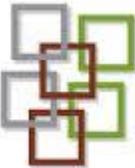


Legal Interpreter Training

Curriculum Toolkit for Trainers

Deaf Interpreters: Interacting with Players



 **NCIEC**
National Consortium of Interpreter Education Centers

Legal Interpreter Training: Curriculum Toolkit for Trainers

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Deaf Interpreters: Interacting with the Players

Overview of Module and Related Units

Overview

Interacting with court personnel, judges, lawyers and Deaf consumers in a professional, concise and persuasive manner is an important attribute for Deaf interpreters to develop. Interacting with the court in its simplest form occurs when the interpreter must talk to the court outside of rendering an interpretation. Interacting with the court, legal personnel or attorneys covers a range of activities from initially negotiating working conditions; to undergoing a preliminary examination to determine qualifications to interpret in a case; to making disclosures of prior contact with the parties; and to successfully obtaining case related materials in order to prepare to interpret the case, among other events. Interacting with the Deaf consumer to explain the differences between court and community interpreting in a culturally sensitive manner is important to develop and maintain a sense of trust necessary for an effective interpretation. This module covers a number of different content areas to assist in developing those skills such as the ability to explain why a Deaf interpreter might be needed in a particular case; to explain the roles and functions of the interpreters to the court; to examine the contents of a typical case file and evaluate different commonly encountered case related documents for their relative significance. The module will conclude with a discussion of several different types of cases which necessitate differing types of preparatory interaction with legal personnel.

Purpose

Court interpreters must be able to quickly incorporate information from preparation sources and be able to make intelligent decisions in regards to the kinds of information that will most likely enhance their ability to interpret effectively, often under stark time limitations. Likewise, they must be able to concisely and clearly explain the role, function, and need for a Deaf-hearing team to the court, attorneys and Deaf consumers. At

times, preparation interactions can occur well in advance, but for the vast majority of typical cases, preparation will occur just before the case is called. Interpreters must be able to quickly assess conditions and understand the range of options available in any given case. The purpose of this module is to provide an overview of various preparation activities indicated when a Deaf interpreter is involved and to provide hands on experience in conducting preparation. Additionally, this module aims to assist participants in developing a range of tools to be used as templates to modify and adjust to various legal interpreting settings. Participants will use in-class and online discussion to critically assess various cases for implications when interacting with the court, legal personnel, attorneys and Deaf consumers.

Competencies

- Court and Legal Systems Knowledge
- General Legal Theory
- Court and Legal Interpreting Protocol
- Interpreting Knowledge and Skills
- Professional Development

Anticipated Outcomes

Upon completion of this module, learners will be able to:

- Lead preparation interactions when explaining the role of the interpreting team;
- Articulate the factors influencing different approaches to obtaining preparation materials across a variety of legal matters;
- Engage in preparation interactions for a variety of Deaf consumers and types of cases;
- Create checklist materials to use as tools to assist in preparing for legal cases.

Unit Titles and Sequence

- Unit 1: Identifying the Need for a Deaf Interpreter
- Unit 2: Case Preparation with the Court Personnel
- Unit 3: Linguistic Preparation with the Deaf Participants
- Unit 4: Types of Cases Typically Encountered and Preparation Implications

Unit of Learning 1: Identifying the Need for a Deaf Interpreter



Related Competency

- Court and Legal Systems Knowledge
- General Legal Theory
- Court and Legal Interpreting Protocol
- Interpreting Knowledge and Skills
- Professional Development

Purpose

The purpose of this unit is to provide a framework for the Deaf interpreter to be able to identify the need for a Deaf-hearing interpreting team and to articulate the reasons in persuasive and articulate manner. Also, this unit intends for the learner to understand the role and function of the Deaf interpreter and to be able to explain these items concisely and simply to people outside of the interpreting profession. This unit explores the protocol which attorneys and judges need to understand in order to conduct an interpreted proceeding efficiently and effectively. The unit examines a typical case file and critically assesses those documents which need to be reviewed by the interpreting team given sometimes tight time constraints. Through video logs, in-class and online discussion and practice, participants will be afforded opportunities to clarify their role and prepare logical role explanations.

