

Dear Colleagues

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It is with great delight that I bring you another interesting and educational issue of *The Interpreters Voice*. I would like to take a moment to thank all of my colleagues that help make this possible. We would not be able to publish this at all if it were not for the staunch support of the Administration. Gio Lester has been integrally involved with the *Voice* since she was the Assistant Administrator, and the current Assistant Administrator, Katharine Allen is also working overtime to see that we have enough quality material to publish. Cindy Gresham works hard to make this a feast for the eyes, but most of all, I would like to thank you, the readers. As members of the Interpreters Division, you have the right to a quality newsletter (it is a yet another benefit paid for by your membership dues), and it is with your literary and instructional contributions that we are able to bring this to you.

In this issue we will look at legislative updates, and Julie Burns recounts her recent experiences in the Persian Gulf training medical interpreters in Qatar. Ann McFarlane has written us a letter letting us know what happened at the National Association of Judiciary Interpreters and Translators (NAJIT) conference in May.

There are a lot of exciting things happening within ATA regarding the Interpreters Division, so don't miss the membership article.

Isabel Framer had an article published in the Legal Assistance Providers' Technical Outreach Project's (LAPTOP) newsletter, and we are reprinting it here with permission. The article involves educating the legal system on our role within it. Isa is also our subject for our Professional Profile.

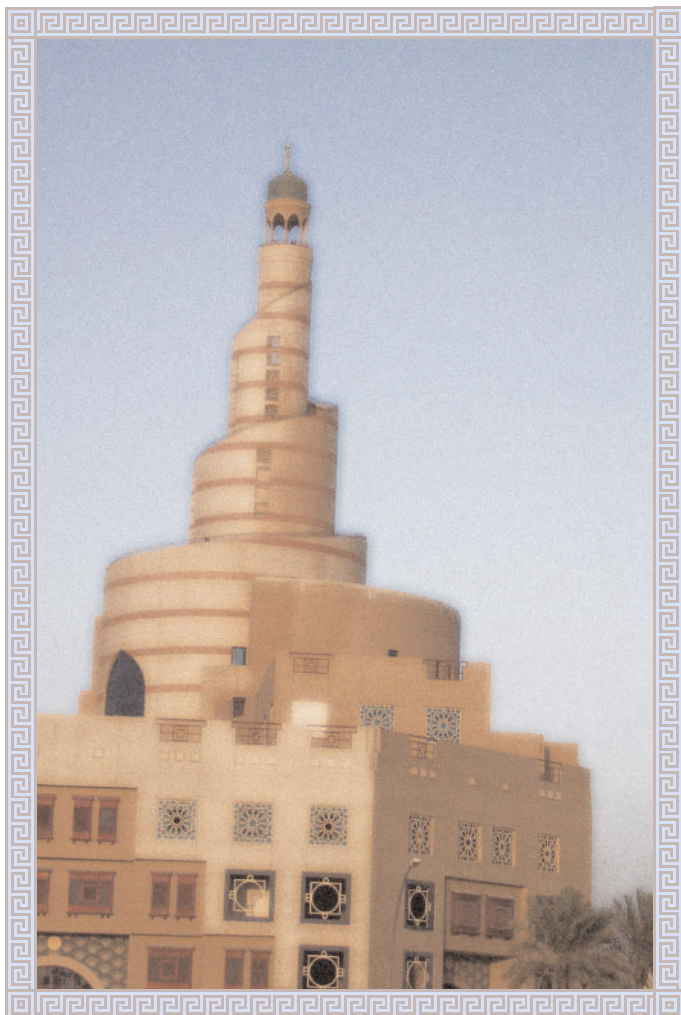
Cover photo and all Qatar photos are courtesy of Julie Burns. Please break out your cameras to keep the next edition lively.

Until next time,

Toby S. McLellan

Did you know?

If you are reading this as a PDF document, you can click on hotlinks in the Table of Contents, as well as e-mail addresses and websites (indicated in red.)



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REGARDING CONTRIBUTIONS

Your contributions are what keep the Voice ringing, so do send them to our Administrative Assistant, Katharine Allen (sierrasky@schat.net) and they will be forwarded to the editor.

Articles should include the author's name, short biography and photo, any appropriate copyright notes and other observations.

DISCLAIMER

Opinions expressed here are those of the authors and do not necessarily reflect those of the Editor, the Interpreters Division or the American Translators Association.

From the Administration

June has come and gone and we are already in the second half of 2006. This has been a very busy year on all fronts for Katharine and me. Professionally we have been challenged by our volunteer and income-generating commitments. Personally we have nursed our families and selves back to health, and we are both moving—big moves for both of us. Katharine will be joining the student body at the Monterey Institute of International Studies, which means leaving the mountains and journeying to the coast of sunny California with the whole family; and I am moving into my first house that I own.

But the ID goes on and we have to take time off from those pesky distractions and reach out to our members. We have good news, very good news and happy news to share (the rating is totally arbitrary, you know).

Starting with the *happy* news, ATA's partnership with the Red Cross, which is managed by the Interpreters Division, is blossoming. The Red Cross published an internal memo followed by a press release, and as a result we received more than 30 e-mails in a matter of 2 days! That was followed by ATA's own message to our members resulting in an increase in the ranks of our volunteers: we started May with 97 volunteers and at the end of June we can count 169. Our language database still boasts more Spanish speakers than any other language, but we also find Korean, Portuguese, Dutch, Russian, Swedish, Italian, Japanese, German, Polish, American Sign Language (ASL), Arabic, Ukrainian, and Belizean Creole speakers, among others. Many members have already undergone the required online training and are ready to help the Red Cross assist non-English speaking victims. Those interested in joining this volunteer effort can do so by following this link: www.atanet.org/red_cross. Here you will also learn details of the program and be able to take the online training course offered by the Red Cross.

The *good* news comes to us courtesy of Ann MacFarlane and Tim Yuan. The Interpreters Division is grateful to them and to the Board of Directors for their commitment and vision. Ann and Tim successfully presented a motion during the last Board meeting which will make it easier for federally certified interpreters to obtain active status. You can read more about it in the article, "All Aboard the Member Ship".

