

# Legal Interpreter Training

Curriculum Toolkit for Trainers

## Deaf Interpreters: Practical Applications



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National Consortium of Interpreter Education Centers

Legal Interpreter Training: Curriculum Toolkit for Trainers

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# Deaf Interpreters: Practical Applications

## *Overview of Module and Related Units*

### **Overview**

This module explores the practical aspects of legal interpreting in Deaf-hearing teams. The module presents a commonly used model of conducting discourse analysis that learners will incorporate into their sight translation work. A discussion of sight translation principles will be explored. Commonly encountered legal texts will be analyzed and interpreted using sight translation. A discussion of the theories underlying consecutive and simultaneous interpreting methods and note-taking strategies will lead to the opportunity to both view interpreters interpreting various legal texts consecutively and simultaneously, and the opportunity to practice both methods of interpreting.

### **Purpose**

The module aims to give learners practical experience interpreting and analyzing various texts through structured practice. Through guided hands on practice, learners will be introduced to sight translation, discourse analysis, consecutive interpreting, note-taking and simultaneous interpreting techniques. The module seeks to provide a theoretical underpinning as well as tools and strategies that learners can hone to incorporate the three commonly used modes of interpreting into their work.

### **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:

- Define sight translation;
- Define consecutive interpreting;
- State three settings in which consecutive interpreting is the expected mode in legal interpreting;
- Describe seven techniques to use while note-taking in consecutive interpreting;
- List five types of legal discourse which are typically interpreted using the simultaneous mode.

## **Unit Titles and Sequence**

- Unit of Learning 1: Sight Translation: Principles and Practice
- Unit of Learning 2: Consecutive Interpretation: Principles and Practice
- Unit of Learning 3: Simultaneous Interpretation: Principles and Practice

# Unit of Learning 1: Sight Translation Principles and Practice



## 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 the unit is to introduce the discourse analysis process and engage in discourse analysis of commonly encountered legal texts. Discourse is typically thought of as how individuals use language to interact and its study forms one area of sociolinguistics. Discourse analysis for interpreters is the act of discovering the component parts of a message. It looks at the setting in which the discourse takes place. It examines the participants involved and their explicit and implicit goals. The goal is to understand the whole by examining the parts, and ultimately to ascertain the text's goal, form and function. Discourse mapping techniques are frequently used in interpreter preparation programs to assist learners create complete and robust interpretations. Deaf interpreters may have developed different or similar approaches to text analysis that may or may not reflect the steps employed by hearing interpreters. This module leaves the development of those approaches to Deaf instructors. This unit will discuss discourse mapping strategies and will engage in sight translation of specific legal documents implementing these discourse mapping strategies.

## Objectives

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

- Define discourse;
- Define discourse analysis and discourse mapping;

- Identify two types of documents appropriate for sight translation activities.
- Identify one type of document that should not be sight translated without an attorney present.

## **Key Questions**

- How can discourse analysis or mapping help interpreters arrive at a deeper understanding of the message?
- What documents would be appropriate for a sight translation?
- How can discourse mapping enhance intra-lingual skills?
- What is your English competency level and how might that impact your ability to accurately translate legal documents and forms?
- How will you employ the hearing interpreter, if at all, to assist in the translation? What skills and knowledge do they bring that could be useful?
- If asked to outline the steps you take in order to render a sight translation, can you do that with confidence? Does it mirror the 10-step discourse analysis process or does it differ?

## **Prior Knowledge and Skills**

- Demonstrated competency at a generalist level as evidenced by certification.
- Completion of foundational legal interpreting course work.
- Module 1. Deaf Interpreters: Interacting with the Players
- Module 2. Deaf Interpreters: Deaf Youth and Interpreting Considerations
- Module 3. Deaf Interpreters: Teaming with Deaf and Hearing Interpreters
- Module 4. Deaf Interpreters: Working in Law Enforcement Settings

## **Unit Plan and Activities**

- Through PowerPoint presentation and in class discussion, learners will engage in discourse analysis and mapping of ASL and English legal texts.
- Learners will engage in discourse analysis activities to prepare sight translations of commonly interpreted legal texts.



- Learners will receive and give feedback collaboratively with their peers on the sight translations performed.

