

# **The Use of Remote Technology in Legal Interpreting: Focus Groups Summary**

## **INTRODUCTION & SUMMARY**

As part of the effort to gather insight from interpreters who work in legal settings through remote technology, a series of focus groups was conducted in the spring and summer of 2013. Additional information was taken from a focus group conducted in April 2012.

Altogether, a total of six focus groups met that included one attorney and 16 interpreters, one of which was a certified deaf interpreter. Five of the interpreters and the attorney involved in the focus groups noted that they are responsible for coordinating interpreter services in their home courts. Another five interpreters identified themselves as working full-time for the administrative office of the courts in their home states as staff interpreters and one identified him/herself as holding an administrative position with a state commission. Six of the interpreters work as free-lance interpreters in the court system.

Taken together, these individuals represent decades of experience relating to interpreting in the courts through remote technology. Their insight and experience offer a nuanced view of this specialized interpreting setting as detailed in the following pages.

Here is a summary of the key findings from focus group participants:

- ❖ The use of remote technology in the courts is still very much in its infancy. Although certain states, such as California and Oregon, are ahead of the game in terms of implementing a formalized system for remote legal interpreting, the other states represented in the focus groups are still in the “pilot” program stage. Further, it should be noted, that a number of states were not represented in the focus groups, making it impossible to determine the degree to which judiciaries are relying on remote technology to facilitate interpretation in the courts.
- ❖ Perhaps the primary issue to arise in the focus groups discussing the use of remote technology in a legal setting was the types of proceedings appropriate for remote interpreting services. Some courts rely on established written criteria to govern these decisions. In other courts, the interpreter coordinator is responsible for making the decision. There is a strong

consensus among practitioners that clear guidelines and best practices should be established so that courts and interpreters across the country are similarly guided.

- ❖ The technology set-up used in courtrooms varies across the country. In some instances, the interpreter controls the camera, while in other instances it is controlled by court personnel or information technology staff who are present in the courtroom. In most instances, the interpreter is located in a space established within another courthouse in the state, although one participant noted that in some instances the interpreter might be located in another state or even at home.
- ❖ Only interpreters with extensive experience interpreting in the legal setting should be tapped to interpret remotely. Knowledge of the culture of a courtroom, a sense of what participants might be discussing, and a comfort level with the judiciary is essential to ensure an adequate interpretation despite the fact that the interpreter is located in a remote location.

## **METHODOLOGY & PROCEDURE**

To fulfill our aim to secure a broad cross-section of interpreters who work in court settings through remote technology, we undertook 6 Focus Group meetings. One (1) meeting occurred face-to-face and five (5) meetings occurred via audio-conference. Solicitation of participants took place through the RID Legal Interpreter Member Section (LIMS), graduates of the UNC Legal Interpreter Training Program, and through the NCIEC network.

The face-to-face group meeting took place in Denver, Colorado as part of the 2012 ILI conference hosted by the NCIEC MARIE Center and LIMS. The five audio-conference meetings were with interpreter practitioners and court personnel from Arizona, California, Kentucky, Minnesota, Nebraska, New Jersey, New Mexico, Oregon, Pennsylvania, Texas, and Washington. Each meeting lasted approximately 90 minutes. All participants were assured of confidentiality. Each meeting included a facilitator who fostered dialogue and posed questions from a focus group script that was approved through the IRB process at the University of Northern Colorado. The questions included in the script provide the framework for the focus groups findings report which follows.

Before each session, each group was informed of the purpose of the meeting:

“The overall goal of this particular NCIEC Focus Group endeavor is to identify and vet competencies and skills specific to interpreting in the courts via remote

technology. To accomplish this goal, the NCIEC Legal Interpreting workgroup is engaging in a series of focus groups with interpreters from across the United States. The information gleaned from these events will assist the NCIEC Legal interpreting workgroup to: 1) identify a set of general competency domains for use in organizing the competencies and skills of interpreters working in the courts via remote technology; 2) craft a draft set of competencies to be vetted by a broad base of stakeholders; 3) potentially translate the competencies into curricula or training modules to prepare interpreters to work in the courts via remote technology; and most definitely to 4) identify practices that should be included in the Best Practices for ASL-English Interpreters working in Court and Law Enforcement Settings.”

The confidential notes from each meeting were compiled into the report we now present.

### **Key Findings: Conversations with Interpreter Practitioners and Court Personnel**

In most courts in which the focus group participants work, the use of remote technology is part of a pilot program. The programs developed in Oregon and California appear to have been among the first such programs established in the United States. The practices developed in those states have been relied on to a great extent by other courts in the nation.