The *very good* news is that ATA has established an Ad Hoc Interpreter Certification Committee chaired by our member Virginia Perez-Santalla. ATA has long been aware of the need to implement a method for certifying interpreters and now it has taken a step in the direction of creating its own certification. It will demand hard work and time on their part, faith and patience on ours.

The Portuguese Language Division and the ID are still working on a joint event at the Conference in New Orleans. Nelson Laterman and I are members of both Divisions and we are in charge of making this a memorable event. Please share with us your vision of what our event should be like or your great New Orleans experience so that your input can guide us in reaching our goal. And don't forget to visit the conference page on ATA's main web site, at <http://www.atanet.org/conf/2006/> ■

— Gio

Legislative Update:



Hawaii to require Language Services in State Programs

On July 10, Hawaii's Governor Laura Lingle signed a bill requiring all state agencies to submit plans for providing adequate language assistance in delivering state services. The legislation, HB 2778, calls for creating an Office of Language Access within the state's Department of Labor and Industrial Relations, to be headed by a governor-appointed Executive Director. The office would also include an 11-member advisory panel (including "one representative of a professional interpreter's organization"). The office must submit a report every year to Legislature on the bureaucracy's efforts to provide adequate language access. Here's a

link to a copy of the legislation: www.capitol.hawaii.gov/sessioncurrent/bills/hb2778_cd1_.htm

CHIA takes part in Workshop on Federal Reimbursement

June, 2006—California Healthcare Interpreting Association Executive Director Don Schinske participated in a stakeholders meeting in Sacramento to discuss possible options for reimbursement of interpreting services in the state's Medi-Cal program (California's version of Medicare/Medicaid).

The group reviewed the range of models for reimbursement now employed in 13 other states, and discussed what a unique California solution might look like. The

coalition, which is funded by The California Endowment, sponsored legislation this year, SB 1405 (Soto), which would create a state task force to explore possible Medi-Cal payment mechanisms. That bill continues to move through the Legislative process.

Among the issues discussed was how—and whether—reimbursement could work in both Medi-Cal managed care and fee-for-service delivery systems. Also discussed were the merits and minuses of various billing arrangements, and what combinations of interpreters, providers, facilities, agencies and/or brokerages might hypothetically file claims with the state. The group is expected to expand its next discussion to include a broader range of stakeholders. ■

Advertisements:

Advertising in *The Interpreters Voice* is \$80 per page; \$40 per half page, \$20 per quarter page, and \$10 per one eighth page (bus. card size). Submit ads to appropriate editors cited above.

Submission Guidelines

Please email articles in Word 97 or text format to appropriate editors.

Submissions are limited to 1000 words and are published on a space-available basis. They may be edited for brevity and clarity.

Articles appearing in *The Interpreters Voice* may also appear in other ATA media, such as its website. All copyrights revert back to the author after publication.

Submission deadlines are always one month prior to publication dates, and those are tentatively set as follows:

Spring issue	due Feb.28
Summer issue	due May 31
Autumn issue	due Aug. 31
Winter issue	due Oct. 31

Membership in the Interpreters Division is open to all ATA members in good standing. Just go to the Members Only section of our website (www.atanet.org), sign on and click on the link "Join an ATA Division."

Oops! Misinterpretations.

I was interpreting a conversation between a military officer and a landowner, and the officer made a comment about the quality of the man's soil. My translation was one vowel sound off, and I baffled the poor landlord when I complimented his dung.

What is the interpreter's duty regarding profanity? I had an angry farmer swearing at an angry colonel, who was swearing back in words that I was blushing to hear. Inexperienced as I was, I did not give a faithful reproduction of the conversation to either side. Tone of voice carried the meaning clearly enough, but I'm afraid I blew my one chance to tell my commanding officer what I really thought of him and blame it on a farmer!

—Toby

Qatar Practice



by Julie Burns

Julie Burns and Monica Alfonso of the Cross Cultural Health Care Program have just returned from Qatar after conducting a 40 hour medical interpreter training course in Doha for Weill Cornell Medical College - Qatar. CCHCP, a non-profit organization based in Seattle, WA, has trained over 10,000 interpreters in the US and Canada since 1995 with its 40-hour "Bridging the Gap" course. With an emphasis on learning through discussion and role-play, Bridging the Gap covers professional interpreting skills, knowledge of the health care field and medical vocabulary, cultural knowledge and sensitivity, and communication skills for appropriate advocacy. Professional interpreting skills include roles of the interpreter, interpreter code of ethics, modes of interpreting, basic interpreting skills, clarification skills, intervening skills, how to manage the flow of a session, sight translation and professional conduct.



Qatar is a mostly flat, sandy peninsula about 11,000 square kilometers (4247 square miles) located half way down the west coast of the Arabian Gulf, with a population of 744,000. Because of its huge gas reserves, Qatar is undergoing rapid development and has one of the fastest growing economies in the world. One quarter of the world's construction cranes are currently in Qatar! The average temperature during the time the trainers were there was 110°F. The training was offered as part of an initiative to ease the way for medical students at the Weill Cornell Medical College in Qatar during their third year clinical internships. The internships commence in Hamad Medical Corporation hospitals in July. The interns will be working with patients from among the local population as well as from the diverse expatriate community, many of whom speak only Arabic, Hindi, Tamil or Urdu. The 21 participants, all fluent in English and one of these languages, are Qataris or residents of Qatar who originally came from one of several countries throughout the Middle East. The participants were selected from a pool of over 300 applicants, and all were extremely eager and enthusiastic to learn the skills and standards of professional medical interpretation.

This was a wonderful cross-cultural adventure for all involved. One of the highlights of the training was the cultural day, which focused on the role of culture in patient/provider relationships and the interpreter's role as



a culture broker. On this day, the women came dressed in their best saris and outfits, and students brought a huge variety of middle eastern delicacies to share: Sudanese soda made from rosehips said to lower blood pressure, pistachio cookies, south Indian treats, milk puddings, slide shows of Tunisia, celebration Indian music, wedding saris, pictures of ancestors, jars of orange oil water for stomach aches and powdered bark for headaches and many poignant and hilarious stories of their cross cultural bumps. It was a wonderful opportunity for everyone to learn about each other's cultures in a warm, respectful and appreciative environment.

