

Working Effectively with Interpreters

M. Graciela Gonzalez, J.D.

Federal and State Court Certified Spanish Interpreter.

Adjunct Instructor, University of Minnesota,

Program on Translation and Interpreting.

Email: gonz0034@umn.edu



There are more than 150 Languages on the MN Supreme Court's Roster

Afar, Akan, Albanian, American Sign Language, Amharic, Anaang, Anuak, Arabic (Standard), Arabic (Sudanese), Armenian, Bari, Bassa, Behdini, Belarusian, Bengali, Bhojpuri, Bosnian, Bulgarian, Burmese, Catalan-Valencian-Balear, Cebuano, Chhattisgarhi, Chinese (Cantonese), Chinese (Mandarin), Chinese (Hakka), Chinese (Min Nan), Chuukese, Cutchi-Swahili, Czech, Dan, Deaf Relay, Dinka, Dutch, Edo (Benin), Edo (Essan), Efik, Ewe, Farsi (Eastern and Western), Filipino, Finnish, Flemish, French, Fulfulde, Gbandi, Georgian, German, Gikuyo, Gola, Grebo, Greek, Gujarati, Haitian Creole, Harari, Hausa, Hebrew, Hindi, Hmong, Hungarian, Ibibio, Ibibio, Icelandic, Igbo, Indonesian, Italian, Japanese, Jamaican Creole English, Kachchi, Kelenjin, Karen (Pwo Eastern and S'gaw), Kete, Khmer (Central and Northern), Kisi, Kituba, Konkani, Korean, Kosralan, Kepelle (Guinean and Liberian), Krahn, Krio, Kuku, Kurama, Kurdi, Kurdish (Iraq), Lahu, Lao, Latvian, Liberian English, Lingala, Lithuanian, Luba-Kasi, Luba-Katanga, Luo, Maay, Mandinka/Mandingo, Mano, Marathi, Marshalese, Mende, Meta, Mina, Moldovian, Mongolian, Nepali, Nuer, Oromo, Ossetian, Pashto, Pidgin (Cameroon and Nigeria), Polish, Portuguese, Punjabi, Quichua, Romanian, Russian, Sango, Sanskrit, Sapo, Serbo-Croatian, Shilluk, Sign Language (American), Sindhi, Sinhalese, Slovakian, Slovenian, Somali, Soninke, Spanish, Susu, Swahili, Swedish, Tachehit (Berber), Talalog, Telugu, Thai, Tibetan, Tigre, Tigrinya, Tshiluba, Turkish, Twi, Ukrainian, Urdu, Urhobo, Vai, Vietnamese, Wolof, Yorouba.

Finding an Interpreter

- To find an interpreter on the Minnesota State Court Roster, log onto: www.courts.state.mn.us
- On the left-hand side, scroll down and click on “Court Interpreters.”
- Then, on the right-hand side, click on “Find an Interpreter.”
- Follow directions. You can search for a specific interpreter, if you know his/her last name; or you can search for interpreters of a given language.
- You can also find a qualified interpreter contracting with a reputable agency.



Tips for Working with Interpreters

DO :

- **Do** allow the interpreter to remain within his or her role.
- **Do** speak directly to the client/witness.
- **Do** try to simplify legal language.
- **Do** speak clearly and loudly.
- **Do** ask simple, direct questions.
- **Do** slow down your rate of speaking. Brief pauses are very helpful too.
- **Do** make sure only one person speaks at a time.
- **Do** take frequent breaks.

DON'T:

- **Don't** ask the interpreter to explain anything to anybody.
- **Don't** say "Ask her if she went..."
- **Don't** use complicated terms or sentences.
- **Don't** whisper or mumble: The int. has to hear your voice over his/her own voice.
- **Don't** ask convoluted questions.
- **Don't** speak at your normal rate.
- **Don't** speak when others are speaking.
- **Don't** exhaust the interpreter.



Tips for Working with Interpreters

- **Do** allow interpreter to take notes and use dictionaries.
- **Do** assure that the interpreter can communicate effectively with your client.
- **Do** provide interpreters with copies of reports, pleadings and other documents to review ahead of time.
- **Do** note any concerns about the quality of interpretation on the record.
- **Do** inform the Court about any interpreter concerns.
- **Do** check into the qualifications of the interpreter.
- **Don't** think an interpreter is not qualified because he/she needs to consult dictionary or partner.
- **Don't** assume that everyone who speaks the same language can understand each other.
- **Don't** assume that unprepared sight translation is easy, and don't presume the interpreter can handle technical terminology w/o preparation.
- **Don't** simply address these concerns outside of the proceedings if you may want to appeal.
- **Don't** fail to complain about interpreter misconduct.
- **Don't** assume that the interpreter is competent only because s/he is in court or was sent by an agency. **Trust but verify.**