Objectives

Upon completion of this unit, learners will be able to:

- Identify those cases in which a Deaf interpreter is indicated for a specific Deaf consumer and explain the reasons justifying a Deaf interpreter to the court;
- Explain the reasoning justifying a Deaf interpreter in a variety of legal matters;
- Identify and articulate those points of Deaf hearing team protocol that require explanation to a court or an attorney;
- Interact with an attorney to obtain appropriate case-related information (both case file information and a verbal summary of the facts) in order to predict and prepare to interpret a case.

Key Questions

- What preliminary discussion is necessary between the interpreting team prior to engaging in an interaction with the court explaining the need for a Deaf interpreter?
- How would you explain the need for a Deaf interpreter to the court and how would that explanation differ if the reason for a Deaf interpreter was because the Deaf participant was a juvenile versus because the Deaf participant used nonstandard signs?
- How would you explain the need for a Deaf interpreter if the reason was due to the skill level of the hearing interpreter? How could this be done in a way that did not disparage the hearing interpreter?
- What are the advantages to having the Deaf interpreter lead the preparatory interaction with the court? What possible challenges can you envision?

Prior Knowledge and Skills

- Demonstrated competency at a generalist level as evidenced by certification.
- Completion of foundational legal interpreting course work.

Unit Plan and Activities

- Learners will critically review relevant literature in the field of Deaf-hearing court and legal interpretation.
- Learners will apply their knowledge and engage in preparation activities in mock settings such as role plays with the court and the Deaf consumers.
- Learners will create tools to assist in explaining the need for a Deaf-hearing interpreting team.
- Learners will examine the similarities and differences between Deaf and hearing interpreters taking various court interpreting roles.
- Learners will be presented through in class lecture with a session on preparation essentials for Deaf-hearing teams in court and will apply the principles through small group work.

Discussion

Courts may have a passing familiarity with interpreters, but relatively few are familiar with how dramatically the trial process can be affected by

including a Deaf-hearing team. One of the main duties that court interpreters need to undertake is to explain to the court, in a manner it can understand and support, the need for and process of working with Deaf-hearing teams. Recognizing the power and privilege that each interpreter brings is essential to establishing effective communication with the court. The Deaf interpreter being perceived as the lead interpreter in preparation activities with attorneys and Deaf consumers serves several purposes. This approach serves to acclimate the court to the dynamic of the Deaf-hearing team and familiarize them with them with the pace and speed of this type of interaction. The added benefit of this approach is that it distinguishes the Deaf interpreter from the Deaf consumer which is essential in providing professional services to the court. Deaf interpreters, then, can be viewed as the court's lead interpreter while the interpreter who can hear interprets between the Deaf interpreter and the court. As the lead interpreter, the Deaf interpreter is charged with initiating preparation activities with the attorneys and the Deaf participants. This arrangement has a dual benefit: It permits the court to get a feel for the process and timing of interacting through an interpreter and avoids the need to attempt to sign and talk at the same time or to retain a separate interpreter for the preparation meetings.

Because courts have most experience with spoken language interpreters who rarely work in teams, the court might initially be concerned about why a team of Deaf and hearing interpreters is necessary. The first task is often interacting with the court to explain the need for the interpreting team configuration. Deaf interpreters are needed for a number of reasons. A Deaf interpreter can be required when the Deaf participant presents certain personal characteristics; when a specific setting is encountered regardless of the personal characteristics of the Deaf participant and; at times, when the characteristics of the interpreter who can hear indicate the need for a native interpretation to be afforded the Deaf participant. (Deaf Interpreters in Court: An accommodation that is more than reasonable, 2009). The California Judicial Council's Recommended Guidelines for Intermediary Interpreters suggests that among the reasons that a Deaf interpreter may be used are when the Deaf participant uses nonstandard signs, a foreign sign language, or in-group signs, among other characteristics. (Recommended Guidelines on the Use of Deaf Intermediary Interpreters, 2010). The NCIEC Deaf Interpreter

Curriculum identifies several categories of types of Deaf people who Deaf interpreters work with including, semi-lingual, foreign born, international sign users, Deaf-Blind, Deaf Plus and minors. (Deaf Interpreter Curriculum, 2014).