Extra-curricular activities for the trainers involved a thrilling (and at times terrifying) trip through the sand dunes to the inland sea of Aldehemi, shopping at the local souks (markets), and a relaxing trip on a traditional dhow (boat) around Doha Bay. ■

For more information on the Cross Cultural Health Care Program, please visit www.xculture.org or contact Julie at julieburns7@earthlink.net.



Julie Burns currently directs the Medical Interpreter Training Program for the Cross Cultural Health Care Program. She spent the first 30 years of her life in Central America where she studied anthropology and worked in health education in rural areas of Guatemala, and she has been working in the field of health care interpreting and interpreter training for the past 20

years. She is fluent in Spanish and has a Master's degree in Health Education. julieburns7@earthlink.net

Postmark NAJIT:



A LETTER FROM THE EXECUTIVE DIRECTOR

Dear colleagues in the *Interpreters Division*, As many of you know, four years ago I had the honor of being appointed as Executive Director of the National Association of Judiciary Interpreters and Translators. It was a great job to follow on my four years of volunteer service as President-elect and President of ATA. The growth and energy of the Interpreters Division has been a joy to watch over this period, and I'm delighted to have the opportunity to bring you up to date on the last NAJIT annual conference. These four years have seen excellent collaboration between ATA and NAJIT, which I believe strengthens our profession as a whole.

NAJIT meets in May of every year. Our conference is, of course, on a much smaller scale than that of the ATA. We had 260 attendees in Houston from May 19-21, and more educational sessions than ever before. The conference committee was particularly proud of the range of offerings. We had strong presenters on translation: Gladys Gonzales Matthews spoke about "The assumption of accuracy in translation: Literal translation as the Ideal." She compared Spanish and French translations of materials for dispute resolution panels under the North American Free Trade Agreement. Madeline Rios offered us her superb sessions on researching legal translations, which had been a big hit at the Toronto ATA conference. Aaron Ruby gave his "Homicide in Mexico" workshop, and Javier Becerra also presented on legal translation.

The conference featured a special focus on the medical side, with presentations from NAJIT Chair Alexander Rainof on medical translation and interpretation in the courts; Janet Bonet and Cindy Roat on worker's compensation cases (Cindy also presented on building a framework for medical terminology); George Rimalower on cultural issues in medical translations, and Vanesa Ileraci on cultural competency issues. Catherine Ingold, of the National Foreign Language Center, spoke about strategic approaches to language access for health care.

targeted against domestic violence for South Asian women.

We had strong representation from the U.S. Government. Everett Jordan, Director of the National Virtual Translation Center, gave our keynote address. Dr. Susan Kelly of the Department of Defense participated in a panel entitled "Everyone is a global citizen now." We were very happy to have Esther Diaz, well known to all ATA members, representing the ATA in that discussion as a member of the ATA Public Relations Committee. Dr. Caroline Kinney presented information from

We had three sessions on transcription and translation, that burgeoning field where standards and guidelines are so desperately needed.

Ethics always is significant at NAJIT conferences. Carola Green presented on the National Standards of Practice for Interpreters in Health Care that were featured in the last issue of the Voice, and NAJIT Director Judith Kenigson Kristy repeated her game-show format "Ethics in Jeopardy," with lots of laughs in consequence. We were also very pleased that four individuals involved in organizations against domestic violence were able to attend the conference and present a panel on domestic violence and interpreting issues, including the ethical aspects of this work. NAJIT is working on a position paper on this subject together with SAKHI, an organization in New York City

the Administrative Office of the U.S. Courts, and also attended our "federal interpreters' roundtable" discussion. Martin Roldan discussed diversity within the Immigration Court. Finally, two U.S. Marshals and NAJIT member Lorena Martin discussed security for court interpreters. All ID members whose lives can be affected by security issues are invited to obtain a copy of the 300-page manual that Lorena has written on this subject, which is available for free download on the NAJIT website, www.najit.org.

Naturally the bread-and-butter issues were not absent either. Eta Trabing spoke about running your T&I business, and Peter Lindquist presented his work on "interpreter

self-evaluation and training,” which will be featured in New Orleans as well. Arlene Kelly gave a session on preparing for sight translation. We had three sessions on transcription and translation, that burgeoning field where standards and guidelines are so desperately needed. (Full disclosure: NAJIT is involved in a large project to develop just such guidelines.) There were also two sessions with a special career aspect: Laura Garcia-Hein, just elected to the NAJIT board, talked about mediation as a career, and Anne Witt-Greenberg presented on working for non-governmental organizations, with a wealth of experience on multicultural

environments. Lois Feuerle brought us up to date on the indigenous languages project in Oregon.

Topics and speakers alone do not a conference make, of course. NAJIT always opens its conference with a welcoming event on Friday. This year Odile Legeay, Houston host and conference co-chair, had arranged for a “swamp blues” band to play during the “comida sudamericana” dinner. Tommy Dardar and colleagues allowed everyone to dance the evening away in good company, and the wealth of Houston restaurants—over 3000 in the city!—gave everyone great opportunities for Saturday night as well. We’re already

making plans for Portland 2007. There will be a special focus on legal sign and spoken language interpreting. NAJIT welcomes colleagues from the ATA. You can reach us at conference28@najit.org if you have questions about the plans for Portland. Hope to see many of you there!

*Ann G. Macfarlane, Executive Director
National Association of Judiciary
Interpreters & Translators*

PS. One feature of the conference was the release of four new position papers. NAJIT has now published eight of these papers, all of which can be downloaded without charge from our website. www.najit.org ■

All Aboard the MemberShip



Interpreters! ATA Wants to Hear Your Voice!

