How to Work Wi

BY DIANE E. TEICHMAN

The need for legal foreign language interpreters is constantly growing. For me, it's fun to talk to more people who actually know what I do for a living. But the stories they share about interpreters are more likely to be bad experiences with interpreters than good. After 16 years of providing legal interpretation and hiring, qualifying and training foreign language interpreters and translators, I still see the same problems surfacing between my profession and the court reporting profession.

Many of these difficulties come from the lack of discipline and organization in my profession. Generally, there are few if any standards that a legal foreign language interpreter must meet before going out on a job. Because I work in such an unstructured environment, I was forced to solve a lot of the problems that developed from my profession's growing pains by devising and crash-testing what are now standard procedures within my own company.

In my opinion, the most important result is a clear and accurate record. I'd like to share some ideas on how you can create a more enjoyable and efficient working relationship with interpreters, and respond to some specific problems presented by court reporters.

The Playing Field

Let's start with the basics of what we do and why. Variations of the rules of civil and criminal procedure all concur that a person has the right to an interpreter for whatever language he or she is most comfortable with for communicating. The interpreter of record is expected to provide verbatim interpretation of the questions propounded and the responses provided between the witness and the attorney.

From this point on the regulations vary according to the proceeding, the federal agency and the state. Civil, criminal and federal procedure rules dictate an oath that interpreters must take which subjects them to the penalties of perjury. The most common requirement is for federal criminal courtroom interpreters, who are expected to be certified by the U.S. courts administration if the examination for their target language is available. This certification is not required for legal proceedings outside of this category.

Certain states, such as California, require legal interpreters to pass a test and others have a ranking system. The American Translators Association also provides a general accreditation examination for several languages. Unfortunately, universities in the United States rarely offer interpreting as a field of study. Because of this catch-as-catch-can mentality, the interpreter of record for a $3.5 million bank fraud case could be the supervisor of a lawn maintenance crew who is a native speaker of the required language.

If all this seems general and vague, that's because it is. This ambiguity increases your chances of having to work with unskilled persons. All too often people think that just because a person speaks a language, or claims to, he or she can interpret in a legal setting. I compare this to saying that since I can type, I automatically qualify as a court reporter.

My first interpretation job was at the 1968 Olympics in Mexico City. My first legal interpretation job was in 1980 in Houston. The qualification levels needed for those two jobs are as distant from each other as are their places and dates.

Problems and Solutions

Because of the way the interpreting profession operates, problems

Diane E. Teichman is president of Linguistic Services, Houston, Texas, a foreign language services agency specializing in legal interpretation, translation and consultation. She can be reached at 713-445-3119. *For a humorous look at what can happen when translation fails, see this month's Last Laugh column at page 138.*

With Interpreters

may arise that have a direct effect on the court reporter's record. Here are a few difficulties several reporters have experienced, followed by my suggested solutions.

Accents and Unclear English. Elizabeth Noriega, RPR, has a problem with interpreters whose English is unintelligible and who have thick accents. Another concern: When an attorney repeatedly states "Do you mean to say ..." and the interpreter answers for the witness without interpreting the question.

The first problem results from not qualifying the interpreter beforehand. The second is a textbook example of an interpreter who is not trained in legal procedure or correct legal interpreting. The interpreter is unaware that he or she is interrupting legal procedure and undermining the work of the attorney. In this case you have to perform an on-site rescue of the record, if at all possible.

Here's how to do it: When you are already on the job with an interpreter who is disrupting your work, during a break ask the interpreter to change his or her procedure with an explanation that is based on the need to protect the record. Remember, most interpreters don't have access to legal training. Qualified interpreters know that our purpose mirrors yours in providing a true and accurate transcript. If the interpreter refuses to cooperate, report the problem to your firm. If the attorney scheduled the interpreter, and you feel comfortable discussing your concerns with him or her, do so.

Double-Talking. Nancy Dutton, RPR, notes that her job is made much more difficult when an interpreter "double talks." Whether it's simultaneous interpreting without the appropriate equipment (which allows only one voice to be heard at a time), or the interpreter speaks over the attorney or witness, it puts the reporter in the position of having to interrupt the proceeding to get a clear record. "I really appreciate a reporter-conscious interpreter," she states.

Double-talking occurs when an interpreter is afraid that he or she cannot retain the entire statement. Simultaneous interpreting is the art of precisely interpreting while the speaker is talking. This is very distracting to the reporter, since you have to listen for one voice out of two. If the situation allows, ask the interpreter not to talk over anyone. Then during a break or at the end of the proceeding show the interpreter how you have to take down each person individually, and stress the importance of a clear record.

