THE PRACTICE OF COURT INTERPRETING

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Alicia Betsy Edwards

The Practice of Court Interpreting

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For My Mother and Father

About the Author

Alicia Betsy Edwards received a B.A. in History from the University of Rochester, and an M.A. in Latin American Area Studies and a Ph.D. in Latin American History from the American University. For many years she has worked on a contract basis as a translator and interpreter for the U.S. Department of State, and for the past 15 years has also interpreted in various federal courts and in D.C. Superior Court in Washington, D.C. She has been a Visiting Lecturer in Translation and Interpretation at the University of California, Berkeley, and has published numerous articles on interpreting.

Contents

To the Reader

Court interpreting can represent a satisfying vocational goal for the bilingual and bicultural liberal arts major who has the ability to interpret. Over the next twenty years the need for well-trained court interpreters will grow. This book describes the normal flow of work, how to train for it, how to find it, how to prepare for a case, how to do the work, and subsequent reading to help us improve our work. Most of the case material cited I have personally observed, while some examples have been recounted by colleagues. Names of cases and participants have been changed.

Some of the material in Chapter 2 derives from a paper given at the American Translators Association National Convention in 1982, entitled "Documents Are a Court Interpreter's Best Friend," subsequently reprinted by the Court Interpreters and Translators Association as an offset. The use of the case sheet was explained in a lecture called "Case Preparation" at the Educators' Pedagogical Institute on Court Interpreting at Montclair State College in New Jersey in 1987.

Chapter 4 originated with a paper in *The Court Manager (1988)*, entitled "Ethical Conduct for the Court Interpreter," and an article in *Capital Translator* with Attorney Lloyd Elsten, entitled "Interpreting in Criminal Court" (1982).

Chapter 5 includes comments on neologisms from an article published in *Capital Translator* (1985) entitled "Hortera Meets Empaste." Another part of the chapter was suggested by a lecture entitled "Avoiding the Pitfalls of Literal Translation/Interpretation," given at a Workshop for Federal Court Interpreters in Miami, sponsored by The Federal Judicial Center (1988).

Chapter 6 includes ideas presented at a "Workshop in Court Interpreting and Legal Translation" (1983) for the National Capitol Area Chapter of the American Translators Association (Washington, D.C.).

Chapters 7 and Chapter 8 have grown out of my work on tapes and as an expert witness, supplemented by the generous advice of Alee A. Alger-

Robbins of San Diego, and María Elena Cárdenas of Miami, with incisive comments by Irene King-Tomassini of Miami.

Chapter 9 had a modest beginning in the article "All Rise: Books on Court Interpreting" for *Capital Translator* (1982) and has been much extended and modified.

Perhaps this book can help us think about court interpreting in an organized fashion, and improve our practice of it. The book may also help attorneys, judges, and administrators better understand the role and functions of the court interpreter, to better use her talent.

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CHAPTER 1

How to Become a Court Interpreter and a Brief Sketch of the Work

In its narrowest sense, court or judicial interpreting is the oral interpretation of speech from one language to another in a legal setting. Court interpreting is thus an excellent career for language and humanities graduates who have strong bilingual and bicultural abilities. Bilingualism does not guarantee the ability to interpret. A bilingual person, however, may perhaps have the gift. If one needs two languages for court work, one also needs to understand two cultures. The court interpreter must be both bilingual and bicultural.

Court interpreting is but one form of interpretation. Other varieties include conference interpreting (which is simultaneous at international conferences), and escort interpreting (consecutive interpreting done for small, informal groups). When you visit the United Nations, you hear conference interpreting. Conference interpreters usually do simultaneous interpreting into their "A" or active (usually native) language, from two or three "B" or "C" (more passive) languages. The conference interpreter who does simultaneous work usually needs only to produce correct speech into one language. She is isolated from ambient noise by a booth, she has sophisticated sound equipment provided by the conference or institution, and that sound equipment brings the sound to her on a headset whose incoming volume she can control. Her purpose is to communicate, sometimes in an elegant fashion, so she may perhaps embellish, smooth out, and fix infelicitous turns of phrase.

While court interpreting requires the ability to do simultaneous, it is more demanding than conference interpreting in that one must be able to go to and from two languages in consecutive, and into at least one language in simultaneous, usually the language that is not English. Also, one cannot fix or modify any words, because such fixing would taint the case. Because these are adversary proceedings, parties can become very angry if they sense any deviation from the formalities. The court interpreter is not isolated in a booth,

and must depend on her ears and eyes to find out what is happening. Substantial court work allows the interpreter to become familiar with court terminology and to feel comfortable in the courtroom.

