

Group Discussion:
Working With Non-Professional /"Ad Hoc" Interpreters
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I. WARM-UP:

- 1) Who do you use as Ad Hoc interpreters?
- 2) In what scenarios have you been using Ad Hoc interpreters?
- 3) Have you experienced problems? Which ones?
- 4) What are some potential dangers/problems with using Ad Hoc interpreters?
- 5) Have you taken any steps, individually or your organization, to make the use of Ad Hoc interpreters more effective and accurate?
- 6) Can you create a profile of who would be acceptable and unacceptable candidates to act as Ad Hoc interpreter in your organization?
- 7) Do you agree with the premise that Ad Hoc untrained/unscreened interpreters should not be used as interpreters in court matters?

Can you rate the following parties as potential Ad Hoc interpreter candidates?

bilingual staff
former clients
relatives of clients
friends of clients
social workers
community organization workers
religious leaders

Please, consider the following factors as you rate them:

Proficiency (legal/linguistic)
Impartiality
Real or perceived conflict of interest
Confidentiality
Modes of interpreting

II. YOUR ORGANIZATION IS USING BILINGUAL STAFF (FULL-TIME, INTERNS, STUDENTS) AS AD HOC INTERPRETERS:

1. Create standards/guidelines for the use of interpreters that you can share with any Ad Hoc or even with trained interpreters who provide services in your organization. Such guidelines could include standards to evaluate your staff's language proficiency.

Examples:

- VOLUNTEER LAWYERS' PROJECT CODE OF PROFESSIONAL CONDUCT FOR INTERPRETERS
- NATIONAL ASSOCIATION OF JUDICIARY INTERPRETERS AND TRANSLATORS CODE OF ETHICS (WWW.NAJIT.ORG)
- CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS OF THE TRIAL COURT (MA) WWW.MASS.GOV/COURTS/ADMIN/PLANNING/INTERPRETERS.HTML

2. Create bilingual glossaries with your standard terminology, translated into the major languages serviced by your organization. You may need assistance from a professional interpreter or a professional translator at this level.

3. Invest IN video material or download videos from YouTube that teach your Ad Hoc interpreters about how trained (legal/medical/ community) interpreters operate.

4. Meet periodically to discuss issues, improve standards, etc. Create a space for both you and the Ad Hoc interpreter staff to learn to work together more effectively.

5. **Recognize the limits** of your Ad Hoc interpreters. Major tasks like translation (written) of legal documents, depositions and in-court matters should always be handled by professional interpreters. Make every effort possible for the court to request an interpreter if you need to go to court with your client. (See *Power Point presentation and Handout from the morning sessions.*)

6. Other?

III. YOUR ORGANIZATION IS USING BILINGUAL NON-STAFF AD HOC INTERPRETERS:

Before the Encounter (Session, Meeting, Etc.)

Conduct a preliminary interview with the Ad Hoc interpreter to inquire about all/some of the following issues:

- Proficiency in your client's language (Is s/he a heritage speaker raised in the USA? Did s/he study the language?)
- Prior interpreting experience or training
- Familiarity with standards of accuracy, impartiality and confidentiality
- Any potential conflict of interest or issues with confidentiality or privacy
- Your client's level of comfort with this person, including their ability to understand each other
- Both your client's and the Ad Hoc interpreter's understanding of the role of the Ad Hoc as an impartial member of the encounter, *unless you determine otherwise.*

During the Encounter

- Sit down in such a way that you and your client have direct eye contact.
- Address questions directly to your client, rather than saying, "Ask her if..."
- Ask the Ad Hoc interpreter to render your client's words directly, as if s/he were the one talking. If the Ad Hoc says, "He says he went to the office yesterday," encourage him to use the first person instead.
- Monitor your client and the interpreter's interaction, and do your best to check for understanding. If you notice they are engaging in private discussions, intervene and ask the interpreter to avoid this.
- Be patient: any interpreted encounter takes longer and much more so with untrained interpreters.
- Speak in plain English avoiding "legalese" and long, compound sentences.
- Avoid acronyms, jokes, figurative language or idioms: they don't translate well! Remember your client, and possibly the Ad Hoc interpreter as well, were not raised in this state or even the USA.
(For instance: Say "the train station" rather than "the T." Say "the Boston Municipal Court" rather than "BMC.")
- If you use legal terms or terms of art, add an explanation of the term so the Ad Hoc interpreter interprets the explanation. Don't assume the interpreter knows the term.
(For instance, say: "The Summary Process will be tomorrow. That is when the Judge will decide if you will be ordered to leave your apartment right away.")

Refer to this morning's handout for more suggestions on working with interpreters effectively.