## Discussion

Discourse analysis is a method used by interpreter education programs to look at a piece of text and to analyze it for deeper meaning. Discourse is commonly thought of as how people structure and use language on a larger scale than that of the sentence level use and analysis. How we use language to achieve specific goals or purposes and the study of those people strategies comprise discourse studies. Meaning is conveyed in discourse not simply through the use of words, rather through the social structure of the participants in the exchange. Discourse analysis for interpreters is the study of language used interactively in social contexts. Discourse analysis allows learners to study how meaning is co-created in social contexts.

Discourse analysis focuses on three component parts: the content, the context and the linguistic form of the message. Content include the themes, topics and events of the message. Context includes the settings, participants and purposes or goals of the interaction. Context is what allows interpreters to resolve lexical ambiguity. (Alcaraz & Hughes, 37). Words can have any range of meanings and the context of the interaction narrows down the choices. The appropriate linguistic form includes the structure of the discourse, the vocabulary used, and the message coherence. As interpreters engaged in sight translation (or any translation), the search for the content, context and appropriate linguistic form is a paramount activity.

As explained by Winston and Monikowski, discourse mapping is a method of examining a text to “identify the overall structures within a text and to create meaningful visual representations of these structures.” (Winston & Monikowski, 17). As a method of teaching, discourse mapping can be applied to intra-lingual texts, to consecutive interpretation and even to simultaneous interpreting activities; however, it is particularly suited to a sight translation. Discourse analysis of sight translations permits interpreters to achieve a greater appreciation of the deeper meaning contained in the text and ultimately to provide a successful or effective interpretation.

The University of Northern Colorado, DOIT Center, has implemented a 10 step discourse process by which learners can analyze texts they intend to translate or interpret. The steps are included in five functions of a cognitive model of interpretation: anticipate, comprehend, restructure, transfer and formulate. The steps include (anticipate) prediction, (comprehend) view/recall, content mapping, salient linguistic features in the source language, (restructure) abstraction, retell in the source language, (transfer) salient linguistic features in the target language, visualization mapping, and (formulate) retelling in the target language and interpretation. (DOIT Center, n.d.). Discourse mapping has been written about extensively by scholars in the field of ASL interpreting. There are many different approaches but most follow the same basic structure as the DOIT Center approach.

Sight translation can be thought of as a hybrid between the traditional methods of spoken language interpretation and written translation. A spoken language interpreter might be given a document in court and be asked to read and orally interpret the content into English or another language. For signed language interpreters, a document might be read in English and interpreted into ASL. On the other hand, a Deaf person may need help filling out a form and the form could be both signed to the Deaf person and filled out by the Deaf interpreter. In other words, sight translation works both ways. Some commonly interpreted forms in court include the affidavit of indigence (financial application for public defender services), small claims complaint forms, request for interpreting services forms and the like. Standard protocol for ASL interpreters when faced with a form is to offer sight translation services because the Deaf person might not be aware of this offering.

Translation is also a good place to start learning the legal vocabulary and procedures in court and legal settings. Interpreters can begin with an in-depth discourse analysis process in order to arrive at a deeper appreciation of the form, function and goals of the text. In the activity section, you will review discourse mapping and choose a style that fits your preferences. Then you will re-examine the Miranda warnings by preparing a discourse map and sight translation of a juvenile set of warnings.

Once you revisit the Miranda warnings through the lens of interpreting for a minor, you will next examine the list of rights that must be understood and waived in order for a defendant to plead guilty.

This is a critical document for interpreters to be familiar with and able to interpret efficiently. The vast majority of criminal trials will end prior to trial in a hearing called a change of plea hearing. At the initial hearing or arraignment, the defendant normally enters a plea of not guilty to the charges. Once counsel is retained and has investigated the case facts, there is normally an opportunity for negotiation between the prosecutor and the defense attorney to drop some of the charges in exchange for a change of plea to guilty. As a result, most of the time the matter is set in for trial, the interpreter will actually be facing a plea negotiation and then the waiving of rights, entry of a guilty plea and sentencing.

