

“LOST IN TRANSLATION”:
Translation Issues in DFPS Cases:
Ethical Considerations

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Lost In Translation:

Translation Issues in DFPS Cases: Ethical Considerations

- I. Introduction
 - a. Education, Training, and Experience
- II. Translation vs. Interpretation
 - a. Definition and Differences
- III. The role of the Court Interpreter
 - a. What it takes to be an interpreter
 - b. Linguistic and paralinguistic components of the communication discourse
 - c. Interpretation Process
 - d. Goal of court interpreting
 - e. Variations in the language
- IV. Ethical Considerations
 - a. Breaching the Communication Process
 - i. Interpreter's Output
 - ii. Modifying the communication flow
 - iii. Educating the Client on when to request help
 - iv. Verifying the equipment
 - v. Slow down the process
 - vi. Impact and Ramifications
 - b. The Interpreters Code of Ethics
 - c. Utilizing the interpreter services to protect your Client and yourself
 - i. Cultural issues
 - ii. Economic factors
 - iii. Educational background of persons
 - iv. Placement of assistants in court proceedings (verifying translation)
 - v. Practicing with Client
 - vi. Giving translator sufficient time to understand client and vice versa
 - vii. Getting Client feedback on understanding
 - viii. Multiple Clients and single translator
 - d. Third Party issues
 - i. Who do you rely upon?
 - ii. Hospital translation
 - iii. Law Enforcement translation

TEAM WORK: Ways to assist the interpreter to keep the record correct--

1. Tell the interpreter what the case is about if you are using her services on that case for the first time, and what the purpose of the hearing is.
2. Give the interpreter a copy of all the documents that are going to be introduced or read during a hearing, including expert reports, summaries, transcripts, jury instructions, etc., so she can look up terminology she is not familiar with in advance. The accuracy of the interpretation of testimony will be much greater when the interpreter is given an opportunity to prepare for the proceedings.
3. Let the interpreter before trial in the presence of the attorney speak with the defendant and/or witnesses so she can ascertain differences in the regional or social variety of language, their education level, their occupation, accent, register, etc., and to instruct the witnesses on how the interpreter-witness interaction will be.
4. Be mindful of the presence of the interpreter. Speak loud and clear. If the interpreter cannot hear, she cannot do her job.
5. Do not speak too fast, as an interpreter can comfortably interpret between a 100 and a 120 words per minute, anything above or below that stresses the interpreter (Gerver, 1976).
6. Allow for pauses if the question you ask, or the answer the witness is expected to give, is long; or, try to break your questions down into digestible portions, and the expected testimony into shorter responses.
7. Ask simple questions, as ambiguous questions cause a lot of confusion in non-English-speakers. This will help keep the record clear.
8. Try not to ask questions phrased in the double negative, as it confuses witnesses and causes problems for speakers of other languages.
9. Give the interpreter periodic breaks to clear her mind so she can accurately interpret which should lead to an accurate record, as interpreting is a mentally draining task.

CODE OF ETHICS
OF THE
TEXAS ASSOCIATION OF JUDICIARY INTERPRETERS & TRANSLATORS

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 trust that is placed in court interpreters and the magnitude of their responsibility necessitate high, uniform ethical standards. This Code sets forth fundamental ethical precepts for all court interpreters and translators to follow thus encouraging them to develop their own, well-informed ethical judgment. It is this Association's intent that all members shall strive to uphold and defend this Code of Ethics.

CANON 1. ACCURACY AND COMPLETENESS

Source language speech should be faithfully rendered into the target language, 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, omission, explanation, or paraphrasing. All hedges, false starts and repetitions should be conveyed. 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 must be avoided. Court interpreters who do not hear or understand what a speaker has said shall seek clarification. Interpreter and/or translation errors must 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. Court interpreters and translators shall abstain from comment on cases 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

Court interpreters and translators shall not disclose or make use of privileged or confidential information acquired in the course of interpreting or translating, or in the course of preparation thereof, unless ordered to do so by the Court or when it is required by Law.

CANON 4. LIMITATIONS OF PRACTICE

When acting as a court interpreter and/or translator, all members shall limit their participation in those matters in which they serve to interpreting and translating, and consequently 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 and translators 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, court interpreters and translators shall make it clear that they are speaking for themselves.

CANON 6. MAINTENANCE AND IMPROVEMENT OF SKILLS AND KNOWLEDGE

Court interpreters shall maintain and improve their interpreting skills and knowledge.

CANON 7. ACCURATE REPRESENTATION OF QUALIFICATIONS

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 and/or the parties' attention any circumstance or condition that impedes full compliance with any Canon of this Code. Said impediments include, but are not limited to: lack of team interpreting, interpreter fatigue, inability to hear, inadequate knowledge of specialized terminology, health issues or concerns, inadequate preparation time in order to provide a true and accurate rendition. The court interpreter and/or translator must decline assignments if conditions exist that make compliance with this Code of Ethics patently impossible.