Further certain settings, in and of itself, suggests the need for a Deaf interpreter such as mental health proceedings, law enforcement investigations, juvenile court proceedings or other proceedings involving young Deaf children. The Deaf Interpreter Curriculum also suggests that a Deaf interpreter can be indicated when working with an individual who is impaired mentally through the use of drugs or alcohol, or when the setting is highly emotionally charged such as in cases of physical or sexual assault or the loss of a loved one. (Deaf Interpreter Curriculum, 81, 2014).

Finally, in some settings, the only available interpreter who can hear may not have the fluency necessary in ASL to effectively interpret and a native language interpretation provided by a Deaf interpreter is necessary. (Deaf Interpreters in Court: An accommodation that is more than reasonable, 2009). Because cases involving Deaf interpreters are relatively rare, it is important that the parties understand the need for a Deaf interpreting team and understand how the team will function.

Activity 1 – Identifying Need for a Deaf interpreter.

Read: California Guidelines on the Use of a Deaf Interpreter and Deaf Interpreters in Court: An accommodation that is more than reasonable, pages 5 – 21 .

Concept review (through in classroom or video log posting)

1. Create a checklist of settings and characteristics of Deaf individuals, which indicate the need for a Deaf-hearing interpreting team.
2. In small groups compare your checklists to your peers' checklists.
3. Report your results out in large group.

Activity 2 – Explaining to the Court the Need for a Deaf Interpreter.

Role play a meeting in which you explain to the court why a Deaf interpreter is needed for the case.

Concept review (through in classroom or video log discussions)

1. Pick a context for a court case (setting and participants) and pick a Deaf consumer with specific characteristics from the checklist created in Activity 1.
2. You and your hearing team are hired to work as the proceedings interpreters for the case. This case is serious and requires a short meeting with the court to explain why a Deaf interpreter is needed.
3. As a team, create an agenda for the meeting with the court to explain why a Deaf interpreter is needed in this case using your checklist as a guide. After the role play, discuss the following:
 - Were all points included that were on the checklist also included in your explanation?
 - In what areas did you find that the explanation needed clarity?
 - In what areas did you find the explanation effective?
 - Did the explanation rely on your team interpreter to unpack concepts? If so how would you engage your hearing team to ensure that your explanation was effective?
4. Report your results out in large group.

Assessment

- Formative assessment:
- Student responses in each activity through in-class or video log posting;
- Student analysis of course materials and content as applied in above activities;
- Checklist of when a Deaf interpreter is indicated;
- Video log or in-class explanation of why a Deaf interpreter is indicated;
- Agenda for meeting and video presentation of explanation of points to a court.

Resource Materials

- PowerPoint from course materials.
- National Consortium of Interpreter Education Centers. (2014). Deaf Interpreter Curriculum, Digital Edition.

- Mathers, C. (2009). Deaf interpreters in court: An accommodation that is more than reasonable. National Consortium of Interpreter Education Centers.
- Recommended Guidelines on the Use of Deaf Intermediary Interpreters. (2010). Judicial Council of California/Administrative Office of the Courts.



Unit of Learning 2: Case Preparation with Court Personnel

Related Competencies

- Court and Legal Systems Knowledge
- General Legal Theory
- Court and Legal Interpreting Protocol
- Interpreting Knowledge and Skills
- Professional Development

Purpose

The purpose of this unit is to explore the limited nature of preparation interactions in legal settings and to appreciate various strategies that can assist in making those interactions more effective. The unit aims to give practical guidance to assist learners in understanding the preparation strategies and techniques available. The unit explores the nature and type of information Deaf interpreters need to share with attorneys about the interpreting role and process as well as the information the Deaf interpreter needs to obtain from the attorney. The purpose is to demonstrate effective methods of interacting with the parties in order to obtain and provide that information to ensure an efficient interpretation and judicial process.