The guilty plea litany as it is called in interpreting circles involves the same test for waiver of a constitutional right as was discussed in Module 4 (Law Enforcement Interpreting). In other words, in changing his plea, the defendant gives up the rights to a trial, appeal and other collateral consequences ensue. The court must be assured that the defendant is waiving his rights knowingly and understands those protections that would be involved in a trial. In addition, the court must be satisfied that the defendant has not been forced or in any way unduly influenced into changing his plea. In other words, the plea must be entered into voluntarily. Again, interpreters should know the legal principles and standards behind these commonly interpreted settings and be able to efficiently convey the legal concepts to a range of Deaf consumers.

## **Activity 1**

Search the term “discourse mapping” and signed language interpreting.

Concept Review (Through in-class discussion or video logs posting)

1. Review the various approaches to discourse mapping for sign language interpreters.
2. Select an approach that you feel best fits your interpreting and learning style.
3. Prepare a video logs describing the main points of the approach you have chosen. This approach you will use for the remainder of the activities in this unit.

## Activity 2

Go online and locate a juvenile version of the Miranda warnings.

Concept Review (Through in-class discussion or video logs posting)

1. Conduct a discourse analysis of the juvenile waiver of rights, include all steps from the discourse mapping approach you have chosen.
2. Compare thoughts regarding the differences between a juvenile waiver and an adult waiver of rights.
3. Discuss points in small group.
4. Prepare a sight translation in your group of the warnings.
5. Report out to large group and discuss similarities and differences.
6. Share/video your sight translation of a juvenile waiver of rights.

## Activity 3

Prepare a sight translation of guilty plea available in the course materials.

Concept Review (Through in-class discussion or video logs posting)

1. Conduct a discourse analysis of the guilty plea, include all steps from the Discourse Mapping article you selected for Activity 1.
2. In small groups, create a context for an interrogation of a suspect and prepare a group sight translation.
3. Have each individual interpret the Miranda warnings on video.
4. Analyze and share feedback on the Miranda renditions.


## Assessment

Formative assessment:

- Student responses to teacher's posted questions.
- Results of internet research assigned regarding discourse mapping strategies.
- Small group discussions and reporting out to large group.
- Analysis of interpretations in small and large groups

## Resource Materials

- PowerPoint available in course materials.

- 
- Alcaraz, E., & Hughes, B. (2002). *Legal Translation Explained*. Manchester, UK: St. Jerome Publishing.
  - University of Northern Colorado, DOIT Center. (2013). *Ten Step Process*. Course work for Internship: Skills Development in Legal Interpreting.
  - Winston, E., & Monikowski, C. (2000). Discourse Mapping: Developing Textual Coherence Skills in Interpreters. In *Innovative Practices for Teaching Sign Language Interpreters*, ed. C. Roy. Washington, D.C.: Gallaudet University Press.

## *Unit of Learning 2: Consecutive Interpreting Principles and Practice*



### **Related Competency**

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

### **Purpose**

This unit provides an overview of how the discourse of a trial is designed, organized and presented through witness testimony. The unit examines direct and cross examination strategies and their implications for the interpreting team. Further, this unit seeks to orient the learner to the theory and practice behind consecutive interpreting and note-taking which is used primarily in the legal setting during Deaf witness testimony. Understanding how evidence is presented through witness examination aids the interpreter in a number of ways. Predictions can be made on the type of discourse and where the interpreter's energy will be focused. Team strategies can be enhanced by examining switching based upon anticipated direct or cross examination of various witnesses. Through an examination of the types of settings in which consecutive interpreting and note-taking are typically used and the types of legal discourse that can be anticipated during witness testimony, learners will become familiar with consecutive interpreting and note-taking as used by Deaf-hearing teams. The aim of this unit is to present a method of note-taking and provide hands on practical experience with note-taking which can be modified and used by Deaf hearing teams to enhance their own interpretations.

## Objectives

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

- Define consecutive interpreting;
- List three settings in which consecutive interpreting takes place in legal interpreting;
- State the seven (7) principles of note-taking;
- State the difference between direct examination and cross examination;
- Explain how the interpreter's energy is focused when interpreting direct examination versus interpreting cross examination;
- Describe the system suggested by Tuck to ensure that Deaf interpreters working with semilingual or nonlingual Deaf individuals are accurately interpreting;

## Key Questions

- In what settings would an interpreter be likely to use consecutive interpretation and note-taking strategies.
- What strategies can an interpreter develop to ensure that facts, form and function are all preserved in a consecutive interpretation?
- What would be an example of the ways that interpreters may alter the function of the source language text in a consecutive interpretation?
- Compare the discourse type on direct and cross examination? How will the differences affect the interpretation?
- Should the hearing interpreter render their interpretation to the Deaf interpreter in the consecutive or simultaneous mode?
- How or in what ways might a proceeding need to be modified if interpreting for an individual without formalized language training?

