

How to Address Problems With Interpretation

Document the Problem, Take Notes On

- Inaccuracies, errors, omissions, summaries, incorrect terminology
- Gender, cultural, or class biases
- Conflicts of interest, lack of neutrality and other impediments to compliance
- Breaches of confidentiality
- Interpreters stepping out of role and giving advice, trying to influence victims

Explain How You Identified the Problem

- Based on what the client has told you
- You speak the target foreign language and have detailed notes
- You do not speak the foreign language but took notes on your concerns and then debriefed with the client to determine what went wrong
- You obtained information from client, family, or community informants
- You reviewed case transcripts of proceedings, and compared the transcripts to what the client and/or other witnesses told you

Addressing Problems

1. Problems with Quality of Interpretation

Most problems arise from using bilingual speakers untrained to interpret; these include:

- Lack of fluency.** Interpreter is not fluent in English and/or foreign language.
- Lack of accuracy.** Incomplete interpretation, interpreter cannot keep up with subject matter, is ignorant of specialized terminology, is uncomfortable with domestic or sexual violence terms, etc.
- Lack of neutrality.** Interpreter gives advice, doesn't reveal a conflict of interest.
- Breaking confidentiality.** Interpreter discusses or shares case information.
- Allowing personal and cultural bias.** Interpreter's biases filter and/or change what is said.
- Providing 'cultural interpretation.'** Explaining cultural practices, offering themselves up as cultural experts, reflecting their own or their larger ethnic community's cultural biases.
- Allowing gender bias.** Blaming victims, emphasizing traditional roles for women, admonishing them for asserting their rights.

2. Other Problematic Situations

In small communities when an interpreter knows both the victim and batterer:

- Interpreter or advocate should disclose this to the hiring agency as a potential conflict of interest or bias, and allow the agency to make a determination on whether a conflict or bias exists.
- Attorneys or advocates should be prepared to suggest an alternative interpreter, e.g., telephonic interpretation by an interpreter from the adjoining county.

Report the Problem to...

Advocates should report all problems to the victim's attorney.

It is the attorney's role to notify the court about any interpretation issues, and raise the appropriate objections on the record. Only if client is unrepresented, should advocates report problems to others.

- **Victim's Attorney:** If the victim is represented, inform the attorney who will raise the issue with the judge.
- **Officers of the Court:** Write a note describing the issue and give it to the bailiff or court clerk who will alert the judge.
- **Interpretation Services Providers:** Inform court interpreter coordinator (if there is one), agency that provided in-person or telephonic interpreter.
- **Professional Association:** If the interpreter is on a list or is certified, notify the appropriate agency and file a complaint.

What Can Happen Next

- Judge and/or attorneys decide if there is a problem and if a new interpreter is needed.
- For conflicts of interest, the judge assesses the nature of the conflict and whether it will impede the interpreter's ability to interpret.
- Attorneys of either party may decide to take steps to exclude information or testimony marred by poor interpretation.
- Advocate can ask interpretation services agency to assign a different interpreter (for quasi-judicial setting).
- For confidentiality breaches, advocates must take steps to ensure client's safety.

If the advocate knows the interpreter assigned to the case is a batterer:

- a. Advocates may have this information through confidential means (e.g., by providing services to interpreter's partner); they cannot publicly state this reason.
- b. Advocate can bring another interpreter to interpret, or suggest alternate interpreter.

When bilingual advocates are asked to interpret:

- a. Advocates must not interpret at trials, motion hearings, custody hearings, arraignments, or divorce hearings.
- b. Advocates must decline to interpret. If a judge insists that an advocate serve as the interpreter, despite the advocate's objections, the advocate should request that the objection is placed on the record.
- c. Advocates must not interpret if no attempt to find a qualified interpreter (either in-person or for telephonic interpretation) was made before the advocate is asked to interpret.
- d. Advocates must not interpret at attorney-client interviews.
- e. **ONLY** in the interest of a victim's immediate safety and when a qualified interpreter is not available in person or via telephone, an advocate can step in to interpret.
- f. Advocates who are interpreting must stop when they are:
 - i. losing the message
 - ii. summarizing because they are unable to retain the information or interpret particular concepts or terminology
 - iii. confused and/or confusing the client
 - iv. finding the vocabulary being used is beyond their language ability.