Important Elements

Paralinguistic and other elements:

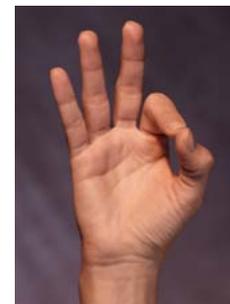
- Facial expressions and gestures **not** at the same time as words.
- Interpreted speech lags behind the speaker.
- Tone of voice: fear, anger, sadness, mistrust.
- Pauses, hesitations, false starts.
- Subtlety: A **punch**, a **slap**, a **spank**; to **shove** v. to **push**, etc.

Did the vehicles **bump**, **collide**, **crash** or a **smash** into each other?

Did the window **crack**, **break** or **shatter**?)

Ambiguity; Gender; Verb tense; Register.

You!



Slips of the Ear

- Some sounds cause problems for people whose native language is not English. For example, words that start with “th.”
- Homophones: miner/minor, hose/hoes, break/brake, riser/raiser, pole/ poll/ Pole. Int. has to be able to select **the** correct word/s from different alternatives. Examples: ***a greenhouse or a green house; a dark room or a darkroom***, etc.



When is an Interpreter Necessary?

- **Minn. Stat. 611.30 provides:**

“RIGHT TO INTERPRETER, STATE POLICY.

It is hereby declared to be the policy of this state that the constitutional rights of persons disabled in communication cannot be fully protected unless qualified interpreters are available to assist them in legal proceedings. It is the intent of sections [611.30](#) to [611.34](#) to provide a procedure for the appointment of interpreters to avoid injustice and to assist persons disabled in communication in their own defense.”



Person disabled in communication

- **611.31 Disabled Person.**

“... *person disabled in communication* means a person who: (1) because of a hearing, speech or other communication disorder, or (2) because of difficulty in speaking or comprehending the English language, cannot fully understand the proceedings or any charges made against the person, or the seizure of the person's property, or is incapable of presenting or assisting in the presentation of a defense.”

See also Minn. Stat. 546.42 (2009)



Proceedings where Interpreter Appointed

- **Subd. 1. Qualified interpreter.**

In a civil action in which a disabled person is a litigant or witness, the presiding judicial officer shall appoint a qualified interpreter to serve throughout the proceedings.

- **Subd. 2. Interpreter required.**

In a proceeding before a board, commission, agency, or licensing authority of the state, or of a political subdivision of the state, where a witness or the principal party in interest is a disabled person, all of the proceedings that are pertinent shall be interpreted in a language the disabled person understands by a qualified interpreter appointed by the board, commission, agency, or licensing authority.

Minn. Stat. 546.43



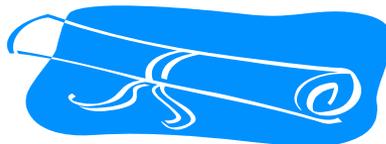
Qualified Interpreter

- **611.33 Subd 1. Qualifications.**

“No person shall be appointed as a qualified interpreter pursuant to sections ... unless said person is readily able to communicate with the disabled person, translate the proceedings for the disabled person, and accurately repeat and translate the statements of the disabled person to the officials before whom the proceeding is taking place.

- **611.34 Applicability to all Courts.**

The provisions of sections [611.30](#) to [611.34](#) shall apply to all courts in this state and political subdivisions thereof.



Useful Resources

The Minnesota Supreme Court's website has useful information regarding case law, etc.

Go to: www.courts.state.mn.us

On the **left** hand side click on "Court interpreters." Then, on the **right** hand side, click on "Tools for Judges & Attorneys." You can choose from the following list:

- Best Practices Manual on Interpreters.
- Minnesota caselaw.
- Interpreter JIGs.
- Statutes.
- Rules
- Code of Professional Responsibility for Court Interpreters.



Code of Ethics for Interpreters

1. Accuracy and completeness.
2. Representation of qualifications.
3. Impartiality and avoidance of conflict of interest.
4. Professional demeanor.
5. Confidentiality.



Code of Ethics for Interpreters

6. Restriction of public comment.
7. Scope of practice.
8. Assessing and reporting impediments to performance.
9. Duty to report ethical violations.
10. Professional development.



Interpreters Wield Considerable Power

- Often, the interpreters are the only people in the courtroom or the office who understand all parties and both cultures.
- Interpreters put words in people's mouths, and those words may be dispositive of the claim.
- *What* is said may not be as important as *how* it is said, and the interpreter controls *what* is said and *how* it is said.