## Prior Knowledge and Skills

- Demonstrated competency at a generalist level as evidenced by certification.
- Completion of foundational legal interpreting course work.
- Module 1. Deaf Interpreters: Interacting with the Players
- Module 2. Deaf Interpreters: Deaf Youth and Interpreting Considerations
- Module 3. Deaf Interpreters: Teaming with Deaf and Hearing Interpreters
- Module 4. Deaf Interpreters: Working in Law Enforcement Settings
- Unit of Learning 1: Sight Translation Principles and Practices

## Unit Plan and Activities

- Learners will review the lesson PowerPoint and classroom discussion concerning the theory and practice of consecutive interpreting and note-taking techniques.
- Learners will read literature in the spoken language interpreting field regarding approaches to mastering note-taking techniques.
- Learners will practice applying theory and practice of note-taking and consecutive interpreting to legal texts.

## Discussion

Consecutive interpreting has been defined as the technique whereby and interpreter waits for a speaker to finish the source language message before proceeding to render an interpretation. In the field of signed language interpretation, long-standing research supports the premise that consecutive interpretation provides a more accurately rendered interpretation. (Russell, 2002.). In court and legal settings, consecutive interpreting is typically reserved for Deaf witness testimony where the jury is relying on a witness to present evidence through an interpreter. Consecutive interpreting can be used in any case in which there is a back and forth interaction between a Deaf person and one who can hear. Consecutive interpreting is used in law enforcement interrogations or interviews and it is used in attorney-client meetings. Again, in any setting in which the Deaf person is an active interlocutor, consecutive interpreting



is appropriate. With the inclusion of Deaf interpreters, the traditional process takes on a relay quality and much of the discourse may need to be processed consecutively, depending on the nature and language use of the Deaf participant. While the Deaf interpreter is rendering the message consecutively, the hearing interpreter does not necessarily have to use consecutive interpreting techniques in the ASL to English rendition directed to the court. Finally, some cases will present a linguistic scenario that may cause the Deaf interpreter to determine that consecutive interpreting must be used throughout the process. This would be the case for example if working with a witness or defendant who did not use American Sign Language.

While legal discourse may appear to be overly complicated and difficult to understand, there are parts of the process that are designed for the layman. In particular, direct, cross and re-direct examinations are the heart of a trial and the place where the evidence speaks directly to the jury. More than any other part of the trial, this is the stage which informs the jury's verdict. Because of the critical role played by fact witness in determining truth, a higher standard of accuracy is imposed on interpreters requiring the use of consecutive interpreting and note-taking techniques. The Federal Court Interpreting Act of 1978, as amended, provides that the standard and expected form of interpretation for non-English speaking witnesses be conducted in the consecutive mode.

Cross examination has been lamented as the most difficult of the basic trial skills for an attorney to learn, yet when done effectively, cross examination is the attorney's greatest weapon. While lawyers are often accused of being tricky or trying to trap a witness, for the most part those critiques come from cross examination where the lawyer is always trying to demonstrate that the witness should not be believed for some reason. A lawyer might be trying, on cross, to show that at some point earlier in time, the witness told a different story than the one they are telling from the stand. A lawyer might be trying to show on cross that the witness has some interest in testifying in a particular manner and should not be believed. These are proper impeachment techniques and because they occur on cross examination, the critical information will be contained in the attorney's question. Cross examination is always presented through leading questions which can be defined as a question "is one that suggests the answer." (Mauet, 79). For example, "the train left at 7, isn't that

true?” Sometimes closed questions which give a range of options are used on cross as well, for example, “what color was his tie?” will elicit a response of a color. (Mauet, 79). While technically only the witness’ response is part of the evidence in the case, good cross examiners pack their questions with facts favorable to their theory of the case.

