

# “Working with Court Interpreters”

Juvenile Law Seminar  
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“There are no facts, only  
interpretations”

- Friedrich Nietzsche

# Overview

- 1) Federal and State Law
- 2) Practical Considerations
- 3) Alejandro Ramírez
- 4) Interpreter Certification and Best Practices

# Interpreters: Federal Law

No explicit right to an  
interpreter in the US  
Constitution

# Implicit or Quasi-Constitutional Right to a Court Interpreter

- Right to counsel (effective communication between attorney and client) under 6<sup>th</sup> Amendment
- Right to confront witnesses, US ex rel. Negron v New York, 434 F.2d 386 (2d Cir., 1970)

# Exec. Order 13166; Title VI, Civil Rights Act 1964

- If an agency (court) receives federal funding, interpreting services must be provided according to the LEP population
- Failure to ensure that people who are not proficient in English can effectively participate may constitute national origin discrimination prohibited by Title VI
- USDOJ monitors compliance in this area

# Interpreters: State Law



# When MUST a Court Appoint an Interpreter?

- If a party, witness while testifying, alleged victim, parent/legal guardian of a minor party, legal guardian of a party in interest, or other person affected by the proceedings has limited English proficiency (LEP) AND
- The court makes a finding an interpreter is needed AND

# It is one of these kinds of cases:

- Criminal
- Chapter 48
- Chapter 51
- Chapter 55
- Chapter 938: Juvenile

...OR

- If a person has a disability under the Americans with Disabilities Act (ADA) affecting her ability to understand English OR is part of a jury panel in a court proceeding

# When MAY the Court Appoint an Interpreter?

- If a party, witness (while testifying), alleged victim, parent/legal guardian, or other person affected by the proceedings has limited English proficiency (LEP) AND
- The court makes a finding that an interpreter is needed AND

- If the person needs assistance at the clerk's counter OR
- If the person needs interpreter services outside the courtroom, with court approval (e.g. court ordered psychiatric exams)

# State v Neave, 117 Wis.2d 359 (1984)

- As a matter of “fairness and sound judicial administration”
- The assistance of an interpreter promotes judicial economy by reducing the risk of appeal on grounds of inaccurate interpreting or failure to appoint an interpreter

# Who Pays for an Interpreter?

- The county pays for all interpreter expenses in proceedings before the circuit court if a person with LEP is indigent.
- The county pays for all interpreter services used at the clerks counter, if the person with LEP is indigent
- The county pays for all interpreter expenses in court proceedings if a person has a disability under the ADA affecting his ability to understand English REGARDLESS of ability to pay.

# When May a County get Reimbursed for Interpreter Expenses?

When the court makes a finding of  
INDIGENCY



# Can the Court Assess Interpreter Expenses to the Juvenile?

- A court CANNOT assess interpreter fees for a person who needs an interpreter because of a disability
- A court CANNOT impose costs, fees, surcharges under ch. 814 against a juvenile under 14 years of age
- A court MAY impose costs, fees and surcharges under ch. 814 against a juvenile 14 years of age or older OR the parent of the juvenile 14 years of age or older

# Practical Problems

# Multiple Defendants

- Example: You have juvenile trial involving 3 Russian-speaking co-defendants and 3 sets of Russian-speaking parents
- Question: How many interpreters do you need? Do you need an interpreter for each defendant and for parents?

# Multiple Defendants

- At least 2, one to simultaneously interpret the proceedings and one to rest, monitor and trade off every 45 minutes or so
- Wisconsin Supreme Court cases
- State v. Neave grants discretion to the trial court to determine what is the best practice
- State v. Santiago, the better practice may be to appoint one interpreter for the court and one for the defendant (did not address multiple defendants).

# Multiple Defendants (con't)

- NCSC “Model Guides for Policy and Practice in the State Courts” recommends one interpreter for the court, working with a transmitter and headphones to interpret the courtroom proceedings for all defendants (and family members).
- Recommends a second interpreter to monitor and switch off.
- Recommends at least one interpreter available for the defendant (interpreting the question of the attorneys), but absent special circumstances, you should not need an interpreter for EACH defendant

# Multiple Defendants (con't)

- Practical concerns for judge to consider:
- How courtroom is arranged
- Defendant(s) ability to see the interpreter
- Does defendant have a basic command of English to carry on conversations with counsel (without an interpreter)
- Is defense counsel insisting on counsel table interpreters in addition to proceedings interpreter
- Consider holding pretrial with attorneys and judge to work out logistics

# Multiple Interpreters/Team Approach

- If there is only one non-English speaking defendant and no non-English speaking witnesses, one interpreter is enough
- If you expect the proceeding to last longer than 45 minutes, you should have two to switch off
- Research shows an interpreter's accuracy drops drastically after 45 minutes of continuous interpreting

# Multiple Parties

- Example: You have a juvenile trial involving 2 Somali co-defendants and several Somali witnesses
- Question: How many interpreters do you need?
- Answer: Two interpreters will be needed during witness testimony (counsel table interpreter who is interpreting English questions for defendant and who is able to assist with defendant-counsel questions AND the witness interpreter who is rendering what the witness is saying)



# Interpreting Equipment

- Allows one interpreter with a transmitter to interpret for several people who have headphones
- Cost is somewhere between \$700-\$1000

# Telephone Interpreting

- Commercial language line services (Language Service Association, Tele-Interpreters, Language Line) that provide immediate service
- Good for unique languages and shorter proceedings (under 20 minutes or so)
- More challenging for interpreters to interpret remotely, as they rely heavily on visual cues