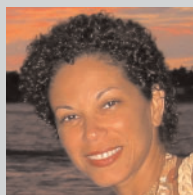
by Gio Lester, with special thanks to Katharine Allen, Ann MacFarlane and Maggie Rowe

Where are the ATA interpreters? Did you know that close to 16% of all ATA members identify themselves as interpreters? That is 1,670* members out of almost 10,000. Despite those figures, the Interpreters Division does not have proportional representation within ATA. Why not? Because so few ID members have undergone the review process to become Active or Corresponding members. Despite the time and costs required, the ID

Administration believes the ultimate benefits gained from becoming an active or corresponding member far outweigh the negatives.

ATA encourages its members to earn voting privileges and provides two ways for them to do so: certification and the peer review process (which is actually called “Member Review Process”). The certification route does not apply to members who are exclusively interpreters. These have the Member Review process as their only recourse.

Who can seek Member Review and what are its privileges? Active Member status is only available to residents or citizens of the United States. Members who are not citizens or permanent residents of the United States, but still would like to have a voice in the governance of the association, can become Corresponding Members. These two membership categories share many benefits, which include: listing in ATA’s directories; membership discounts; and subscription to the Chronicle. The principal difference between the two categories is that Active members can hold office, serve on the Board of Directors and standing committees, whereas Corresponding members cannot. Additional responsibility corresponds to these privileges: we become responsible for the well-being of the association, its



Giovanna (Gio) Lester is the current Administrator of the Interpreters Division. She has been working in the T&I field since 1980, and holds ATA certification for Portuguese into English translation. She can be reached at giolester@gmail.com

future, and its success in representing our interests, to name a few.

Why should I go through the trouble? Sure, there are arguments against taking the trouble to seek the change in status: the costs involved, the criteria one has to meet in order to qualify to apply, and the supporting documentation to be procured and presented. But there are reasons why these requirements have been imposed, *and*, new developments have made it easier for some interpreters to obtain active status.

What are the direct costs to me?

As a general rule, the ATA strives to distribute the cost of its services fairly to those who benefit from them. Staff time for the processing of the applications, review of documentation and other administrative costs are all covered by the \$50 fee charged by ATA. Additional expenses for the ATA member include: postage, long distance calls in some cases, and the time spent trying to contact people—and these will vary from individual to individual. We invite all our members to ask the question: Are the professional benefits I will receive worth the cost in effort and money? We believe the answer is: YES!

How can ATA be sure that those applying are really involved in our field? The documentation requirement helps to ensure that

ATA is representing committed individuals actually working in our profession. In addition, active membership criteria have been revised to accommodate professionals who do not work directly in the fields of translation and interpreting, but who are, nevertheless, active in the performance of those professions through their academic, research or other related work.

Further, thanks to the efforts of Ann MacFarlane and Tim Yuan, the Board has approved active membership status for interpreters holding federal court certification, and the Active Membership Review Committee has been authorized to compile a list of which state certification tests would qualify those certified to ATA active membership.

The membership review process does not aim to determine your qualifications to perform the job. It is a statement that the ATA recognizes you as a professional active in the T&I field, with rights to represent the interests of other members within the Association through your vote and volunteer work.

When can we expect an ATA interpreter certification? Director Virginia Perez-Santalla, a member of the Interpreters Division, has been appointed chair of an ad-hoc committee to research the feasibility

and costs involved in establishing an interpreter certification program. ATA is aware of the current void in interpreter certification and has strived to find a solution. This committee brings us closer to that goal.

With that said, the Administration of the Interpreters Division encourages our members to apply for active or corresponding status membership through the Member Review Process. The Interpreters Division is one of the largest and most diverse within the ATA, with members spread throughout other divisions, representing not a subgroup of the translation profession but the distinct and separate Interpreting profession. The more interpreters inside the ATA assume the responsibility of exercising voting rights and influencing the decision-making process through participation in committees and other association activities, the stronger the voice interpreters will have. ATA has welcomed interpreters into its ranks, and seeks to represent the needs and interests of both professions: translation and interpretation. It is up to us to make sure that the issues and concerns distinct to interpreters are fully heard and acted upon. ■

** Data is accurate as of the writing of this article in May 2006.*



Laissez les bons temps rouler!

ATA 47th Annual Conference

New Orleans, Louisiana

November 1-4, 2006

Sheraton Hotel

Conference info:

www.atanet.org/conf/2006/

Looking for a roommate for the upcoming Conference? Try the ID listserv. Share your preferences—male, female, smoker, non-smoker, in the conference hotel or outside—to make it easier on your colleagues.

If you are not a member yet, just visit us at our Yahoo!Groups page to register: <http://groups.yahoo.com/group/e-voice4ATA-ID>

Isabel Framer



Interpreters Voice: *How long have you been working as an interpreter?*

Isabel Framer: I have been working as an interpreter for approximately 11 years (since 1995).

IV: *What attracted you to the profession?*

IF: I came across the profession by accident. At the time, my youngest child was going to start pre-school. I had been a homemaker for the past few years and wanted to venture out into a part-time job that would keep me interested and busy. I spoke Spanish fluently and while interpreting at the hospital for an uncle that had been diagnosed with cancer, some of the doctors indicated that there was a great need for Spanish language services. This information piqued my interest, so I began to research the field. Two years later I found myself interpreting in a judicial setting. Since law has always interested me, I immediately became fascinated with the field of legal interpretation and began researching this specific field, obtained training, and eventually became a certified court interpreter.

IV: *What keeps you in the profession?*

IF: I love it! It is rather difficult to explain but I find the profession of legal interpretation and translation very rewarding. I am involved in many aspects of the field, not just interpreting, including educating members of the legal profession and law enforcement, policy development on a state and national level, and review of interpreter procedures and protocol of criminal cases at the trial and appellate level.

While interpreting at the hospital for an uncle that had been diagnosed with cancer, some of the doctors indicated that there was a great need for Spanish language services.



IV: *If you had to stop interpreting, what would you do?*

IF: I would retire. I have found a passion and going back to a "job" is not an option.

IV: *What is your favorite aspect of your career?*

IF: I enjoy all aspects of my career but if I really had to choose one, I would say consulting on criminal cases involving interpreter procedures and protocol.