Understanding how evidence is presented through witness examination aids the interpreter in a number of ways. Predictions can be made on direct examination when the attorney is questioning a witness who is typically aligned with the attorney’s side of the case. This means the attorney will have had the opportunity to prepare the witness and preview the story. Because the likelihood of surprises is low after preparing the witness, questions on direct examination tend to be open ended questions such as where, why, and what happened. Responses to these questions tend to be in a narrative form. As a result, most of the interpreting energy will focus on the response rather than the question. Cues designed to chunk the response into a meaningful and manageable unit will be critical to obtain agreement upon with the witness during preparation.

On the other hand, when cross examining a witness aligned with the opposing side, counsel will craft careful and narrow yes-no questions only cutting off the witness’ inclination to explain a response. It is often said that a lawyer should not ask a question on cross examination that she does not already know the answer to and can impeach the witness who answers wrong. As a result, the interpreting team can anticipate that most of the interpreting energy on cross examination will focus on rendering a well-crafted question to the witness, and the response will typically be limited to a yes or no answer. If any cues need to be established, it would likely be between the hearing interpreter and the attorney to obtain a pause in an otherwise lengthy question.

Consecutive interpreting requires a number of mental processes to be handled simultaneously by the interpreter. The interpreter must identify the proposition in the utterance, assess its pragmatic content, determine when the information contained needs to be paused in order for a meaningful unit to be interpreted, and retrieve from short and long term memory a schema or schemas to assist in comprehending and translating the utterance into the target language. Further, the interpreter is

predicting oncoming discourse and monitoring the cognitive process. In addition to these mental processes, the interpreter is also taking notes of the source language as an aid to memory in interpreting.

Spoken and signed language interpreters using consecutive interpreting strategies often rely upon note-taking as a method of assisting in memory recall. Note-taking with a visual language requires training and practice. Note-taking involves abstracting the source language message into a symbolic form to aid in retrieval when rendering the message into the target language. Note-taking is personal in terms of the symbols used, but there are some agreed upon and practices strategies. The most common method is the Rozan method which includes strategies such as using space on the page to place ideas, using common abbreviations, using symbols from math, science or Greek letters, using lines to emphasize and negate concepts and finally using picture to identify concepts or objects. Notes should be taken on items which are difficult to remember because they do not have a dense association with meaning, such as numbers, dates and names.

Consecutive interpretation takes more time than simultaneous interpretation. This is one of the court's major complaints about the mode. No question, the addition of a Deaf interpreter into the mix in a court or legal setting will have a definite impact on the progression of the interaction. Further, the sometimes abstract content of a legal interaction contributes to the amount of time necessary for a CDI to relate information. (Tuck, 931). Deaf interpreters work with Deaf minors, work in specific settings such as law enforcement and mental competency proceedings as a matter of course. There are times when the characteristics of the language (or lack thereof) used by the Deaf participant are the reason that a Deaf interpreter is retained. These instances require a closer examination.

There are traditional court protocol that will necessarily have to be modified if the Deaf interpreter is present for a Deaf participant who lacks a formalized sign language or whom does not share the signed language used by the Deaf interpreter. According to Tuck, "[u]nlike regular interpreters who must not converse privately with a witness on the stand and who must not deviate even slightly from the source language, intermediary interpreters necessarily have a wider latitude when working

with a semilingual or nonlingual witness.” (Tuck, 913). There is no question that this wider latitude will be difficult for courts to accept. Courts are hyper-sensitive to interactions between non-English speaking witnesses and interpreters. Many cases have been documented that show that unscrupulous interpreters have, in the past, abused their position and the court was powerless to supervise. For example, one case involved a Spanish interpreter who routinely added a fifty dollar fee onto each of the defendant’s court costs and then pocketed the fee. Courts will be resistant and even outright hostile to an interpreter who wants to independently negotiate the meaning of a witness’ testimony without the court being privy. But with a certain segment of the Deaf population, there will be no other way to arrive at their testimony. Deaf interpreters faced with a witness or party who lacks formalized language must meet separately with the court and attorneys and arrive at agreements on how questions will be asked and responses obtained. Further, Deaf interpreters should mitigate the concern such a practice will cause by ensuring that the hearing team interpreter informs the court when there is intra-rendition negotiation of meaning by the Deaf interpreter with the Deaf individual.

