

USING AN INTERPRETER IN COURT

Court interpreting is very crucial for battered women whose primary language is not English, particularly since the court system is generally not sympathetic. There are some specific guidelines that need to be followed when interpreting or using an interpreter, in order that non-English speaking persons are able to participate fully in the proceedings of the court. The following packet includes problems often encountered with court interpreters as well as the interpreter's code of responsibility. Our hope is that this will help equip advocates with the information and tools to better serve non-English speaking women.

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Attached: MN §§ 546.42, 546.44, 611.30, 611.31, 611.32, 611.33, 611.34

COURT INTERPRETERS

Court interpreting is a task that for too long has been ignored, unappreciated and unrecognized. It is also a task that has had very little regulation and accountability. The State of Minnesota Supreme Court has recognized this and is creating policies around legislation that were passed governing Court Appointed Interpreters. There is a state office specifically assigned to train and educate people on the issues of court interpreting. The purpose of this article is to hopefully dispel some myths about interpreting and give you information on what should and should not be expected from court interpreters.

To become eligible to be a court appointed interpreter, you must be authorized to do so by going through the MN Supreme Court's two-day orientation, and sign the interpreter's code of ethics. This process will allow individuals to be placed on county interpreter rosters. The State plan is to have the national certification process in place by having already authorized and qualified individuals go through a state testing process to be eligible to interpret in court. The languages that are available are Spanish, Russian and Hmong. They provide an intensive training for these interpreters prior to the testing. This process is very difficult and many people are not able to make it through the training. Most individuals who successfully complete the training pass the state test. A court interpreter is an officer of the court and should act accordingly. Interpreters help assure that persons excluded from full participation may enjoy equal access to justice and that court proceedings and court support services function efficiently and effectively.

Sign language interpreters are a more cohesive group. They are almost always in groups of two, are certified through the state, and have an organized network around the state. In contrast, language interpreters are frequently called at the spur of the moment, are alone (sometimes for hours of interpreting) and often do not have the skills needed either in one language or both to do an adequate, competent job.

Advocates and attorneys should never interpret in court. This can create grounds for an appeal due to "Biased interpreting". As a bilingual advocate, you can be present in the courtroom, monitor the proceedings and translation, and give your own comments to the battered women in her own language if the court allows. Even if an individual seems fairly competent in the English language do not assume that they will not benefit from having an interpreter. The emotional stress of being in court can create communication problems for women. Many individuals whose first language is not English get easily confused or lost in the legal process. Bilingual, non-English speaking individuals, or monolingual persons are at an incredible disadvantage in the court system. Even for a bilingual person, when under stress (for instance, facing an abuser in court), a person whose first language is other than English can become confused and not understand the proceedings. An interpreter can alleviate some of that stress. Explain to your client why you think it would be advisable to have an interpreter accessible to them in court.

The interpreter has the right to ask for any orders or documents prior to the hearing to adequately prepare. The interpreter is also supposed to keep all information regarding the interpreting confidential (Minn. Stat. §§ 546.44 and 611.33). If arrangements are made in

advance for an interpreter, and they don't show up, you have the right to ask for a continuance until such time that an interpreter can be provided.

It is also important to remember that persons needing interpreters for any court proceedings do not have to pay for these services. The county incurs the cost, and is legislatively mandated to provide these services (Minn. Stat. §§ 546.42 and 611.31). You will need to determine who will pick up the tab if interpreter services are needed outside the courtroom.

The following is a list of problems that have been identified with interpreters in court:

- They may not be clear regarding their role as an interpreter.
- They often give advice to individuals.
- They don't interpret all of the information that is being said.
- They may paraphrase.
- They may not be familiar with the culture and idioms of the dialect and assume a meaning.
- They don't relay all of what the non-English speaking person has said to the court.
- They sometimes threaten women that are from their own communities.
- Interpreters are often related to the individual they are interpreting for, or have a conflict of interest due to familiarity and do not remove themselves from the case.
- Battered women often do not know that they have a right to ask for a different interpreter.
- Women may look to the interpreter as an advocate.
- The abuser's testimony may not be fully translated to her.

If you are bilingual and are in a courtroom with someone and notice that the Interpreter is not accurately translating and excluding the individual from participating fully in a hearing, you can stop the proceedings. You should tell the judge that you know the language and think the individual is not being given an opportunity to fully participate.

Advocates should not be interpreters and interpreters should not be advocates. An interpreter's job is to translate *all that is said* in the courtroom in the same style and register that is spoken. The court interpreter should be inconspicuous and always refer to her/himself in the third person. The state may be moving toward tape recording proceedings because the court reporter can only record what she/he understands.

The Code Of Professional Responsibility For Interpreters In The Minnesota State Court System outlines ethics for interpreters serving around the state. They are listed as Canons, which are outlined here.

CANON 1: ACCURACY AND COMPLETENESS

Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to the meaning of what is stated or written, and without explanation.

CANON 2: REPRESENTATION OF QUALIFICATIONS

Interpreters shall accurately and completely represent their credentials, training, and pertinent experience.

CANON 3: IMPARTIALITY AND AVOIDANCE OF CONFLICT OF INTEREST

Interpreters shall be impartial and unbiased and shall refrain from conduct that may give an appearance of bias. Interpreters shall disclose any real or perceived conflict of interest.

CANON 4: PROFESSIONAL DEMEANOR

Interpreters shall conduct themselves in a manner consistent with the dignity of the court.

CANON 5: CONFIDENTIALITY

Interpreters shall protect the confidentiality of all privileged and other confidential information.

CANON 6: RESTRICTION OF PUBLIC COMMENT

Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential, except to facilitate training and education.

CANON 7: SCOPE OF PRACTICE

Interpreters shall limit themselves to interpreting or translating and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

CANON 8: ASSESSING AND REPORTING IMPEDIMENTS TO PERFORMANCE

Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment competently, they shall immediately convey that reservation to the appropriate judicial authority.

CANON 9: DUTY TO REPORT ETHICAL VIOLATIONS

Interpreters shall report to the proper judicial authority any effort to impede their compliance with any law, any provision of this code, or any other official policy governing court interpreting and translating.

CANON 10: PROFESSIONAL DEVELOPMENT

Interpreters shall continually strive to improve their skills and knowledge and advance the profession through activities such as professional training education, and interaction with colleagues, and specialists in related fields.