IV: *What is your least favorite one?*

IF: The least favorite aspect of my profession is testifying as an expert, only because I find it to be most stressful.

IV: *How has the profession changed from when you started?*

IF: When I first started, there was little connection and awareness between legal professionals, the government, and interpreters specializing in the field of legal interpretation and translation. In the past few years, I have witnessed an increased awareness and we have all started to connect with one another. Government officials at the state and federal level have started to imple-

ment more policies. Many of us are contacted by these entities for assistance. This contact reflects that there is an increased awareness of our specialized field and many entities are now looking to us for help.

IV: *What would you like to see changed in the profession?*

IF: One of the most important components that is still lacking is funding for the state courts and other justice partners for recruiting and training fluent bilinguals interested in the field and novice judicial interpreters. This component is crucial and would assist greatly in creating a pool of qualified interpreters to assist at all levels of the justice system. This funding helps not just entities involved in justice but also those that assist with issues of national security and emergency preparedness. Together with the necessary funding for training, setting the appropriate criteria required for trainers in this specialized field is essential.

IV: *What advice would you give a novice interpreter?*

IF: My advice to novice interpreters would be to first become familiarized

with already established procedures and protocols for interpreters working in legal and quasi-legal settings. Knowing ethical guidelines and professional responsibilities, including the laws that govern this specific field, are crucial to the interpreter. We are the nexus between all of the parties and by not following already established guidelines we can put in jeopardy a person's life, liberty, and safety, not to mention putting at risk the integrity of the justice system and our own profession.

IV: What advice would you give an interpreting instructor?

IF: I would provide an instructor the

same advice as above. In addition, he needs to have the appropriate expertise besides being a certified judicial interpreter. They need to be well-versed with ethical standards and procedures established not only by the profession but by statutes or court rules. Furthermore, they need to be familiar with the legal implications of not following those established procedures.

IV: Which interpreting field(s) do you work in, (Conference, Healthcare, Legal, Community)?

IF: I am mostly involved in the field of legal interpretation.

IV: What was the most important lesson you have learned regarding your profession?

IF: The most important lesson I learned was early on in my profession. I too fell victim to believing that being bilingual (even a highly educated bilingual) was sufficient for being a judicial interpreter and translator. This belief cannot be further from the truth! It has taken me many years to learn about the field, to perfect my skills, and to continue to learn specialized terminology. I am still learning and I know I will always need to be open to new ideas and concepts. ■

Interpreting the Interpreter



What every Legal Assistance for Victims attorney and advocate needs to know about legal interpretation

Isabel Framer

As an interpreter working with judges, attorneys, law enforcement, and advocates, I would like to share with you how I became involved in the interpreting field and what I have learned through years of experience, training, and research. Similar to many, I believed the myth that anyone who is bilingual is capable of being a competent interpreter, which is exactly how I approached my first

court assignment. Thank goodness the case was a minor misdemeanor. I did everything that an untrained, unqualified interpreter would do. I stood silent while the judge spoke to the defendant, and when the judge finished speaking, I provided a summary of what I thought the judge had said. I was not familiar with all the legal terminology that the judge used, and had to leave some of it out. In addition, the judge was upset and yelled at the defendant. I provided a

summary interpretation with a smile because I felt sorry and embarrassed for the defendant. I am not proud of how I handled this first court assignment, but this experience prompted me to research the field of legal interpreting and translating, obtain training, read case law, and ultimately work towards certification. I will share with you some of the basic principles I have learned throughout the years.

We take pride in a legal system based on fundamental fairness; without it, we have no system of justice. Legal issues surrounding victims of domestic violence and sexual assault involve constitutional rights including equal protection under the law and equal access to justice. Victims of domestic violence and sexual assault must have a voice—their own voice—in order to tell their side of the story, and they must be empowered to speak. Without a trained and qualified

This article appeared in the Winter 2006 edition of The LAPTOP Update, a quarterly newsletter, published by The Legal Assistance Providers' Technical Outreach Project (LAPTOP). LAPTOP serves as the comprehensive technical assistance provider for Office on Violence Against Women's Legal Assistance for Victims grantees. This article is supported by grant #2000-WL-VX-K002 awarded by the Office on Violence Against Women, U.S. Department of Justice. Points of view in this article are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

The author acknowledges the editorial assistance of Nancy Festinger, NAJIT editor and Chief Interpreter for the US District Court of the Southern District of New York and Caitlin Glass, LAPTOP partner and staff attorney with Legal Aid Services of Oregon.

interpreter, a victim who is a non-English speaker or limited English speaker will not be properly heard: it will be as if he or she has no voice. When we fail to provide competent interpretation, we jeopardize a person's physical and emotional well being—indeed, we may even jeopardize their life.

The Right to an Interpreter

The first case to recognize that a non-English speaking defendant had a right to an interpreter was *United States ex rel. Negron v. State of New York*.¹ The U.S. Circuit Court

Administrative Office of the United States Courts can deem a certification test valid and reliable. The statute also outlines the three modes of interpretation that are permitted in legal settings: simultaneous, consecutive, and sight translation.⁵ In addition, the Federal Rule of Evidence (FRE) 604 states that qualifications of an expert are also applicable to interpreters.⁶ FRE 702 defines an expert as someone who has experience, training, skill, education, or knowledge in a particular field. Some state courts have adopted the same rule or similar rules.⁷

that federally-funded recipients are required to provide competent language assistance to all limited English-proficient persons at the recipients' own expense.⁹

Understanding the Profession

Translation v. Interpretation

To understand the field, one must first understand the significant differences between interpretation and translation. Interpretation is an oral medium, rendering an oral message from one language into



The U.S. Circuit Court of Appeals... overturned the murder conviction of a Spanish-speaking defendant because he was not provided a complete interpretation of everything that was said during his trial.

of Appeals for the Second Circuit overturned the murder conviction of a Spanish-speaking defendant because he was not provided a complete interpretation of everything that was said during his trial.² That case inspired Congress to enact the Court Interpreters Act of 1974, 28 USC § 1827, which requires Federal Courts to appoint a certified interpreter for all criminal and civil cases initiated by the United States.³ The statute also defines the categories of certified, otherwise qualified and language skilled interpreters.⁴ The statute indicates that only the

On the state level, legislation and state supreme court rules govern the field in a similar manner to the federal statute. Case law in many states has developed pertaining to the role of interpreters and translators in legal settings. State courts as well as professional associations have developed guidelines regarding interpreter ethics and professional responsibilities.⁸

In addition to federal and state court cases, statutes and rules governing interpreters, Title VI of the Civil Rights Act of 1964, Executive Order No.13,166 states

another. Translation is a written medium, rendering a text in one language into an equivalent text in another language. Each requires different skills, training, and knowledge. The fact that someone is an interpreter does not necessarily mean that they possess the skills for producing reliable translations and vice versa. Of course, interpreting and translating are complementary skills and quite a few people have mastered both.