IV. WORKING WITH AD HOC INTERPRETERS V. WORKING WITH PROFESSIONAL INTERPRETERS.

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Trained interpreters offer you the expectation of a higher level of accuracy in their performance. This includes their ability to correct any error they make.

Untrained interpreters may omit, summarize, change, or embellish information if they think it's helpful or appropriate and without your knowledge. They haven't been assessed or trained to understand standards of practice.

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Trained interpreters will want to review documents, will ask for clarifications and will tell you when they don't know something.

Untrained interpreters may not share with you what they don't know. *They may not have the level of skills to recognize what they don't know.*

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Trained interpreters will show you how to work with them effectively based on their standards and will be transparent.

Untrained interpreters will need your direction and constant monitoring.

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Trained interpreters know they are not advocates.

Untrained interpreters may not know the difference between advocates, fellow community or congregation-based members, and interpreters.

A NOTE ON AGENCY INTERPRETERS:

Quality varies when it comes to interpreters assigned through private agencies. Some agencies provide their interpreters with basic training and are responsive to feedback, while others treat it just as a business and don't give quality much importance. It's a good idea to address a few issues with agency interpreters prior to working with them for the first time, such as:

"What training do you have in interpreting?"

"Are you familiar with interpreters' code of ethics?"

"Do you have any connection with Mrs./Mr. X."

"Please, ask me for clarification if you don't understand a term I use"

It's also a good idea to monitor their impartiality and accuracy during the interpreted encounter. If you notice a breakdown in communication, or personal conversations between the interpreter and your client, you should stop and inquire.

SCENARIO FOR DISCUSSION

Your LEP client arrives at your office with a friend, who says she sometimes interprets for her. You ask the client's friend how they know each other and she says they have been neighbors at the housing complex for a few years and go to the same church.

You have some paperwork your client needs to fill out, that includes a few legal terms. The paperwork also includes an intake form in which your client needs to indicate personal information, such as her household income from her and her spouse. You will need this friend to assist your client with the filling out of the forms, but also with a series of questions you need to ask your client regarding her teenage son's behavior at the housing complex.

- A. **You wonder if your client will be embarrassed to disclose all this personal information in front of her neighbor. What other concerns would you have at this point?
How can you address them?**

Your office has a small rectangular conference table that seats four people. You sit at one end and the friend sits on the same side as your client, closer to you.



Your client is generally shy, but the friend is very outgoing and talkative. As you go over your questions with your client, she looks directly at the friend most of the time and rarely at you. The friend then explains to you what the client told her. You hand over the paperwork you need your client to fill out and ask the friend to translate it orally. They both start talking back and forth and you notice the friend is the one writing down answers on the form.

- B. **Is there anything wrong with this picture?
If there is, how could you intervene to take charge of the situation?**

Your client and her friend leave the room to go to the lavatory. You scan through the notes you have taken so far. You realize there have been several references to the mother-in-law's authority in your client's family, often seeming like she—and not the client or her spouse—dictates discipline, oversees expenses, etc. The friend returns first and you ask her if in their culture it is common for in-laws to have this type of dominant role. The friend gives you a long-winded, cultural explanation on the subject and on your client's mother-in-law. Your client returns, the meeting resumes and you make references to the mother-in-law's unquestioned authority. Your client looks kind of puzzled at the references.

- C. **What role did you just give the friend?
What is wrong with this picture?
Could you have handled this in another way?**

VLP CODE OF PROFESSIONAL CONDUCT FOR INTERPRETERS

Introduction:

Volunteer Lawyers Project relies upon interpreters to ensure accurate and clear communication between clients and VLP staff members as well as VLP pro bono panel attorneys.

This Code of Professional Conduct outlines the complexities of the task to be performed and the fundamental ethical principles and standards to be followed by interpreters.

These standards seek to assure meaningful access to legal services for non-English speakers and to increase efficiency, quality, and uniformity in interpreter-client-staff interaction.

These standards define and govern the practice of interpretation as used by VLP in the office space of VLP as well as that of other locations where VLP pro bono panel attorneys may meet with their clients.

1. Accuracy

Each VLP interpreter shall faithfully and accurately interpret what is said without embellishment or omission while preserving the language level of the speaker to the best of said interpreter's skill and ability. Each interpreter shall provide the most accurate form of a word in spite of a possible vulgar meaning. An interpreter should not tone down, improve, or edit any statements. An interpreter shall speak in clear, firm, and well-modulated voice that conveys the inflections, tone, and emotions of the speaker. An interpreter shall not simplify statements for a non-English speaker even when the interpreter believes the non-English speaker cannot understand the speaker's language level. The non-English speaker may request an explanation or simplification if necessary through the interpreter.

2. Impartiality

Each interpreter shall maintain an impartial attitude at all times.