Who Should Become a Court Interpreter

Some interpreters are attracted to court interpreting because of its dramatic potential and excitement, while others become more lively from the experience. Translators, who work on written documents, may not always be able to interpret. They may not like interpreting even if they can do it. The life of the translator appears calm, because he is mostly involved with a computer, or else does research at the library, while interpreters move around, travel, and work before the public in exciting cases. Interpreters need to be assertive, and tend to be more outgoing, lively, and noisy than translators. Although the drama in the courtroom is that of the case, and thus belongs to someone else, we participate as actors do; we speak the lines created by others. Thus, the profession of court interpreter is not for the shy or retiring, not for the person who likes peace, calm, or routine. It requires your full attention and devotion. One never reaches a point where one can say: "Now I know it all, now I can sit back and rest." Cases, procedures, and vocabulary require constant study. Also, one can take nothing for granted: schedules change, cases are pled out instead of going to trial, there is constant movement between courts, jails, the offices of attorneys and others. No schedule is sacred, and one needs to be able to jump fast both mentally and physically.

Interpreters believe that other colleagues are "real" interpreters if they derive most of their income from interpreting. Many professionals derive almost all of their income from interpreting or a combination of interpreting and translating.

A court interpreter must love language, words, the history of words, and the interplay between language and culture. It helps also to like action, to be dismayed at the prospect of a nine-to-five job. Because most interpreting work is done on a free-lance or independent contractor basis, one needs a number of clients and work in various courts to survive. While the field offers no guarantee of economic security, skilled people can build an interesting life with a reasonable income. Court interpreting is never boring; there are few professions of which that can be said. The court interpreter will never lead a life of quiet desperation.

There is more than one way to acquire a working language. Some people may be born abroad, study English, and then move to the U.S. where they learn more English. Others are born in the U.S. of parents who speak another language at home, in which case they may take courses in both languages and spend time in the country of origin of their parents or in a country of that same language. A third route is to be born in the U.S. of English-speaking parents. In this case, it is possible to study the foreign language in school, then reside and study abroad to learn that language more fully and immerse yourself in that language and culture. Along the way, constant reading in both languages helps, as does travel. A classic ploy was to meet a boyfriend or girlfriend who spoke the language to be learned. Friendship is a great promoter of language learning.

The first goal of the prospective court interpreter is to become thoroughly bilingual in the languages he plans to use. Language courses are offered at many U.S. universities and may be supplemented by a junior year abroad, graduate work abroad, summer study abroad, or work abroad. European universities offer wonderful summer courses for foreigners in language and culture and many have full-year programs as well. Spain, Portugal, Italy, and France offer excellent teaching in an environment that obliges the student to speak the language. When you travel to Europe to study, take a vow not to read newspapers in English. You want the news, the action, read the local papers and watch local television. The classified section of the Madrid newspaper *El País* of Aug. 6, 1994, for example, has one section under "Services" entitled "Relax," which includes a "*Circulo Erótico*" or Erotic Circle where you can meet people and girls can join for free. The add explains that this circle will introduce you to relationships that are "*libres de compromiso* ," that is, with no strings attached. This no strings could be an excellent start.

Formal Training for Court Interpreting

Because interpreting involves the manipulation of two languages that one already knows, most of one's language study should have been completed before taking an interpreting course. Serious courses on interpreting and translating require the prospective student to demonstrate bilingual ability. An entrance test may also be required to see if a person can interpret or translate at a preliminary level. An interpreting course is not the place to brush

up on a working language. How many years of school one needs to do the work properly is up to the individual doing the work. The creators of the federal certification exam for Spanish court interpreting (of which more shortly) say that one needs at least 14 years of schooling in English to understand the English used in court. Competent interpreting requires a solid liberal arts foundation, a foundation best acquired at a university here or abroad. I recommend at least a B.A. or B.S. degree, while an M.A. or a Ph.D. in the language, literature, history, or art of an area can be helpful. Study does not end with the acquisition of a degree or certification; the last chapter of this text suggests further reading and practice to enhance understanding of the legal process and our place in it.

William M. Park's book *Translator and Interpreter Training in the USA: A Survey* (8) provides the names of schools in the U.S. that offer courses in interpretation and translation. Interpreting schools in Europe include the University of Geneva, the University of Paris, and the University of Trieste; these schools are geared to train conference rather than court interpreters. Once you have some work experience, you may be tempted to sign up for courses in forensic sciences to better understand the analysis and discussion of physical evidence. For criminal cases, the more you understand about forensic sciences generally, the better off you will be. Any university that teaches Spanish and other languages and also offers forensic sciences could be in an excellent position to put together an innovative program in court interpreting.

Training on the Job

Much of your learning will be on the job, because the best way to learn is to do, and because so many local variations of practice affect our work. The laws differ in each state, each court has its own rules and procedures, and no case is the same. To learn on the job means you have to ask a lot of questions and observe a variety of cases. Once you have begun work, your observations will be more valuable because you will have a better idea of what you are seeing and what you need to concentrate on.

The fact that the profession is still relatively open allows beginners to obtain valuable practice. Most cases that court interpreters work on are criminal cases; the bulk of such cases are heard in state courts. State courts

tend to have the most interesting cases in terms of human drama. While openness at the state level permits beginners to work, the concomitant disadvantage of an open or unregulated system is that some state courts may provide no supervision, which leaves interpreters pretty much on their own, with no official guidance.