Being bilingual does not make one automatically equipped to serve as an interpreter or translator. An

¹ 434 F.2d 386 (1970).

² *Id.* at 389-90.

³ See 28 U.S.C. § 1827(d)(1).

⁴ See 28 U.S.C. § 1827(b)(1), (c)(2).

⁵ See 28 U.S.C. § 1827(k).

⁶ FED. R. EVID. 604.

⁷ FED. R. EVID. 702.

⁸ See, e.g., Wis. SCR 63.001 et seq. (2002); Del. Admin. Directive No. 107, available at

<http://courts.delaware.gov/Courts/Supreme%20Court/Administrative%20Directives/?ad107.pdf>; Mass. Trial Ct., CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS OF TRIAL COURT, available at <http://www.mass.gov/courts/admin/planning/codeofconduct.html>; CODE OF PROFESSIONAL RESPONSIBILITIES, available at <http://www.nmcourts.com/newface/court-interp/guidelinesandpolicies/codeofconduct.pdf>; CODE OF PROFESSIONAL RESPONSIBILITY FOR INTERPRETERS SERVING VIRGINIA COURTS, available at <http://www.courts.state.va.us/interpreters/code.htm> [hereinafter VIR. PROF. RESP.].

⁹ See 42 U.S.C. § 2000d-1.

interpreter must possess native-like fluency in the two or more languages interpreted in order to pick up all nuances and accurately convey each element of the information. Native-like fluency is the highest level of bilingualism one can achieve. This level cannot be achieved through an immersion program, a few years of high school, or a few quarters of studying a second language at a college or university. In addition to native-like fluency in both languages, interpreters must also have knowledge of interpreting techniques, significant practice in instant and accurate

these meetings are often related to court proceedings, for example: attorney-client and attorney-witness interviews. The interviews may take place in an office, a hallway, the courthouse, a jail, or a hospital. Judicial interpreting, by contrast, takes place primarily in courts of general and limited jurisdiction in criminal, civil, and administrative law. These legal and quasi-legal scenarios can take place at the federal, state, or municipal level. Judiciary interpreters interpret both in judicial and in quasi-judicial settings. Therefore, the judiciary interpreter and

interpreter orally renders a written text into another language (e.g. protection order forms). An interpreter assists all parties in the administration of justice, helping to put a non-English speaker on an equal footing with an English speaker.

An interpreter should not give an advantage or disadvantage to the non-English speaker.¹⁰ In order to assist in the administration of justice, the interpreter must render everything said in the source language into the target language, in any of the three modes of interpretation, and must do so accurately, faithfully, and

An interpreter should not give an advantage or disadvantage to the non-English speaker.



language conversion, plus knowledge of ethics and the role of interpreters in legal proceedings, as well as knowledge of any specialized or technical terminology used in the field.

The interpreter is the nexus between all of those involved with the case (the parties, attorneys, law enforcement, victim advocates, witnesses, other court support services, etc.) and the administration of justice. When untrained and untested interpreters are used to bridge the communication gap, the competency of each and every player is placed at risk. That is why trained and qualified interpreters are necessary for all parties involved in judicial or quasi-judicial settings.

Interpreting in Quasi-Judicial and Judicial Settings

Legal interpretation is divided into *quasi-judicial* and *judicial* settings. Quasi-judicial interpreting is typically performed out-of-court but

translator must be familiar with legal and other technical terminology that could come up in any of these settings, such as domestic violence, forensic, medical, drugs, DNA, and psychological terminology. An interpreter must practice and develop the cognitive skills required for all three modes (simultaneous, consecutive, and sight translation) of interpretation. These skills cannot be developed overnight or in the course of a trial.

The *simultaneous mode* of interpretation is used during all court proceedings where the non-English speaking person is listening to the trial proceedings or when any parties or witnesses are speaking (during trial, whenever the judge is speaking to an officer of the court or any other person, legal arguments, etc.). The *consecutive mode* of interpretation is used when a non-English speaking person is giving testimony or when a judge or officer of the court is asking questions. *Sight translation* is when an

completely, without distorting the meaning or intent of the speaker, and without any changes in style or register. In short, the interpreter cannot omit, summarize, add, or edit anything in spoken or written form.

In legal and quasi-legal settings, interpreter prerequisites are established by state or federal law, or by local rule. Interpreters must become familiar with the requirements already established, and with the accepted professional practices. An example of such a practice is the use of direct speech. In legal settings, the interpreter becomes the voice of the speaker, interpreting in the same grammatical person as the speaker. In plea negotiations, for example, a defendant must enter a plea knowingly, voluntarily and of his own free will. If an interpreter speaks in the third person, as in “*He says he is guilty,*” the record will reflect the interpreter’s conclusion and not that of the defendant. Many cases have

¹⁰ See, e.g., Mass. Trial Ct., CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS OF TRIAL COURT. R. 1.03(1), 1.03(5), available at <http://www.mass.gov/courts/admin/planning/codeofconduct.html>; CODE OF PROFESSIONAL RESPONSIBILITIES Canon 11, available at <http://www.nmcourts.com/newface/court-interp/guidelinesandpolicies/codeofconduct.pdf>; VIR. PROF. RESP. Canons 3-4, available at <http://www.courts.state.va.us/interpreters/code.htm>.

been reversed due to this error. In addition to inaccuracy of the record, if an interpreter uses indirect speech such as the third person, the product will only cause confusion to the parties. It is only when the interpreters are speaking for themselves that they will revert to the third person, i.e.: “Your honor, the *interpreter* would like to request a repetition.”