In sum, consecutive interpreting and note-taking is the standard practice to be used when working with Deaf witness testimony. Both consecutive interpreting and note-taking are acquired skills that must be practiced before being implemented. In certain instances, the Deaf interpreter may need to negotiate for consecutive interpreting or quasi consecutive interpreting for the entire proceeding. Different parts of the trial pose different linguistic challenges for focusing an interpreter’s mental energy and these can be predicted and with preparation, their effects lessened.

## **Activity 1**

Read the WASCLA Language Access Summit VII paper on the seven principles of consecutive interpreting contained in the course materials.

Concept Review (Through in-class discussion and role-plays).

1. In small groups, discuss which of these features you might be likely to incorporate into your interpretation?
2. Review the lists of symbols and discuss which of these might make sense to use in your note-taking.

3. What other examples of note-taking techniques would you likely want to incorporate into your interpretations?
4. Engage in the ‘Develop Your Own Set’ activity on pages 18 and 19 of the article.

## Activity 2

In small groups, review the police report (Holmes Offense Report) provided for in the course materials from the case *State v. Baker*.

Concept Review (Through in-class discussion and role-plays).

1. Discuss in small groups your thoughts about interpreting for the officer’s testimony (assuming a Deaf officer). What predictions can you make about the substance based on the police report?
2. Assign roles and one take the role of the Deaf officer. Using the Direct Examination by Prosecutor file in the course materials, role play using consecutive interpreting and note-taking techniques the testimony Officer Holmes.
3. Assign dedicated feedback group members who will lead the feedback discussion regarding the interpreting.

## Activity 3

In small groups, review the custody case file provided in the course materials. Prepare to interpret the Deaf father’s testimony.

Concept Review (Through in-class discussion or video logs posting)

1. Discuss in small groups your thoughts about interpreting for the Deaf father’s testimony. Discuss any predictions in terms of content, topic and participants based on your reading of the case file.
2. Assign roles as a Deaf-hearing team of proceedings interpreters and several other participants will take the role of leading the feedback discussion.
3. Interpret the testimony of Deaf father using consecutive interpreting and note-taking techniques.

## Activity 4

In small groups, review the custody case file provided in the course materials. Prepare to interpret the Deaf mother’s testimony.

Concept Review (Through in-class discussion or video logs posting)

1. Discuss in small groups your thoughts about interpreting for the Deaf mother's testimony. Discuss any predictions in terms of content, topic and participants based on your reading of the case file.
2. Assign roles as a Deaf-hearing team of proceedings interpreters and several other participants will take the role of leading the feedback discussion.
3. Interpret the testimony of Deaf mother using consecutive interpreting and note-taking techniques.

## Activity 5

Read Brandon M. Tuck's article entitled, Preserving Facts, Form, and Function when a Deaf witness with Minimal Language Skills Testifies in Court available in the course materials.

Concept Review (Through in-class discussion or video logs posting)

1. Discuss in small groups your thoughts about Tuck's proposed resolution to the court's dilemma of being uninformed as to the nature of the interaction between a Deaf witness and a Deaf interpreter.
2. What would this look like in terms of how the CDI's interpretation would be reviewed and the correct interpretation be presented to the jury?


## Assessment

Formative assessment:

- Through responses to in class discussions.
- Through paper or video logs requirements.
- Through self-analysis papers for the interpretations.

## Resource Materials

- PowerPoint from course materials.
- Federal Court Interpreting Act, 28 U.S.C.A. 1827(k)(1996).
- Florissi, A. (2011). The principles of consecutive interpreting. Workshop materials. WASCLA Language Access Summit VII. Available at [http://www.wascla.org/library/folder.397038-Consecutive Interpreting Note taking and Memory Skills](http://www.wascla.org/library/folder.397038-Consecutive%20Interpreting%20Note%20taking%20and%20Memory%20Skills).
- Russell, D. (2002). Interpreting in Legal Contexts: Consecutive and Simultaneous Interpretation. Burtonsville, MD: Linstok Press, Inc.