Objectives

Upon completion of this unit, learners will be able to:

- Identify the key points that need to be addressed when interacting with an attorney to obtain preparation materials;
- Identify the key points that need to be addressed when interacting with an attorney to explain the Deaf-hearing team's role and process;
- Identify the key benefits to the attorney in sharing case related materials with the interpreting team;
- Articulate to an attorney the role of the Deaf interpreter in the team.

Key Questions

- How is preparation in a legal case different than or similar to preparation in non-legal interpreted interactions?
- What strategies can be used by the Deaf interpreter to obtain critical information from the parties?
- What techniques can be used by the Deaf interpreter to develop a rapport with the attorneys necessary to obtain information about the case?
- What are the key characteristics of the Deaf interpreter's role that need to be explained to the attorney in a serious felony case?
- What information does the Deaf interpreter need to obtain from the attorney in order to interpret effectively?

Prior Knowledge and Skills

- Demonstrated competency at a generalist level as evidenced by certification.
- Completion of foundational legal interpreting course work.
- Unit 1: Identifying the Need for a Deaf Interpreter.

Unit Plan and Activities

- Learners will have been presented with the PowerPoint presentation Deaf-hearing teams in court: Preparation essentials.
- Learners will create tools to assist in explaining the role and function of a Deaf interpreter to an attorney.
- Learners will engage in mock activities to apply the principles of interacting with attorneys and Deaf consumers to obtain preparation materials.

Discussion

Typically, the interpreting team will convene a short meeting with the attorneys and the parties to explain their role and answer any questions. In addition, in every matter, the interpreting team needs to interview the attorney and inquire about the nature of the case. In non-legal matters, this type of inquiry is typically made directly of the Deaf participant; however, legal rules constrain the nature and timing of interactions between the interpreting team and the Deaf individuals in the case. As a result, preparation needs to be done by conversing with the attorney to obtain critical facts to inform the interpreting team's contextualization

strategies. A review of certain documents contained in a case file is also an important aspect of preparing for a legal case.

Ethically, the interpreting team must also meet briefly with the Deaf consumer to determine whether any conflicts exist that require disclosure to the court, and to explain their role, among other things. As a proceedings interpreter, this preparation is necessarily limited because the court does not want the interpreters having lengthy or unsupervised conversations with the Deaf witnesses or parties. As a result, the proceedings interpreter will need to get case specific information from the attorneys and from a review of the case file (case files are discussed in more detail in Unit 4) rather than from the Deaf consumer directly.

The Deaf proceedings interpreter will be responsible for initiating contact, developing a rapport, asking appropriate case related factual questions and obtaining permission to review critical documents. It is helpful to be able to articulate the reasons why access to this information will benefit the Deaf participant and the process in general. Additionally, the proceedings interpreter will need to explain to the attorney and the Deaf participant certain protocol issues involved in working with a Deaf hearing interpreting team. Protocol has been defined as:

“Forms of behavior that are recognized as correct in official dealings within particular settings. This can include how an interpreter addresses judges, lawyers, police officers, or other legal personnel; how s/he interacts with other members of the court; how s/he establishes her/his role and responsibility in a manner that is consistent with other professionals interacting in this setting.....”
(Interpreting Legal Discourse & Working in Legal Settings: An AVLIC Position Paper, 1994/2011).

In addition to these protocol issues, the Deaf-hearing team needs to discuss and clarify for the court and the parties how the process will differ when using this configuration of practitioners. The court is normally not used to having people standing in the well with their backs turned and so it is important to have a clear understanding and be able to explain to the court why and where the interpreting team needs to be positioned in the well.

In the course materials, the PowerPoint lecture entitled Deaf-hearing teams in court: Preparation essentials should now be presented in class prior to continuing on to the activities in Unit 2.

Activity 1 –Understanding the benefits of preparation

Read An Attorney’s Primer: Working with Interpreters.” (Isabel Picado, 2000).

Concept review (in classroom or video log posting).

1. Discuss two reasons why it benefits the attorney to provide an interpreter with preparatory documentation.
2. Discuss examples of how pronouns in ASL are similar to ambiguous pronouns in Spanish and discuss the difficulty this poses for interpreters.
3. What other ASL constructions might be ambiguous and the cause of a misinterpretation if the context is not supplied?