Another reason why the interpreter should use direct speech is to ensure that the non-English speaker develops direct communication and a relationship with the English speaker.

languages, specialized training, education, skills, knowledge, and expertise), the role of the interpreter is simple. The interpreter’s role is to assist all parties in communicating accurately and competently. The interpreter is not an advocate for any of the parties and cannot give legal advice. Her expertise is limited to interpretations and/or translations and expertise in the role, procedures, and protocol of the field of legal interpretation and translation. When an interpreter steps out of her role, she exposes herself to challenges. An interpreter is not immune to criminal

rules of confidentiality/nondisclosure/privilege applicable to the specific setting and scope of practice.¹² Maintenance of high interpreter standards of conduct is important in promoting public confidence, not only of the interpreting and translating profession, but also in the administration of justice.

Accurate and Complete

It is crucial that interpreters interpret everything completely and accurately, without omitting, summarizing, or adding.¹³ This completeness includes accuracy of style or



An interpreter is not immune to criminal prosecution should the interpreter break the law, obstruct justice, or provide services that they are not competent to provide.

The interpreter should not participate except to convey messages; the interpreter does not create messages. Direct communication and clear relationships are especially important for victims of domestic violence. Judges, attorneys, advocates and law enforcement officers are better able to evaluate first-hand information. When proper protocols are followed, appeals involving technicalities are minimized.¹¹

Scope of Practice and Ethical Issues

Interpreters have a limited scope of practice. Although the profession of legal interpretations and translations is difficult (due to the requirements of native-like fluency in both

prosecution should the interpreter break the law, obstruct justice, or provide services that they are not competent to provide.

Judiciary interpreters and translators have ethics and professional responsibilities established by the profession, by statute, or by court rules. The role, ethics, and professional responsibilities of an interpreter are crucial for the uninterrupted nexus between all the parties. A few of the most important canons of ethics are: 1) to be accurate and complete, 2) to avoid a conflict of interest whether the conflict is real or perceived, 3) to be impartial regardless of who is paying for the interpreter, 4) to maintain attorney-client privilege and 5) to adhere to

register of speech, and non-distortion of meaning of the source language even if it appears obscene, incoherent, non-responsive, or a misstatement. If not, then the non-English speaker is on unequal footing with an English speaker. Information that may be crucial is not conveyed and puts the non-English speaker at risk. In addition, omitting elements of testimony or information provided by a non-English speaker, such as misstatements, obscene language, or even hesitations, could alter a judge’s or investigating officer’s perception of the non-English speaker.

Through personal observation and my work as a consultant reviewing appellate cases, I have had the opportunity to observe many cases

¹¹ See, National Association of Judiciary Interpreters and Translators position paper on the subject matter at <http://www.najit.org>.

¹² See, e.g., Wis. SCR §§63.01, 63.03, 63.05; Community and Court Interpreters of the Ohio Valley, CANONS OF ETHICS AND CONDUCT FOR COURT INTERPRETERS, nos. 2-4, available at <http://www.ccio.org/CCIO-CodeofEthics-Court.htm>; VIR. PROF. RESP. Canons 1, 3, 5, available at <http://www.courts.state.va.us/interpreters/code.html>.

¹³ See, e.g., Wis. SCR §63.01; Mass. Trial Ct., CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS OF TRIAL COURT R. 1.03(1), available at <http://www.mass.gov/courts/admin/planning/codeofconduct.html>; Utah Code of Judicial Administration, APPENDIX H: CODE OF PROFESSIONAL RESPONSIBILITY FOR COURT INTERPRETERS CANON 1, available at http://utcourts.gov/resources/rules/ucja/append/h_intprt/apph.htm; VIR. PROF. RESP. Canon 1, available at <http://www.courts.state.va.us/interpreters/code.html>.

dismissed, sentences or awards substantially reduced, or convictions or orders successfully reversed because the parties and court did not secure a trained and qualified interpreter. For example, in a domestic violence case, an officer with decent conversational skills but incomplete fluency in Spanish interviewed the alleged victim and missed the part where she

involved in the choice of counsel, have a financial or other interest in the outcome of the case, or served during the investigative phase of the case. Note that friends and family members are not neutral parties. Attorneys and advocates for non-English-speaking clients should carefully consider whether the potential interpreter is neutral.

a highly visible member of the community. It may be particularly necessary in domestic violence cases, where one of the parties has and is likely to continue to use tactics of intimidation. For example, in one case, the wife of an extremely influential man in his community and church alleged verbal and psychological abuse and sought help in a

Omitting elements of testimony or information provided by a non-English speaker, such as misstatements, obscene language, or even hesitations, could alter a judge's or investigating officer's perception of the non-English speaker.



said that the defendant was forcing her to have sex. As a result, a defendant who could have been charged with rape was instead charged with domestic violence assault—a charge that eventually was reduced and the defendant was sent back home to the victim.

Conflict of Interest

If an actual conflict of interest or an appearance of a conflict of interest arises, the interpreter is to inform the court, the attorneys, and anyone else involved in the case.¹⁴ It is important for interpreters to understand that such disclosure does not include privileged or confidential information. A conflict of interest may exist when interpreters are related to or have a close social relationship with a party or witness, are themselves potential witnesses, have been

Impartiality

Interpreters should refrain from conduct that may give the appearance of bias and are bound to disclose any real or perceived conflict of interest.¹⁵ They are not to permit themselves to be used as an investigator for any party to a case. Interpreters should not permit themselves to be used for communicating information to a party, a relative of a party, or a witness without the presence of the attorney or other officer of the court. Interpreters are not permitted to receive gifts or secondary reenumeration above and beyond their set fees.

