PRACTICAL GUIDELINES FOR COURT INTERPRETERS: WHAT SHOULD I DO IF...?

Court interpreters are often faced with problem-solving situations. Below is a list of the most common questions asked by court interpreters to help you resolve some of these difficult issues.

Q. If the defendant is asked to spell his name and he spells it wrong, what should I do?

Spell it exactly the way the witness spelled it. It is not your function to correct his spelling. If he is completely unable to give a spelling, the court may ask you how the name is spelled. Sometimes people can write their names but cannot say the letter out loud. You might suggest that the witness be given a piece of paper to write on, or you may write the name yourself and ask him if it is correct, provided that you have obtained the court's permission first.

Q. What if the witness makes a slip of the tongue and says something he clearly doesn't mean, like "I was born in 1853" instead of "1953?"

Interpret exactly what the witness said. It is up to the attorney to clarify misstatements or to ask follow-up question if something doesn't make sense.

Q. What if the witness keeps saying, "tell him that..." instead of addressing the attorney directly?

Interpret exactly what the witness says. Witnesses and attorneys who are not used to working with interpreters may forget that they are suppose to address each other directly. If this becomes a problem, you may ask the judge to instruct them on the proper procedure.

Q. What do I do if witness goes on and on and doesn't give me a change to interpret?

First of all, you should develop your memory capacity to such an extent that you are able to retain and interpret two or three sentences of normal testimony. In most cases, the attorney will not allow a witness to go into a long narrative, anyway. In the pre-testimony interview with the witness, you should instruct the witness to pause periodically for you to interpret if she needs to give a long answer. If the witness fails to do so, or if you have not had the opportunity to talk to her ahead of time, ask the judge to instruct the witness accordingly. If the witness continues to ignore such instructions, simply interrupt when you need to, making sure that you wait until he or she has completed a thought so that they don't forget what they were saying. If a witness speaks in fragments or hedges a lot ("I, uh, was going uh, you know, uh, well I mean, it was sort of, uh...") you will have to interrupt them more often than if they give a clear, coherent answer. If the witness does not stop talking when you intervene to give your interpretation, you may have to interpret the testimony simultaneously.

Q. What if a witness uses a hand gesture as part of his answer? For example, a man for whom I was interpreting said, "Well, I was kind of, you know…" and then he made a motion with his hand which is usually associated with drinking alcohol or being drunk.

Simply interpret the words. If a witness does not complete their thought verbally, it is up to the attorney to ask a follow-up question to clarify what he or she means. If the gesture is not one that is meaningful to English speakers, the attorney should ask the witness what it means. Do not volunteer to explain cultural matters on your own.

Q. What if I don't understand the attorney's question?

Ask for a clarification. You can't interpret something you don't understand. Do not hesitate to ask for clarifications or repetitions, but remember to address the judge e.g., "Your honor, could counsel please explain what he or she means by "hot sheet?"

Q. What if the defendant keeps talking to me while I am trying to interpret the proceedings for him or her?

Inform the court of the problem and ask that the defendant be instructed not to address the interpreter. If he or she needs to consult with their attorney, they should tell the attorney, through you, and the attorney will ask for a recess for that purpose.

Q, What if someone says, "Don't translate this," and then proceeds to tell a joke or discuss something they don't want the defendant to understand?

Tell them that it is against your professional ethics to omit anything that is said in the defendant's presence, and that if they wish to discuss something without his knowledge they should do so outside the courtroom. Users of interpreting services maybe unaware of the ethical standards that court interpreters are bound to follow, and it may be necessary to show them the interpreter's code of ethics if an issue like this arises.

Q. During the arraignment calendar, defendants often come up to me and say, "What should I do? Should I plead guilty?" Sometimes they even say it when I am interpreting for them before the judge. How should I handle this situation?

If the defendant asks questions while you are interpreting on the record, simply interpret the question and let the judge answer it. If he or she asks you outside the courtroom or during a break in the proceedings, tell them that you are an interpreter, not a lawyer, and you are prohibited from giving legal advice.

Q. One time I was interpreting in an attorney-client interview and the attorney was telling the client how to testify ("When I ask you what you were wearing, say you had a black jacket on"). I felt very uncomfortable interpreting in a situation that I knew was unethical. What should I have done?

If an attorney is clearly doing something that violates the Bar Association's Canons of Ethics, you should ask to speak to the judge in chambers and inform her of the incident.

Q. What if I know a witness is lying because I have interpreted for him on a prior occasion?

Your duty is to interpret exactly what the witness says, ignoring your personal feelings or beliefs. Your opinion of the witness credibility is irrelevant. Any prior knowledge you have about a person or a case should be kept confidential.

Q. What if I know information the attorney is seeking, and the witness does not know it? For example, in one case they wanted to know the exact address of a business in town, and I happened to know it. Should I volunteer that information?

Never volunteer information on your own accord. The attorney wants to know what the witness knows, not what the interpreter knows.

Q. Sometimes I am interpreting for the defendant while another interpreter is up on the witness stand. I sometimes hear mistakes made by other interpreters. How should I handle that situation.

If the error is trivial such as a grammatical mistake, don't do anything. If it is an error of substance, something that alters the meaning of the witness' testimony, you should request a bench conference with your colleague. "Your Honor, may the interpreters approach the bench to discuss a language issue?" Then you can discuss the discrepancy with your colleague and give him or her a chance to correct the error or justify their interpretation.