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- Tuck, B. (2010). Comment: Preserving Facts, Form, and Function when a Deaf witness with Minimal Language Skills Testifies in Court. 158 U. Penn. L. Rev. 905.



## *Unit of Learning 3: Simultaneous Interpreting Principles and Practice*

### **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 provide an overview of commonly interpreted settings in which simultaneous interpreting is used. When a Deaf and hearing team are working in court and legal settings, simultaneous interpreting will be difficult because of the dual interpretation process and the limits of the team's cognitive abilities. Nevertheless, simultaneous interpreting is the expected method of interpreting for a majority of any proceeding. Deaf interpreters must be able to simultaneously interpret texts such as jury instructions or the testimony of hearing witnesses just like hearing interpreters must be able to interpret these texts simultaneously. Simultaneous interpreting in a Deaf-hearing team context is an acquired skill which must be practiced to be effective. This unit is designed to provide an explanation of the cognitive processes and demands facing interpreters in simultaneous legal interpreting and an exploration of the settings in which it is used. This unit aims to provide opportunity for learners to practice interpreting simultaneously for commonly encountered proceedings.

### **Objectives**

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

- State the eight portions of a legal proceeding in which simultaneous interpreting is used by default;
- State three mental skills that an interpreter using simultaneous interpreting must possess to effectively interpret;



- State three reasons why courts prefer interpreters to use simultaneous interpreting techniques;
- State three reasons why simultaneous interpreting can be ineffective.

## **Key Questions**

- Why have interpreter training programs traditionally taught interpreters first in the simultaneous method and only later consecutively? How has this affected the profession? What negative consequences has it had?
- Why should simultaneous interpreting be the default method in court? If courts were truly concerned about language access, wouldn't it make more sense to have consecutive interpreting be the standard mode in legal matters?

## **Prior Knowledge and Skills**

- Demonstrated competency at a generalist level as evidenced by certification.
- Completion of foundational legal interpreting course work.
- Module 1. Deaf Interpreters: Interacting with the Players
- Module 2. Deaf Interpreters: Deaf Youth and Interpreting Considerations
- Module 3. Deaf Interpreters: Teaming with Deaf and Hearing Interpreters
- Module 4. Deaf Interpreters: Working in Law Enforcement Settings
- Unit of Learning 1: Sight Translation Principles and Practices
- Unit of Learning 2: Consecutive Interpreting Principles and Practices

## **Unit Plan and Activities**

- Learners will review the lesson PowerPoint and classroom discussion concerning the theory and practice of simultaneous interpreting.
- Learners will review recorded clips of Deaf and hearing interpreting teams interpreting testimony simultaneously.

- Learners will take the role of the proceedings interpreter for simultaneous witness testimony.

## Discussion

Much experience of Deaf consumers and much of the work of signed language interpreters is simultaneous in nature. Many interpreter training programs used to teach simultaneous interpreting to the exclusion of consecutive interpreting and as a result, many interpreters have little experience with consecutive interpreting and much experience with simultaneous interpreting. In a legal proceeding, Deaf interpreters have to be prepared to interpret in simultaneous or semi-simultaneous approaches for many of the legal settings they encounter.

Simultaneous interpreting is the default method for most court proceedings, including the initial appearance, jury selection, opening statements, motions, objections, side-bar conferences, closing argument and jury instructions. An interpreter must be able to quickly analyze and predict the discourse for comprehension. An interpreter must be able to utilize time lag efficiently to not lag too far behind the speaker, but far enough behind in order to be able to create a coherent rendition. Among other items, the simultaneous interpreter must be able to self-monitor and self-correct errors both quickly and efficiently.

Courts prefer simultaneous interpretation because to them, it seems faster and more efficient. Because it is more like real time, it seems to permit a smoother flow, a feeling of cohesiveness and the ability to participate spontaneously. The interpreter seems to stand out less when using simultaneous interpreting particularly when working with a 'silent' and visual language. In *United States v. Heyer*, the federal appeals court considered an objection to the use of simultaneous interpretation in a trial which included a full team of Deaf and hearing interpreters. (*Heyer*, 2014). Upon objection to the use of simultaneous interpreting by the defendant's attorney, the judge overruled the objection stating, "well no, we are not going to make this into a marathon." (*Id.*). On appeal, the Fourth Circuit affirmed the judge's ruling by reference to the Court Interpreting Act which only requires consecutive interpreting for non-English speaking witnesses and the defense attorney did not make a convincing argument otherwise. The trial court was concerned with the

length of time the proceedings would take if conducted in the consecutive mode.