3. Confidentiality

Each interpreter shall guard confidential information and not betray the confidences, which may have been entrusted to him or by any parties concerned.

4. Modes of Interpreting

SAMPLE from the Volunteer Lawyer's Project

VLP prefers either of the following two modes of interpreting:

- the simultaneous mode of interpretation requires the interpreter to speak contemporaneously with the speaker whose statements are being heard.
- the consecutive mode of interpretation requires the interpreter to allow the speaker to complete his/her thought or statement before attempting its interpretation.

Whenever possible, the interpreter shall not summarize statements by a VLP staff member or panel attorney unless requested to do so.

5. Modes of Address

Each interpreter shall utilize the first person singular when interpreting for a non-English speaker.

6. Language Difficulties

If there is a word, phrase or concept, which the interpreter does not understand, the interpreter shall so inform the VLP staff member or panel attorney to ensure an explanation, rephrasing, or repetition of the statement.

If the VLP staff member or pro bono panel attorney uses a word, phrase, or concept which the interpreter finds may confuse the non-English speaker, particularly when a concept has no cultural equivalent in the non-English speaker's language or when it may prove ambiguous in translation, the interpreter should so inform the VLP staff member or panel attorney.

7. Conflicts of Interest

An interpreter shall not serve as an interpreter in any matter where he/she is an associate, friend, or relative or party, of counsel for a client; or when he/she, his/her spouse, or child are a party to any court action involving the client or have a financial interest or any other interest that would be affected by the outcome of the case, or any other interest which would prevent that interpreter from being impartial. VLP reserves the right to decline the services of any individual interpreter if the client feels uncomfortable with a particular interpreter, for any reason.

8. Legal Advice

An interpreter shall not give any legal advice of any kind to anyone whether solicited or not.



National Association of Judiciary Interpreters & Translators

Code of Ethics and Professional Responsibilities

• *Preamble*

Many persons who come before the courts are non- or limited-English speakers. The function of court interpreters and translators is to remove the language barrier to the extent possible, so that such persons' access to justice is the same as that of similarly-situated English speakers for whom no such barrier exists. The degree of trust that is placed in court interpreters and the magnitude of their responsibility necessitate high, uniform ethical standards that will both guide and protect court

• *Applicability*

All NAJIT members are bound to comply with this Code.

Canon 1. Accuracy

Source-language speech should be faithfully rendered into the target language by conserving all the elements of the original message while accommodating the syntactic and semantic patterns of the target language. The rendition should sound natural in the target language, and there should be no distortion of the original message through addition or omission, explanation or paraphrasing. All hedges, false starts and repetitions should be conveyed; also, English words mixed into the other language should be retained, as should culturally-bound terms which have no direct equivalent in English, or which may have more than one meaning. The register, style and tone of the source language should be conserved.

Guessing should be avoided. Court interpreters who do not hear or understand what a speaker has said should seek clarification. Interpreter errors should be corrected for the record as soon as possible.

Canon 2. Impartiality and Conflicts of Interest

Court interpreters and translators are to remain impartial and neutral in proceedings where they serve, and must maintain the appearance of impartiality and neutrality, avoiding unnecessary contact with the parties. Court interpreters and translators shall abstain from comment on matters in which they serve. Any real or potential conflict of interest shall be immediately disclosed to the

Court and all parties as soon as the interpreter or translator becomes aware of such conflict of interest.

Canon 3. Confidentiality

Privileged or confidential information acquired in the course of interpreting or preparing a translation shall not be disclosed by the interpreter without authorization.

Canon 4. Limitations of Practice

Court interpreters and translators shall limit their participation in those matters in which they serve to interpreting and translating, and shall not give advice to the parties or otherwise engage in activities that can be construed as the practice of law.

Canon 5. Protocol and Demeanor

Court interpreters shall conduct themselves in a manner consistent with the standards and protocol of the Court, and shall perform their duties as unobtrusively as possible. Court interpreters are to use the same grammatical person as the speaker. When it becomes necessary to assume a primary role in the communication, they must make it clear that they are speaking for themselves.

Canon 6. Maintenance and Improvement of Skills and Knowledge

Court interpreters and translators shall strive to maintain and improve their interpreting and translation skills and knowledge.

Canon 7. Accurate Representation of Credentials

Court interpreters and translators shall accurately represent their certifications, accreditations, training and pertinent experience.

Canon 8. Impediments to Compliance

Court interpreters and translators shall bring to the Court's attention any circumstance or condition that impedes full compliance with any Canon of this Code, including interpreter fatigue, inability to hear, or inadequate knowledge of specialized terminology, and must decline assignments under conditions that make such compliance patently impossible.

National Association of Judiciary Interpreters & Translators

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