Idioms. Mickey Segal complains about having to find "a Colombian interpreter for a Colombian witness, a Puerto Rican interpreter for a Puerto Rican witness and so on, because of idiomatic expressions used only in those countries."

A full-time interpreter is constantly exposed to many cultural distinctions. Learning them offers us the ability to fully and completely interpret for anyone. My staff and I share new expressions or idiomatic forms after each job. And the factors aren't just geographic. They can be by gender, age and especially the amount of time people have lived in the United States. Here in Texas we have an emerging dialect called "Tex-Mex"; in New Mexico they have one called "New Mex." So far we have discovered nine ways of saying "pregnant" in Spanish.

Selective Interpreting. Laura Smith offers another problem: The interpreter translates a question that will require a narrative answer. The witness delivers a response that goes on and on, and when he or she stops speaking, the interpreter looks back at you and succinctly says "No."

I call this "selective diagnostic interpreting," and it indicates a lack of training. For all sworn statements interpreters take an oath to "truly and accurately interpret to the best of our ability. ..." In this case the interpreter has violated the oath with the omission of testimony. One solution is to inform the interpreter that he or she is expected to interpret verbatim throughout the proceeding.

How to Identify a Good Legal Interpreter

Legal Experience. A court reporting firm cannot be expected to test an interpreter's language ability. Still, trusting that a person can interpret because he or she speaks a language or is a native speaker can prove risky. Require a résumé that delineates the person's legal interpreting experience and a list of at least five lawyers for whom the individual has interpreted during depositions or other proceedings.

This specialized experience is critical. You don't want someone who has interpreted for hospitals, federal service agencies, tourist groups or informal corporate gatherings to disrupt the proceedings because of a lack of knowledge of both legal terminology and procedure. For example, the director of the language department of a major university, who was hired to interpret at a deposition, balked at swearing to the interpreter's oath because she found it insulting and degrading to her academic qualifications.

References. Make sure you check interpreters' references. It's not unusual for me to receive from prospective interpreters impressive lists of lawyers for whom they've worked, and then have the lawyers tell me that they considered the interpreter to be inept. At the end of a difficult job, lawyers usually don't tell interpreters how they did, especially if it's negative. The interpreter walks away satisfied that they "met the challenge," while the lawyer is so dissatisfied that he or she fears the whole record is a wash.

Also, lawyers will tell you if the interpreter performs professionally. The legal community values interpreters who are on time, polite, well dressed and demonstrate the flexibility demanded by the unpredictability of the work. These qualities, which are expected of a good court reporter, also should be expected of a good interpreter.

Billing. Ask a prospective interpreter for his or her billing terms, procedures and charges, even when your firm is not to be billed. Keep in mind that fees and terms vary geographically and by what the market will bear.

Lawyers don't like interpreters who surprise them with unreasonable charges or are inexperienced with collecting their fees. Interpreters should bill clients directly, not the court reporting firm. You don't want the following situation: Your firm recommends an interpreter who does a good job. But when it's time to collect the person is rude to your client or the attorney's client. You can bet your laptop you will share the blame.

Word Lists. Laura Morales has an easy-to-fill request: "Even though I speak Spanish, I don't always know the spellings needed on the record, so I really appreciate a word list from the interpreter."

Ask your interpreter to keep a list of the people and places that are presented in the respondent's language throughout the proceeding. You also can mark your steno notes to remind the interpreter. It's easy for us to do this while interpreting and there is no interruption of our work.

Interpreting by Attorneys. Celina Salazar shares two disruptive problems that can take place when the attorney speaks the language of the witness: The attorney will begin to speak in that language or will "correct" the interpreter.

The first problem should be handled by the interpreter, who automatically interprets into English any such statements made on the record unless, of course, the attorneys agree that they are off the record. The latter problem can be a mistake by the interpreter or by the attorney. Both the attorney and interpreter should qualify the choice of translation on the record.

Interpreters are subject to the penalties of perjury if it's proven that we have intentionally manipulated testimony. Sometimes the problem results from the personal dialect of the witness, other times the witness's testimony catches counsel by surprise and it's easy for the interpreter to appear to be changing what a witness is stating. Interpreters should be open to a disagreement or optional translation only if they feel the testimony is unaltered and if all counsel agree on the record to the change.

I hope that I have been able to provide some insight into legal interpreting by separating the job we are expected to do from what qualifies a good legal interpreter. My goal is for the court reporter to never have to do extra work with an interpreter in order to achieve the same efficiency that you are already able to accomplish alone. ■