With some exceptions, both state and federal administrators evince a natural bureaucratic reluctance to train free-lance people. The reluctance is more than budgetary. Some administrators believe that to train interpreters may place an office under the obligation to provide free-lance people a certain amount of work. One institution, not a court, which employs both free-lance and permanent interpreters, when approached about training for free-lance people, replied that it had neither the time nor the budget to train its own permanent staff interpreters, so naturally free-lance training could not even be considered. With some few exceptions, the general lack of in-house training and supervision for court interpreters means that the burden falls on us to seek and create our own training.

Training at Professional Meetings

Once one has begun work, perhaps the most useful training is at professional association meetings. The California Court Interpreters Association (CCIA) (12) and the American Translators Association (ATA) (11) are the two professional groups that offer the most training. CCIA training, offered at local meetings and at a yearly conference, may be the most helpful to court interpreters. While CCIA is mainly a California group, it is possible to join CCIA if one lives outside California, and one may also attend the meetings. The ATA holds a national conference yearly, and also has local groups that may have monthly meetings that are worthwhile attending. Interpreters may join the ATA, membership is not limited to translators. The National Association of Judiciary Interpreters and Translators (NAJIT) (13) is becoming more active in training. CCIA, ATA, NAJIT and some local ATA groups publish bulletins and newsletters that are good sources of information. At national and local meetings one may hear or present papers, meet colleagues, discuss the work, and sometimes obtain work. The contacts are invaluable; you will meet specialists who will become friends, and whom you may approach for their wise counsel.

Finding Work

A state court may have a coordinator of interpreters who may be an administrator or an interpreter, and it is the coordinator whom one approaches for case assignments. If a state has no organized system for interpreters, the interpreter may inquire of the office of the clerk of the court, and sometimes at the office of the prosecutor as to need for interpreters. You may also approach local probation and public defender offices. Most of the work will be freelance or independent contracting, so that is what one should ask about. Case volume depends on the linguistic communities represented in the area, the degree to which their activities are noticed by the judicial system, and the willingness of court systems to believe that interpreting is necessary for defendants or witnesses.

Once you have decided where you want to live and work, contact local court interpreter coordinators, and some law firms. You may also wish to contact commercial agencies that use interpreters or translators. These agencies provide valuable experience for the beginning court interpreter. Their costs are high, what they pay the interpreter can be less than half what they charge a client, so eventually it may be better to be on your own. As you read the newspapers, keep in mind that where there is an indictment, there may be work for you. Every serious interpreter should have an answering machine, beeper, or cellular phone, some reliable means of contact.

Requirements for the Federal Courts

In 1978 the federal government passed the Court Interpreters Act (see Appendix 1), subsequently modified by Amendments in 1988 (see Appendix 3). The law basically said that certified people would work in the federal courts, and that the Administrative Office of the U.S. Courts was to set up certification procedures. That Office has created an examination for Spanish that has been given since 1980, and now offers examinations for the Haitian Creole and Navajo languages. As of 1995, full federal certification will also be offered for Cantonese, Mandarin, and Korean. There is also a procedure to determine what is called "otherwise qualified status" for the federal courts for Arabic, Polish, Italian, Russian, Mien, and Hebrew. Information about federal certification and otherwise qualified status may be obtained from the Federal Court Interpreter Certification Project, at the University of Arizona (14).

A federal court may have one or more staff interpreters who are federally certified for Spanish. A court with many cases might have a permanent staff of interpreters, as well as a supervisory interpreter, who does interpreting and assigns free-lance work to other certified people, or to other competent interpreters for languages that are not Spanish. A small federal court may have only one interpreter on permanent staff. When a federal court does not have a staff interpreter, the office of the clerk may have a coordinator of interpreters who may be approached for work.

For Spanish, the federal courts are generally required to use federally certified interpreters. They hire permanent staff and free-lance interpreters from the list of certified interpreters published by the Administrative Office of the U.S. Courts. That office, in Washington, D.C., has contracted the certification process to the University of Arizona. The first part of the Spanish exam is written, and if one passes it, one may take the oral part. An excellent study aid for the written English is the sample exam for the Graduate Record Exam (GRE), English Aptitude part, available in most university bookstores. For Spanish, look for the Spanish GRE, although that exam has parts that deal with substantive knowledge of Spanish literature, which is not at issue in the federal exam.

The advantage of federal certification is that once certified, an interpreter may then seek work in any federal court in the U.S. Another advantage is that once one is on the list, one receives all announcements of permanent Spanish interpreter positions for the various federal courts as they open, nationwide. As of 1994, there were 558 interpreters federally certified for Spanish. Many federally certified people prefer to work as independent interpreters because they enjoy the variety and flexibility that independent work offers. To quote Jack Leeth, formerly with the Administrative Office of the U.S. Courts, the exam tells the courts that the certified person is capable of doing the work of a court interpreter. While federal certification suggests a certain level of ability or potential, it is only a beginning. The interpreter who wishes to distinguish herself needs constant study to stay abreast of current terms and events. To be respected, one also needs integrity. We discuss interpreter ethics in Chapter IV; it is ethics that regulate our conduct in and out of the courtroom.

When the federal examination for Spanish was first established, its validity was challenged in federal court in New York, in *Seltzer and Torres-Cartagena v. Foley et al.*, and upheld in a decision by Judge Milton Pollack