INTERPRETER FATIGUE

Chapter 19 of the Judges' Criminal Benchbook on interpreting, page 1027, provides that interpreters should work in teams to cover any proceeding that is more than two hours. This is to accommodate interpreter fatigue. This paper is a discussion of interpreter fatigue and its impact on the court record and on protecting the rights of linguistic minorities. (See Appendix C of the Criminal Bench Book, Interpreter Chapter, *New Study on Fatigue Confirms Need for Team Interpreting*, Mirta Vidal, February 1999. Reprint by permission.)

The demands placed on a legal interpreter are linguistically extraordinary. Nancy Festinger, the Chief Interpreter for the United States District Court, Southern District of New York, (Manhattan) eloquently describes the interpreter's role as follows:

> " . . . we perform mental gymnastics, jumping from an attorney's constitutional argument in a motion to suppress, to a drug addict's slurred explanation, to a witness's deliberately elusive answer, to the socio-psychological jargon of a probation report, to the small print of a statute, to a judge's syntactically convoluted charge to the jury—often, all in the space of a few hours. We repeat patent nonsense, veiled (or not-so-veiled bullying), impassioned pleas, righteous indignation, stern admonishments, nit-picking questions, ironic remarks, barbed answers, tearful confessions, and through it all we must pay unflagging attention, betray no sign of annoyance or incredulity, all the while maintaining composure, impartiality and linguistic fidelity."

The interpreter's role is an exacting role, both physically and mentally, and therefore requires an awareness of the proper working environment. It is imperative that an interpreter be able to be mentally alert at all times. Studies have presented unassailable evidence that a simultaneous interpreter's performance deteriorates markedly after a surprisingly short time. Frequently judges will interrupt proceedings to give the court reporter a break, because they know that having an accurate record depends on having an alert reporter. They sometimes forget, however, that another important way to protect the record is to make sure that the interpreter is well rested and alert.

The court has an obligation to provide an interpreter a break whenever the interpreter feels that fatigue is beginning to interfere with the accuracy of the interpretation. This is to protect the record, and to protect the rights of the non-English speaking person in the court.

BEST PRACTICE: TEAM INTERPRETING

The recommended practice for simultaneous and consecutive interpreting calls for two or more interpreters for court proceedings lasting longer than two hours. The length of time an interpreter is able to maintain accuracy varies to some degree depending on the gravity, complexity, and intensity of the proceeding, but generally the court should not expect an interpreter to work alone for any hearing expected to last longer than two hours. If the court decides to proceed without a second interpreter, an interpreter working alone will need frequent ten-minute breaks. Studies show that accurate interpreting decreases dramatically after approximately 30 minutes of continuous interpreting. (See Appendix C of the Criminal Benchbook Chapter on Interpreters, *New Study on Fatigue Confirms Need for Team Interpreting*, Mirta Vidal, February 1999. Reprint by permission.)

The best practice is for team interpreters to trade off every 20-30 minutes at the microphone, thus rotating their respective roles throughout the proceeding. Therefore, a two-member team of interpreters provides interpreting to the defendant and to all witnesses and parties needing interpreting services, irrespective of whether they are prosecution or defense witnesses. Canon Number Three of the Oregon Code of Professional Responsibility requires interpreters to maintain all information learned during the course of an assignment in absolute confidentiality.

Team interpreting works particularly well during trials. Team interpreting not only provides periodic relief to prevent fatigue, one potential cause of interpreter error, but it also allows for the presence of a second language expert in the event of challenges to interpretation at the witness stand.

Moreover, because interpreters cannot realistically know in advance every word or phrase that will arise, research of reference sources during a trial is handled by the second interpreter, who will also take care of any problems that may arise with electronic equipment, if it is used.

Due to a lack of certified and qualified interpreters in all areas of the state, it is understandable that team interpreting cannot be used in all circumstances. The court must keep in mind the factor of interpreter fatigue and make adaptations to protect the rights of non-English speaking persons before the courts.

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