# Recoupment of Interpreter Expenses - Reminder

- Interpreter expenses can be assessed as costs to indigent defendants, just like attorney fees are and because interpreters are similar to expert witness fees, where fees can also be assessed
- ADA forbids this practice
- Keep in mind the Exec. Order 13166 and Title VI which requires “meaningful access” to LEP individuals

# State Reimbursement to Counties

- Indigency determination by court triggers reimbursement
- State will reimburse counties for interpreter expenses in ANY kind of case, if there is a finding of indigency
- State reimburses counties at a higher rate for certified interpreters (\$40) versus non-certified (\$30) (Wis. Stat. 758.19)
- State reimburses counties for mileage (\$.20 per mile) (Wis. Stat. 758.19)

Alejandro Ramírez

# Miranda Rights

- You have the right to remain silent.
- Anything you do or say could be used against you in a court of law
- You have the right to speak with an attorney or have an attorney present during questioning
- If you cannot afford a lawyer, one will be provided for you at the government's expense

# Translation of Interpreted Miranda Rights with a “Qualified” Interpreter

- “OK, Alejandro, here are your right hands down with the law...OK?”
- “Uh, you have the right hand that something...are going...you can use against you in a court of the law”
- “You have the absolute right hand to remain quiet if you prefer to...”

# Translation (con't)

- “You have the right hand to give a lawyer’s visa before and also you have the...right hand with the presence of a lawyer here with you during the questions”
- “And also if you cannot hit for a lawyer it’s possible for having a lawyer...OK”
- “Without paying the questions before...OK?”
- “Do you understand all these right hands down with the LAW?”



## Translation (con't)

- “And for the incident without a lawyer or do you prefer that have a lawyer?”
- “We need your signature, please...Here is the letter. This is the letter of...with the inscription of...and of your right hands.”

# What Standard do you Use do Determine Interpreter Accuracy?

- Appearance Standard?
- Performance Standard?

# Appearance Standard

- Interpreter is always available
- Dresses nicely and is pleasant
- Appears professional
- Punctual
- Appears to be bilingual
- No one ever complains

# Performance Standard

- Certification Testing
- Measure of whether an interpreter possesses native-like fluency in two languages
- Measure of whether an interpreter possesses necessary interpreting skills

# Court Interpreter Certification Program

# What is the Interpreter's Job?

To render everything said in court in the source language, into the target language:

- Accurately, without any distortion of meaning
- Without omissions
- Without additions
- Without any changes in style or “register”
- With as little delay or interference in the routine pace of court proceedings as possible

# Examples of Interpreter Renditions

*“It sure did!”*

INTERPRETATION BY EXAMINEE:

*“Yes, I think so.”*

# Examples (con't)

*“...were you able to actually see where the broken glass had come from?”*

INTERPRETATION BY EXAMINEE:

*“...could you see where they broke the glass...”*



## Examples (con't)

*“I looked for a jacket that I had just bought, I hadn't put it on yet, and it was missing.”*

INTERPRETATION BY EXAMINEE:

*“I picked up a jacket which I had not worn and then I put it on.”*

# Examples (con't)

Atty. Question:

*“Now, Mrs. Peña, you indicated that you live in East Orange at 5681 Grand Street.”*

INTERPRETATION:

*“You say that you were eating an orange?”*

# Court Interpreting

- Highly specialized profession that requires use of cognitive and motor skills – being bilingual is not enough
- Do not use appearance standard to determine if an interpreter is doing an acceptable job
- Certification gives you a measure of quality assurance that an interpreter possesses the language skills needed to work in court

# Certified Interpreters

- Attendance at a two-day orientation
- Pass written test which includes English proficiency, Legal Terminology, Ethics and Written Translation
- Pass oral performance examination testing in sight translation, consecutive and simultaneous interpreting in simulated legal setting
- Character and fitness requirement
- Signed oath on file to abide by Code of Ethics

# Using Certified Interpreters

- Try to call first, whenever possible
- Use for more complex hearings
- For ASL interpreters in courts, use those individuals who have legal certification from Registry of Interpreters for the Deaf (RID) or National Association of the Deaf (NAD)

# Locating an Interpreter: Roster

- 26 different languages
- 29 certified interpreters in the state (22 Spanish, 6 ASL, 1 Russian)
- Broken down by levels: Certified, Provisional, Trainee
- Court Roster Webpage:  
[www.wicourts.gov/intrpreter/roster.pdf](http://www.wicourts.gov/intrpreter/roster.pdf)

# Beware of...

- The interpreter who says they are “certified” from another state
- The interpreter who does not interpret everything that is being said in the courtroom
- The interpreter who is engaging in conversation with the party or witness
- The interpreter who is coaching the party or witness
- The interpreter who draws undue attention to himself

# What to expect from a qualified interpreter

- He will request clarification if something is not understood
- She will interpret in the first person and may address court in third person
- He may have paper and pens to take notes and a dictionary or other references
- She will not converse with party or witness except to interpret
- He will not “lower the register” of speech



# What Judges Should Do

- Conduct voir dire of the interpreter to determine qualifications
- Swear in the interpreter:  
“I solemnly swear (or affirm) that in all proceedings in the courts of Wisconsin to which I am appointed an interpreter, I will interpret truly, accurately, completely, and impartially, in accordance with the standards prescribed by law, the Code of Ethics for court interpreters, and the Wisconsin guidelines for court interpreting.”

# Questions about Interpreters?

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