Activity 2 – Explaining the role of the Deaf interpreter

Review the PowerPoint Deaf-hearing interpreters in court: Preparation essentials.

Concept review (through in classroom or video log discussions)

1. Using the same context as chosen for Unit 1, Activity II, prepare an agenda for a meeting with an attorney to explain the role and function of the Deaf-hearing team.
2. As the lead interpreter, first engage in a discussion of the goals for the meeting with your team.
3. Role play the meeting with the attorney with the Deaf interpreter leading and the hearing interpreter interpreting the meeting.
4. After the role play, discuss the following:
 - Were all points included that were on the agenda also included in your explanation?
 - In what areas did you find that the explanation needed clarity?
 - In what areas did you find the explanation effective?
 - Did the explanation rely on your team interpreter to unpack concepts? If so how would you approach your team in order to ensure that your explanation was effective?
 - How would the interaction be handled with a hearing attorney if the Deaf participant were present?

5. Report your results out in large group.

Assessment

Formative assessment:

- Student responses to teacher's in-class or posted questions.
- Paper or video log assignments:
 - Explanation of benefits to the attorney in providing interpreters with preparation information.
 - Agenda for interaction with the attorney to explain the interpreter's role and obtain case related information.

Resource Materials

- PowerPoint materials from course materials.
- PowerPoint Deaf-hearing teams in court: Preparation essentials.
- "An Attorney's Primer: Working with Interpreters." (Isabel Picado, 2000)
- Russell & Humphries. (1994/2011). Interpreting Legal Discourse & Working in Legal Settings: An AVLIC Position Paper. Association of Visual Language Interpreters of Canada.

Unit of Learning 3: Linguistic Preparation with the Deaf Participant

Related Competencies

- Court and Legal Systems Knowledge
- General Legal Theory
- Court and Legal Interpreting Protocol
- Interpreting Knowledge and Skills
- Professional Development

Purpose

The purpose of this unit is to develop a framework for consumer assessment within the context of the court system. While all the same assessment competencies are required in a court interpreting situation as with any other, the context suggests that the court interpreter's role should be explained to the Deaf consumer prior to the proceedings.

The unit seeks to provide guidance in explaining interpreting protocol to the Deaf participant in different roles such as a witness, a party or otherwise. Additionally, this unit sets forth common ethical issues that can be predicted during this initial interaction with the Deaf participant in the legal proceedings. Through readings, in-class and online discussion, participants will explore the protocol to be explained in conducting this pre-matter hearing and the issues that can arise.

Objectives

Upon completion of this unit, learners will be able to:

- State four traditional topics that may be discussed during the initial interaction with the Deaf participants.
- Describe the major ethical issues that arise during the initial interaction with the Deaf participants.
- Engage in strategies for leading the initial communication assessment meeting with both the attorney and the Deaf participant present.
- List three discussion points that should be addressed in the initial consultation with the Deaf participant in the event the Deaf person intends on testifying.

Key Questions

- What are various approaches to manage the communication in the initial conference when the attorney and the Deaf participant are both present?
- What are taboo topics which should not be broached in the initial interview with the Deaf participant?
- What if the Deaf participant is someone the Deaf interpreter knows from the community?
- Why is it important for the attorney to be present during the initial interaction with the Deaf participant?
- Since the Deaf interpreter will not be interpreting for counsel during the initial interaction, what strategies are available to keep the attorney present but not fully informed of the content of the meeting?

Prior Knowledge & Skills

- Demonstrated competency at a generalist level as evidenced by certification.
- Completion of foundational legal interpreting course work.
- Unit 1: Identifying the Need for a Deaf Interpreter
- Unit 2: Case Preparation with the Hearing Participants

Unit Plan and Activities

- Learners will have reviewed the PowerPoint entitled Deaf-hearing teams in court: Preparation essentials and other indicated case materials.
- Learners will be presented with a PowerPoint discussion from the course materials.
- Learners will read portions of a legal brief regarding Deaf interpreters to identify characteristics of legal assignments requiring Deaf-hearing teams.
- Learners will role play the initial interaction with a fictional Deaf consumer in court.