## General Questions:

***Question 1: Can you tell me what two competencies you perceive as being most important for an interpreter working in the courts via remote technology?***

Participants recommended a number of competencies they felt were critical for interpreters working in the courts via remote technology. They include:

- ❖ Extensive knowledge of courtroom protocol and procedure and the physical set-up of a courtroom.
- ❖ Assertiveness to stop the process if technology is not working and ask for what's needed to allow for an accurate interpretation.
- ❖ Comfort with and positive attitude toward technology and an ability to manipulate technology.
- ❖ Discernment to determine whether a particular assignment is appropriate for the use of remote technology.
- ❖ Dynamic range of interpreting skills that will allow them to interpret for a wide range of deaf people, including working with a diverse range of deaf consumers.
- ❖ Soft skills that allow for interaction with court personnel.

All participants mentioned that only interpreters with extensive legal experience should be tapped to do work in the courts via remote technology. This ensures a level of comfort with courtroom protocol and procedure that enables interpreters located remotely to insist on adjustments to allow for a proper interpretation. Some participants also noted that an interpreter hired to work remotely might be located in a different state or geographic region. These participants felt that national standards needed to be adopted to ensure that any interpreter hired would be familiar with a variety of court systems. Finally, participants noted that interpreters working remotely needed to be skilled in conducting brief language assessments via video in order to determine the language needs of the deaf consumer and whether the remote assignment is appropriate.

***Question 2: What has contributed to our current knowledge and skill related specifically to interpreting in the courts via remote technology?***

Almost all of the interpreter practitioners noted that they had worked via remote technology in non-legal settings and that this experience was of great benefit to them in working in the courts.

This provided a level of knowledge about and comfort with the technology and experience in trouble-shooting any technological issues that might come up. In those states implementing remote technology in the courts for both sign and spoken languages, participants noted that sign language interpreters were at an advantage because the use of remote technology is much more prevalent in the field of sign language interpreters.

With regard to specific use of technology in the courtroom, many of the participants noted their involvement in “pilot” programs in their states and found that most of their knowledge had developed from on-the-job training. One participant noted that webinars prepared for interpreters, courtroom personnel and judicial staff had been extremely helpful.

***Question 3: Has your work as an interpreter in the courts via remote technology involved other job duties?***

Five of the interpreters and the attorney involved in the focus groups stated that they are responsible for coordinating interpreter services in their home courts. In addition to duties such as coordinating interpreter services in the courts, many of these individuals also were responsible for the development of pilot programs involving the use of remote technology in the courts. In this role, they were tasked with a variety of jobs including the identification of vendors to provide technology, the development of workshops and/or webinars to train interpreters and the judiciary on the use of remote technology, and the establishment of rules and procedures for the use of remote technology.

Many of these skills needed to perform these additional functions were acquired through trial-and-error and through a review of programs and protocol established in other states. California State, for example, has “Recommended Guidelines for Video Remote Interpreting (VRI) for ASL-Interpreted Events” which was referred to by many other courts in developing their pilot programs for the use of remote technology in the courtroom.

## **Knowledge Questions:**

### ***Question 4: What do you wish you knew before you began working in the courts via remote technology?***

Many of the participants' responses to this question were technology based. One participant noted that he wished he knew how "big" he would be in the courtroom once projected onto a wall behind the judge. Another commented that there is a rainbow effect when you sign on camera, which can be eliminated by signing slower. Other answers referenced the importance of camera placement and how set-up of cameras is time-consuming and can be cumbersome.

From an interpreting perspective, participants noted that they wished they had known it was more difficult to make a connection with the deaf consumers by camera. One participant stressed the importance of an interpreter understanding that s/he can control the pace of the proceeding and that interpreters should have a strong sense of their own power and responsibility (i.e., if you can't hear, you should say so). Indeed, some participants opined that it is an interpreter's ethical obligation to control the pace and be assertive in order to provide an effective interpretation and ensure understanding.

### ***Question 5: How has knowledge of the court system impacted your work as an interpreter via remote technology?***

It was universally agreed among the participants that knowledge of the court system was mandatory in order to perform effectively from a remote setting. This sentiment applied not only to knowledge of legal terminology and process, but also to courtroom procedure and physical set-up. One of the participants noted that system knowledge allowed an interpreter who was remotely located to orient themselves in terms of who was who in the courtroom and where to direct the deaf consumer's attention based on the type of proceeding.

## **Professional Practice Questions:**

Many of the questions set forth in the script related to the use of interpreting techniques (i.e., consecutive interpreting) and practices (i.e., the use of certified deaf interpreters (CDIs)). These questions did not generate much discussion in the focus groups, primarily because the techniques and practices are not typically used given the relatively recent employ of remote technology in the courts.