On the other hand, simultaneous interpreting might occasion more stress and fatigue for the interpreter, resulting in more errors in the interpretation. Because of the rush of the on-coming source language input, the interpreter has less opportunity to recognize and repair errors. Interpreters might succumb to information overload and the quality of the interpretation would suffer. Simultaneous interpretation is generally more fatiguing than consecutive interpreting. Linguists have demonstrated empirically the stress that is involved in simultaneous interpreting. (Kurz, 2003). Finally, if simultaneous is used in settings which are typically reserved for consecutive interpreting, then it may be difficult to later re-negotiate the working conditions by subsequent interpreters.

Many theories exist into the cognitive processes involved in simultaneous interpreting. Because the cognitive process cannot be seen, some of the theories look to the nature of errors made when engaging in simultaneous interpreting in otherwise competent interpreters to identify though processes. (Gile, 1999).

In describing the role of memory in simultaneous interpreting, Riccardi suggests that During SI, both automatic, implicit components and non-automatic, explicit components of memory come into play. Implicit memory is an unconscious form of memory; it is remembering something without being aware that you are remembering it. It is acquired incidentally, not focusing attention on what is internalized, and is used automatically. (Riccardi, 2005).

Since memory is accessed automatically, it stands to reason that a deep knowledge of the subject matter is required in order for that knowledge to be automatically accessed. As the interpreter gains more experience and knowledge of legal vocabulary and processes, the stress of interpreting in the simultaneous mode should lessen.

## Activity 1

Using the trial transcript provided for in the course materials from the case *State v. Baker*.

Concept Review (Through in-class discussion and role-plays).

1. Discuss in small groups your thoughts about simultaneously interpreting for the officer's testimony (assuming a hearing officer).
2. Assign roles and one take the role of the officer.
3. Role play using consecutive interpreting and note-taking techniques the testimony of the officer.
4. Assign dedicated feedback group members who will lead the feedback discussion regarding the interpreting.

## Activity 2

In small groups, review the custody case file provided in the course materials.

Concept Review (Through in-class discussion or video logs posting)

1. Discuss your predictions about the GAL's testimony based on the materials in the custody file.
2. View the interpreted testimony of the Guardian ad Litem rendered by Team 2 – Stephanie Clark, LeWana Clark and Pasch McCombs.
3. Discuss in small groups whether your predictions were realized in the GAL's testimony.
4. What salient observations did you notice? How did the team handle the simultaneous interpreting process? How were notes used? How was monitoring and correcting handled if at all?

## Activity 3

In small groups, review the custody case file provided in the course materials. Prepare to interpret the psychologist's testimony.

Concept Review (Through in-class discussion or video logs posting)

1. Discuss in small groups your thoughts about interpreting for the psychologist's testimony based on your reading of the case file. Discuss any predictions in terms of content, topic and participants based on your reading of the case file.

2. Assign roles as a Deaf-hearing team of proceedings interpreters and several other participants will take the role of leading the feedback discussion.
3. Interpret the testimony of psychologist using simultaneous interpretation techniques.

## Assessment

Formative assessment:

- Through responses to in class discussions.
- Through paper or video logs requirements.
- Through self-analysis papers for the interpretations.

## Resource Materials

- Powerpoint from course materials.
- Gile, D. (1999). Testing the Effort Models' tightrope hypothesis in simultaneous interpreting – A contribution. In *Hermes, Journal of Interpretation*.
- Kurz, I. (2003). Physiological stress during simultaneous interpretation: A comparison of experts and novices. In *The Interpreter's Newsletter*.
- Riccardi, Alessandra. (2005). On the Evolution of Interpreting Strategies in Simultaneous Interpreting. In *Meta: Translators' Journal*. Vol. 50 No. 2. P. 753-767, available at <http://www.erudit.org/revue/meta/2005/v/n2/011016ar.html?vue=integral>
- *United States v. Heyer*, 740 F.3d 284 (4<sup>th</sup> Cir. 2014).