Discussion

Because of the range of linguistic diversity present in the Deaf community, all legal interpreters, whether Deaf or hearing, must meet with the Deaf

participants in a legal case to assess communication styles, explain their role and determine compatibility. Ethically, interpreters need to ascertain whether they have previously met the Deaf participants and ensure that they have the opportunity to disclose the prior contact on the record. This initial interaction may take more time than a typical conversation because cases involving Deaf interpreters tend to present complex and challenging linguistic issues.

Initial meetings also present challenges for handling communication in a mixed Deaf-hearing environment. Such challenges need to be predicted and addressed in advance by the interpreting team to ensure all participants understand, to some degree, what is happening in the interaction. The interpreting team functions as proceedings interpreters and ethically should not engage in private communications with the Deaf parties unsupervised by the attorney. In a typical matter, then, the attorney should be present while the interpreting team engages in the communication assessment and role explanation. Counsel's presence for the initial meeting reduces the appearance that the interpreters are having an improper conversation with the Deaf participant. However, because counsel is not an active participant in the meeting, the communication is not privileged.

At the same time, the attorney may not have had an opportunity to consult thoroughly with the Deaf client and may be tempted to borrow the team for a conference with the client. The team should explain to the attorney that the purpose of the initial meeting is to gauge communication styles and explain roles. However, if the case is a run of the mill case, after the meeting is completed, the interpreters may provide courtesy interpreting services between the attorney and the client. If more in depth communication is needed, the interpreters should explain the need for counsel to retain separate interpreting services for the table.

There are several ways to ensure that all parties are kept involved to the appropriate level while engaging in the initial interaction. If the Deaf interpreter, as the lead, conducts the meeting, the interpreter who can hear can let the attorney know what subjects the Deaf interpreter is covering. This does not have to be a formal interpretation or the attorney is likely to be drawn into the meeting and the interpreter ends up interpreting instead of conducting a meeting. Further, if counsel is

allowed in the meeting and actively participates, it will be more difficult for the interpreting team to decline to interpret subsequent substantive attorney-client conversations.

Prior to having the conversation with the Deaf participant, the interpreting team will need to have some information and background regarding the case. This is because case-related matters should not be discussed during the meeting with the Deaf participant and in order to avoid broaching topics in issue in the case, the interpreters should already have at least a verbal summary of the issues from the lawyer or from reading the case file. Topics generally considered appropriate for the initial conversation involve the traditional Deaf culture topics such as a general introduction and a summary of the Deaf participant's educational, residential or employment background. If the Deaf person is already familiar to the interpreting team, however, a short introduction and an explanation that disclosures will need to be made is necessary.

In addition to explaining disclosures, this can be a good time to explain court interpreter protocol to the Deaf participant if there was no full meeting with the court or other opportunity to explain the interpreter's role to the participant. In particular, if the Deaf participant will testify (learned from asking the attorney), then a discussion of interpreter restrictions while the Deaf person is testifying is helpful as well as a discussion of consecutive interpretation and note taking.

Activity 1 -- Encountering the Deaf consumer

Review pages 1 to 21 of Deaf Interpreters in Court: An accommodation that is more than reasonable (2009) located in Module 1, Unit 1 course materials folder.

Concept Review (Through in-class discussion or video log postings)

1. Pick three Deaf consumers with different characteristics from the types of individuals who could benefit from a Deaf interpreter that was explained in the reading.
2. Have three consumers in mind for conducting a preparatory interaction with the consumer.
3. Discuss in small groups the types of challenges presented for establishing communication in the initial conversation with each Deaf participant.

- a. What points do you think would need to be included across all consumers/settings?
- b. What points would be specific to one setting or one consumer?

Activity 2 – Engaging the Deaf consumer

Of the three consumers chosen in Activity 1, select one individual and prepare an agenda to discuss with that person. The case is a criminal case involving theft of money from the Deaf consumer's place of employment

Concept Review (through in-class discussion or video log postings)

1. Create an agenda of communication assessment topics to be discussed with the individual.
2. Create an agenda of protocol items to discuss with the Deaf participant assuming that he or she intends to take the stand and testify, and assuming the person is represented by counsel.
3. Submit your agendas in-class and record your reflections regarding the challenges presented in a video log posting to be submitted.
4. Engage in a role play in class in which you conduct the initial meeting with the Deaf consumer and you both do a communication assessment and explain your role. Discuss in small groups.

