¹ *Working with Interpreters* (n.d.) Vera Institute of Justice

ADDRESSING PROBLEMS

Document the Problem, Take Notes On

- Inaccuracies, errors, omissions, summaries, incorrect terminology
- Gender, cultural, or class biases
- Conflicts of interest, lack of neutrality and other impediments to compliance
- Breaches of confidentiality
- Interpreters stepping out of role and giving advice, trying to influence victims

Explain How You Identified the Problem

- Based on what the client has told you
- You speak the target foreign language and have detailed notes
- You do not speak the foreign language but took notes on your concerns and then debriefed with the client to determine what went wrong
- You obtained information from client, family, or community informants
- You reviewed case transcripts of proceedings, and compared the transcripts to what the client and/or other witnesses told you

1. Problems with Quality of Interpretation

Most problems arise from using bilingual speakers untrained to interpret; these include:

- a. *Lack of fluency.* Interpreter is not fluent in English and/or foreign language.
- b. *Lack of accuracy.* Incomplete interpretation, interpreter cannot keep up with subject matter, is ignorant of specialized terminology, is uncomfortable with domestic or sexual violence terms, etc.
- c. *Lack of neutrality.* Interpreter gives advice, doesn't reveal a conflict of interest.
- d. *Breaking confidentiality.* Interpreter discusses or shares case information.
- e. *Allowing personal and cultural bias.* Interpreter's biases filter and/or change what is said.
- f. *Providing 'cultural interpretation.'* Explaining cultural practices, offering themselves up as cultural experts, reflecting their own or their larger ethnic community's cultural biases.
- g. *Allowing gender bias.* Blaming victims, emphasizing traditional roles for women, admonishing them for asserting their rights.

2. Other Problematic Situations

In small communities when an interpreter knows both the victim and batterer:

- a. Interpreter or advocate should disclose this to the court as a potential conflict of interest or bias, and allow the court to make a determination on whether a conflict or bias exists.
- b. Attorneys or advocates should be prepared to suggest an alternative interpreter to the court, e.g., telephonic interpretation by an interpreter from the adjoining county.

If the advocate knows the interpreter assigned to the case is a batterer:

- a. When advocates may have this information through confidential means (e.g., by providing services to interpreter's partner) they cannot publicly state this reason.
- b. Advocate can bring another interpreter to interpret if the court will agree to it.

Report the Problem to...

Advocates should report all problems to the victim's attorney. It is the attorney's role to notify the court about any interpretation issues, and raise the appropriate objections on the record. Only if client is unrepresented, should advocates report problems to others.

- *Victim's Attorney:* If the victim is represented, inform the attorney who will raise the issue with the judge.
- *Officers of the Court:* Write a note describing the issue and give it to the bailiff or court clerk who will alert the judge.
- *Interpretation Services Providers:* Inform court interpreter coordinator (if there is one), agency that provided in-person or telephonic interpreter.
- *Professional Association:* If the interpreter is on a list or is certified, notify the appropriate agency and file a complaint.

What Can Happen Next

- Judge and/or attorneys decide if there is a problem and if a new interpreter is needed.
- For conflicts of interest, the judge assesses the nature of the conflict and whether it will impede the interpreter's ability to interpret.
- Attorneys of either party may decide to take steps to exclude information or testimony marred by poor interpretation.
- Advocate can ask interpretation services agency to assign a different interpreter (for quasi-judicial setting).
- For confidentiality breaches, advocates must take steps to ensure client's safety.

When bilingual advocates are asked to interpret:

- a. Advocates must not interpret at trials, motion hearings, custody hearings, arraignments, or divorce hearings.
- b. Advocates must decline to interpret. If a judge insists that an advocate serve as the interpreter, despite the advocate's objections, the advocate should request that the objection is placed on the record.
- c. Advocates must not interpret if no attempt to find a qualified interpreter (either in-person or for telephonic interpretation) was made before the advocate is asked to interpret.
- d. Advocates must not interpret at attorney-client interviews.
- e. ONLY in the interest of a victim's immediate safety and when a qualified interpreter is not available in person or via telephone, an advocate can step in to interpret.
- f. Advocates who are interpreting must stop when they are:
 - losing the message
 - summarizing because they are unable to retain the information or interpret particular concepts or terminology
 - confused and/or confusing the client
 - finding the vocabulary being used is beyond their language ability.

Resources:

1. **Supreme Court of Ohio Advisory Committee on Interpreter Services.** *The Role of Interpreters in the Legal System.* Training video for judges and new court interpreters on the use of interpreters in the courtroom.
<http://www.supremecourt.ohio.gov/JCS/interpreterSvcs/interpreterVideo.asp>