The Attorney's Responsibility

- Attorneys and other users play a crucial role in assuring quality interpretation/translation.
 - ◇ Demand trained and experienced interpreters, and voir dire the interpreter.
 - ◇ Set clear expectations and clear rules for the interpreter.
 - ◇ Explain the rules to your client and ask him/her to let you know immediately if they do not understand anything.



The Attorney's Responsibility

- Establish ahead of time what the interpreter may or may not do if s/he becomes aware of misunderstandings or cultural barriers during the trial, interview, mediation, hearing or proceeding.
- Interpreters need to be reminded that if they come across a legal concept they cannot translate into their language without an explanation, they need to alert the court or the attorney instead of providing explanations on their own.



The Attorney's Responsibility

- Make a record of all objections to interpreter qualifications or quality of interpretation. You cannot raise these issues on appeal. (See Doan v. Medtronic, Inc., 560 N.W.2d 100, 107 (Minn. Ct. App., 1997) (review denied).
- Minnesota courts are required to appoint only certified interpreters, unless the court made diligent efforts and no certified interpreter was available. (See MN GENERAL RULES OF PRACTICE FOR THE DISTRICT COURTS, Rule 8 (2006), available at www.courts.state.mn.us/rules/general/GRtitleI.htm#g8)





Culture and your Client

- We tend to see only through lenses colored by our own culture and close our eyes to the other's culture.
- Silence, words, gestures or lack of eye contact may be misinterpreted by Americans.
- Other cultures may not answer questions directly but tell a meandering story that an American listener may take as unresponsive or untruthful.
- Some witnesses may be confused or even offended by probing questions during cross-examination and withdraw into silence.
- Many foreign language-speaking people are illiterate or have had little education, and they are unfamiliar with the American legal system.



Allow the Interpreter to Remain within Her/His Proper Role

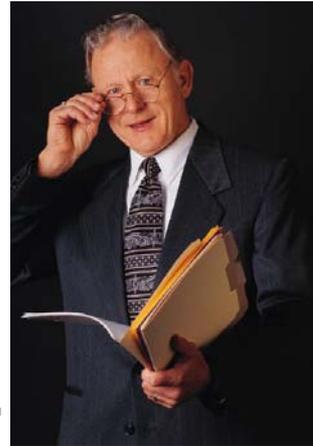
- Do not ask the interpreter to explain/tell anything to any party; no matter how pressed you are for time. Always follow the “**Rule of Three.**”
- **Never** ask for the interpreter’s opinion.
- The interpreter is not a culture broker but merely a conduit for successful communication.
- The interpreter is not an advocate for any party.
- Do not engage the interpreters in conversation during court proceedings.



Give the Interpreter Access to the File or Documents

Reports, written motions, forms, etc.

- Allows an opportunity for the interpreter to look up technical vocabulary in advance.
- Or give the interpreter a quick overview of the specialized vocabulary s/he will encounter.
- **Ask the Court to appoint the same interpreters** for the duration of the trial.



Make sure the interpreter and all parties or witness have compatible dialects.

- They should speak briefly to check linguistic compatibility or identify differences.
- All languages, even sign language.



Avoid Acronyms & Legalese or at Least *Define* Them



- DLI
- QRC
- ICEC
- RRP
- TTD
- TPD

- MSRB
- OSHA
- SONAR
- CCLD
- SCF



- WCAC
- FMLA
- NLRB
- CCAC
- CFOI
- PPD

Telephone Interpreting: BE CAREFUL!



- Emergent matters only.
- Lasting 30 minutes or less.

Telephone interpreting is unreliable because:

- Non-verbal communication is lost for both the client *AND* the interpreter.
- Agencies do not always hire certified interpreters or those familiar with legal terminology.

Some Troublesome Witnesses

- Witnesses who understand some English and rush to answer before interpreter has finished interpreting.
- Witnesses who speak “Espanglish”.
- Speakers who give long-winded answers.
- Story tellers and meandering speakers.
- Soft spoken witnesses.
- Witnesses who use the third person.



Attorneys Cause Problems Too



- Careful with **jokes**: They do not always translate well into other languages.
- Same for culture-specific references. Example: “You always wanted to see your face on a Wheaties box!”
- **Soft-spoken** or mumbling attorneys.
Please speak up!
- Attorneys who use the **third person**:
“Did he...?”



Attorneys Cause Problems Too

- Convoluting questions. Ex.: “Am I right, am I not...” “You went there, **did you not**, to...” “Please tell the Court, **if you can**, what you saw, **if anything**, when you went to...” “**Is it your testimony today, is it not**, that you cannot recall whether or not...” “**Isn’t it true, is it not?** “**Didn’t you** testify before that it is **not** infrequent **not** to find evidence of the presence of traces of...?”



QUESTIONS?