Assessment

- Formative assessment:
 - Student responses to teacher's in-class or posted questions regarding the relevance of case file documents.
 - Paper or video log assignments associated with each activity.
 - Communication assessment agenda.
 - Role and protocol explanation agenda.

Resource Materials

- Mathers, C. (2009). Deaf Interpreters in Court: An accommodation that is more than reasonable. National Consortium of Interpreter Education Centers pp 1-21.
- PowerPoint from course materials.
- PowerPoint Deaf-hearing teams in court: Preparation essentials.

Unit of Learning 4: Types of Cases Typically Encountered and Preparation Implications

Related Competencies

- Court and Legal Systems Knowledge
- General Legal Theory
- Court and Legal Interpreting Protocol
- Interpreting Knowledge and Skills
- Professional Development

Purpose

Not all cases are created equal, nor do they offer the same amount of information that can be obtained prior to interpreting. While it is true that Deaf interpreters are typically brought in for the most serious types of cases which offer rich opportunities for pretrial preparation, Deaf interpreters are also hired for a myriad of settings that might not indicate a full meeting with the court but for which limited preparation is nevertheless required. This unit of learning will discuss several of the more commonly encountered legal cases and the types of preparation that can be garnered from each. This unit aims to provide the learner with a number of strategies and techniques for obtaining central case documentation in different types of cases such as serious criminal cases, traffic citations and matters involving young Deaf children. Further the purpose of the unit is to provide techniques for obtaining preparation materials when the Deaf consumer is unrepresented by counsel (pro se).

Objectives

Upon completion of this unit, learners will be able to:

- Describe various types of cases frequently encountered by legal interpreters and describe the typical types of preparation material attainable;
- Ascertain when case material should be obtained from the clerk, the court, the attorneys or the parties;

- Associate certain case file products with types of cases and determine which would be most helpful to the interpreter in a specific case;
- State three strategies to use to obtain access to a case file;
- Identify the salient features of case file in a typical criminal case file.

Key Questions:

- Who should the interpreter ask to be able to view the case file when the interpreter arrives on-site prior to the case being called?
- Which documents in a criminal case file provide the most useful information about the facts of a case?
- Which documents in a civil case file provide the most useful information about the facts of a case?
- How does working with a pro se Deaf client effect the preparation that is conducted?
- What strategies are available if the attorney, clerk, bailiff or other court officer resists in providing you with preparation information?

Prior Knowledge & Skills

- Demonstrated competency at a generalist level as evidenced by certification.
- Completion of foundational legal interpreting course work.
- Unit 1: Identifying the Need for a Deaf Interpreter
- Unit 2: Case Preparation with the Hearing Participants
- Unit 3: Linguistic Preparation with the Deaf Participant

Unit Plan and Activities:

- Participants will review course PowerPoint presentations.
- Participants will explore the contents of a mock case file.
- Participants will evaluate and rank the relative importance of various documents in the file for purposes of interpreter preparation.
- Participants will explore the challenges faced in obtaining preparation materials when the Deaf consumer is pro se.

Discussion:

Deaf interpreters are often provided for matters in which it is the setting that requires a Deaf interpreter rather than the specific characteristics of the Deaf participant. For example, Deaf interpreters are often used in mental health settings and in domestic matters when Deaf children are involved. Even for some routine matters such as traffic court or to take a misdemeanor plea, if the Deaf person uses a foreign sign language, then Deaf interpreters are indicated. As such, Deaf interpreters should know how to prepare in these more common scenarios.

Documentation is a significant part of all judicial cases. Each case is started by the filing of a specific document. For example a civil case such as a divorce or suit for damages is started by filing a complaint or a petition. A criminal matter may be started by the issuance of a citation, the filing of an indictment or an information by a prosecutor.