At times, it is necessary to hire from outside of the jurisdiction to obtain an impartial interpreter. This may be advisable when the community is small or when the interpreter is

shelter for battered women. The husband contacted every interpreter in his community and threatened them, suggesting that they not interpret for his wife. In addition, it was alleged that one interpreter was purposely withholding information in order to protect this influential member of the community. Other interpreters claimed to be very frightened and refused to interpret for the courts and/or any of the parties. Eventually law enforcement went out of the jurisdiction in order to obtain a qualified and neutral interpreter.

The following example illustrates the potential dangers of using non-neutral parties as interpreters. In a rape case of a minor, the police used the mother of the victim to interpret *Miranda* and police interrogations.

¹⁴ See, e.g., Wis. SCR §63.03; Utah Code of Judicial Administration, APPENDIX H: CODE OF PROFESSIONAL RESPONSIBILITY FOR COURT INTERPRETERS Canon 3, available at http://www.utcourts.gov/resources/rules/ucja/append/h_intprt/apph.htm; VIR. PROF. RESP. Canon 3, available at <http://www.courts.state.va.us/interpreters/code.html>.

¹⁵ See, e.g., Del. Admin. Directive No. 107, Canon 2, available at <http://courts.delaware.gov/Courts/Supreme%20Court/Administrative%20Directives/?ad107.pdf>; Mass. Trial Court, CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS OF THE TRIAL COURT §1.03(1); Community and Court Interpreters of the Ohio Valley, CANONS OF ETHICS AND CONDUCT FOR COURT INTERPRETERS Canon 3, available at <http://www.ccio.org/CCIO-CodeofEthics-Court.htm>; Utah Code of Judicial Administration, APPENDIX H: CODE OF PROFESSIONAL RESPONSIBILITY FOR COURT INTERPRETERS Canon 3, available at http://utcourts.gov/resources/rules/ucja/append/h_intprt/apph.htm.

During the reading of *Miranda*, the victim's mother did not interpret *Miranda*, but instead indicated to the alleged perpetrator that he "had better tell the truth, the whole truth." This particular police interview was tape-recorded. Subsequently, a bilingual attorney appointed to the case came across the tape-recorded interview and filed a motion to suppress. The suppression hearing never occurred, because the prosecutor and attorney entered into a plea agreement due to the possible *Miranda* violation. The defendant pleaded guilty to a reduced charge of gross sexual imposition and he received probation. As the mother of the victim, the interpreter in this case had an obvious conflict of interest and her interest in the case was such that it would have been impossible for her to remain impartial.

Attorney-Client Privilege

Attorney-client privilege is extended to the interpreter and thus an interpreter cannot disclose information obtained during attorney-client interviews, unless the client waives the privilege.¹⁶ It only can be overcome in exceptional circumstances. In addition to well-established laws regarding privilege and confidentiality with respect to any communication, documents, police and medical records, or other types of privileged communications, interpreters are bound by the profession's ethics to keep confiden-

tial any information obtained during the course of their professional assignments, even if that information is no longer confidential.¹⁷

Tips for Legal Assistance to Victims (LAV) Grant Attorneys and Advocates

I would like to leave you with some suggestions to consider as you work with interpreters in your practice. First, in addition to the need for the interpreter to understand his or her role, it is important for judges, attorneys, advocates, and law enforcement to become familiar with the laws and rules pertaining to interpreters. Attorneys should document their request for a certified and/or qualified interpreter, through oral and written motions and objections. All conflicts, concerns, or objections should be raised on the record and at the time they occur because without a record they cannot be raised on appeal.

Next, it is vital for all entities involved in civil and criminal cases, including domestic violence shelters, victim advocacy groups, and medical personnel, to provide a copy of the canon of ethics and professional responsibility to their interpreters so that the interpreter is clear about what is expected. They also should require an interpreter to sign a confidentiality agreement that carefully describes the meaning and

scope of the agreement. These steps will help to ensure that all parties are protected, including the interpreter.

Make sure that you are aware of the interpreter's credentials, training, and familiarity with the canons of ethics. Then, through the interpreter, you should introduce all relevant information to your limited English-speaking client about his right to an interpreter, and to the interpreter's confidentiality and neutrality.

Don't forget that you are in charge. If you see that the interpreter is having a separate conversation with the client, stop it and ask the interpreter to tell you exactly what each person has said. Then explain that the interpreter should not initiate or respond to any conversation without interpreting it first.

Finally, there is a rule that I always include when I speak to judges, attorneys, law enforcement, or advocates and that is, that the standard procedures and rules applicable to English speaking persons are also applicable to non-English speaking persons. You can ask: "If this were an English speaker, how would I proceed in this situation?" The answer is to treat the LEP person as you would any English speaker. Just because an interpreter is present, there is no reason to deviate from standard procedures already established by law or the particular organization.¹⁸ To have an incompetent interpreter is tantamount to having no interpreter at all.¹⁹ ■

¹⁶ See *State v. Christian*, 841 A.2d 1158, 1184 (Conn. 2004); *People v. Sin*, 718 N.Y.S.2d 333, 334 (2000); *People v. Alvarez*, 926 P.2d 365, 415 (Cal. 1996); *Insurance Co. North America v. Superior Ct of Los Angeles*, 166 Cal.Rptr. 880, 888 (Cal. App. 2 Dist. 1980). Attorneys may want to consider using one interpreter for attorney-client interviews and a different interpreter for court proceedings.

¹⁷ See, Wis. SCR §63.06; CODE OF PROFESSIONAL RESPONSIBILITY FOR INTERPRETERS IN THE OREGON COURTS, no. 7, available at <http://www.ojd.state.or.us/osca/cpsd/interpreter/documents/ethicscode.pdf>; VIR. PROF. RESP. Canon 5, available at <http://www.courts.state.va.us/interpreters/code.html>.

¹⁸ Isabel Framer, *Getting It Right By Doing It Right: Mile Markers Along the Road Across the Linguistic Divide* (July 2003) (unpublished article, Federal Interagency LEP Working Group) (on file with author).

¹⁹ NATIONAL ASSOCIATION OF JUDICIARY INTERPRETERS AND TRANSLATORS, HANDBOOK FOR THE LEGAL PROFESSION: WORKING WITH INTERPRETERS (1989).