In fact, when asked about the use of team interpreters, most participants stated their belief that any proceeding which required more than one interpreter was not appropriate for remote interpretation. Although the participants articulated different ideas about what types of proceedings could be interpreted remotely, there were three themes that arose from the focus groups. In evaluating whether a proceeding is appropriate for remote interpretation, courts and interpreters should focus on: 1) the length of the proceeding; 2) the nature of the proceeding; and 3) any unique linguistic issues that present. If the proceeding is so long as to require team interpreting, it may be inappropriate for the use of remote technology. If the nature of the proceeding requires the submission of evidence or witness testimony, it may be inappropriate for the use of remote technology. If the deaf consumer requires a CDI in order to effectively communicate or there are multiple deaf consumers, it may be inappropriate for the use of remote technology.

Participants repeatedly noted that short, procedural hearings, such as arraignments, trial management conferences, scheduling conferences, post-trial sentencings, and plea allocutions, are appropriate for the use of remote technology. Different court systems approached this determination differently. In Oregon, for instance, there is a formalized, written process for determining whether interpreters can participate in a proceeding remotely. The same is true in California. In other instances, the decision of whether a proceeding can be done remotely is left to the interpreter coordinator. One participant noted that these decisions hinged to some degree on the “density of the communication” that would occur in the proceeding. In assigning interpreters to a proceeding, one participant noted that her first choice was always to use a live-interpreter. If that was not a reasonable option, she would opt for remote interpretation by a staff interpreter, before resorting to freelance interpreters or interpreters hired through an agency to do the work remotely.

***Question 6: Describe unique ethical situations you’ve encountered while working in the courts via remote technology.***

The participants identified a couple of unique ethical situations that they encountered while interpreting remotely in a legal setting. On more than one occasion, the difficulty of interpreting privileged communications between deaf consumers and their attorneys while located remotely was noted. Many participants said that they were instructed not to interpret such conversations. One participant noted that their state had guidelines suggesting that a private room be used for such communications or that the judge clear the courtroom. Another participant noted that such conversations are more easily interpreted if portable, mobile technological devices, such as iPads are used. In fact, it was suggested that

iPads could be assigned to deaf consumers for use throughout a courthouse, in recognition of the fact that so much of what happens in a courthouse is incidental to what happens in the courtroom.

Participants also mentioned their belief that an interpreter's ethical obligation extends to making sure that the technology is sufficient and allows for appropriate communication. One participant noted that it is harder to be proactive while in a separate location from the others and another participant noted that an interpreter's remote location could make the proceeding feel less formal. The general consensus was that interpreters must work even harder to uphold their ethical obligations while not physically present in the courtroom. One participant opined that a national model code should be created so that an interpreter's ethical obligations are the same across the country, much like an attorney's.

***Question 7: In what court related settings via technology do you use sight translation?***

The focus groups participants related that they had little to no experience doing sight translations remotely. Some supposed that the document could be held up to the camera in order for such a translation to occur. One participant suggested that the remote interpreter could have access to such documents by fax or on a computer should a sight translation need to occur. A few participants noted that document sight translation was one of the incidentals that occurred outside a courtroom and might be facilitated by mobile devices.

***Question 8: In what related situations is it appropriate to use Deaf interpreters remotely?***

The participants indicated that they had no direct experience using a certified deaf interpreter in remote settings, though there was agreement that the use of a CDI remotely would require a known, trusting relationship between the interpreters. The focus group participant who worked as a freelance certified deaf interpreter noted that he had never been asked to participate in a remote situation, but had been asked to observe some proceedings. This participant noted his belief that having a CDI on-site with a remote sign language interpreter was the preferable to having both interpreters located remotely. Another participant opined that the use of CDIs remotely could only work if the CDI was the primary, full-screen interpreter while the hearing ASL interpreter worked off a separate system.

## **Skills Questions:**

### ***Question 9: Is the clientele encountered in the courts via remote technology different now than in the past?***

Many participants stated their general impression that individuals in the court system were less fluent and educated than in the past, which includes deaf clients. The response depended somewhat on the geographic location of the participant. Those in more rural communities noted that deaf individuals were less fluent and had delayed language and cognitive skills than those in urban settings. One participant stated his/her belief that many deaf clients had diminished competency or processing ability. To the extent this is true, these issues becomes another factor to be considered by courts and interpreters when determining whether the use of remote technology is appropriate for a particular proceeding.

### ***Question 10: What are the top five (5) ASL skills you believe essential for an interpreter working in the courts via remote technology?***

The participants' responses to this question was substantially the same as the answer to Question 1 which sought their view on competencies important for an interpreter working in the courts via remote technology. They included: 1) a high level of familiarity with legal interpreting; 2) assertiveness with court personnel and the judiciary; 3) technology skills; and 4) the ability to ascertain the appropriateness of the proceeding for remote interpretation.

An additional point that was made by one participant is that interpreters working remotely should be familiar with the nuances of ASL in order to adapt to a two-dimensional format. This would include adaptations to placement and orientation to fit the medium.