Due process requires that one sued or charged with a crime have the opportunity to be heard in response to the charges or complaint. In civil matters, a defendant files an answer to the complaint in the suit. After the case has been filed, the parties will exchange information about the allegations and defenses. In civil matters, this process is called discovery and can be quite extensive. Discovery includes interrogatories, requests for admissions, requests for production of documents, stipulations, and depositions, among other items.

In criminal cases, a defendant may file a Bill of Particulars claiming the charging document is too vague and more information is needed to defend the charges. There may also be a statement of probable cause, police reports, witness statements, autopsy reports, evidence lists, witness lists and expert reports, among other items. The interpreting team, limited in its ability to obtain preparation information from the Deaf consumer, must rely on the contents of the case file to learn the facts of the case (in addition to discussions with the attorney).

When the interpreter has limited time to review a case file, it is important to spend that time reviewing the documents that will shed the most light on the facts of the case. A complaint has much more factual content than an answer has in a civil case. In a criminal case, the facts are usually contained in the statement of probable cause rather than an indictment.

An indictment is important, however, because it provides the names of the charges and the statutory citations. Deposition transcripts are ideal factual documents, but rarely are full depositions in a case file and the interpreting team would likely not have the time to read a full transcript.

Knowing from whom and how to obtain case documents is an important tool for interpreters, particularly for cases involving Deaf interpreters because the consumer may require a more in-depth contextualization to be linguistically present. Case files are held by various parties depending on when the interpreting team seeks access. Prior to the day of the case, armed with a case number, anyone can go to the file clerk and review nearly any file. On the day of the matter, the files are organized and held by the courtroom clerk to give to the judge when the case is called. Upon entering the court room and checking in with the clerk, the interpreters can ask to review the file briefly. Should the clerk or bailiff be resistant to permitting access, the interpreting team can reassure them that they need the documents for only a few minutes, will not leave the courtroom, and the information is essential for them to perform their function. Many states and the federal judiciary also provide electronic access to their dockets and some jurisdictions permit downloads of the relevant documents.

More and more often, the interpreting team will encounter a Deaf consumer who has not hired counsel but does not qualify for a public defender. In these cases, called *pro se*, the Deaf consumer is functioning as both the lawyer and the client and the interpreting team should consider interacting with the Deaf consumer as if he or she were both the attorney and the client. The traditional prohibition of talking privately with the Deaf consumer prior to court does not apply when the Deaf person is functioning as their own attorney. The interpreting team can ask the Deaf *pro se* participant about the nature of the case and ask to review any documentation that the Deaf consumer has in the file. Preparation with the *pro se* consumer follows the same guidelines as preparation with an attorney.

Activity 1 – Reading a case file

Review the sample case file from the course materials and relevant case documents.

Concept Review (Through in-class discussion or video log postings)

1. Rank or rate in order of importance those documents that should be read first if you only had 30 minutes to prepare.
2. Create a listing of documents by importance to read given limited time and share lists in small groups.
3. Report out your ranking and state the benefit of each ranked document.

Activity 2 – Evaluating legal documents

Review sample charging documents in small groups.

Concept Review (through in-class discussion or video log postings)

1. Reflect upon the salient points within each charging document. Discuss your observations in small group.
2. List those points in each document that are helpful for preparing for a specific case, and what information is missing that the interpreting team needs. Discuss where the interpreting team would be able to obtain those missing items in order to prepare more accurately.

Activity 3 – Preparing with pro se defendants

Prepare to interpret for a pro se defendant in a traffic case using the traffic citation provided in the course materials.

Concept Review (through in-class discussion or video log postings)

1. Prepare an agenda of items to discuss with the individual and share that list in small group.
2. In small groups, role play preparing with the Deaf *pro se* defendant in the criminal traffic matter.

Assessment

Formative assessment:

- In class listing and discussion regarding the relevance of case file documents.
- In class discussion regarding charging documents and preparation strategies.
- Agenda of items to discuss in preparing with pro se Deaf defendant.
- Paper or video log assignments associated with each activity.
- In-class discussion and reporting out.

Resource Materials

- PowerPoint from course materials.
- PowerPoint Deaf-hearing interpreters in court: Preparation essentials.