

Legal Interpreting Skill Development: Improving Message Coherence When Interpreting Lines of Legal Questioning

Activity:

The overarching purpose of *lines of questioning* in the legal context is to form a non-fictional interactive narrative used to create the “truth” - as it is seen from a particular orientation to a set of facts. For the purpose of this discussion, the term interactive narrative is being used to refer to “the stories that are told to recount events to others” (Steel, 2002). So, each question in a *line of questioning* contributes to the “story,” to the end product - a completed interactive narrative that can be used within the legal system to formulate, support and favor a particular orientation to a particular set of facts.

Part of the logic within a line of questioning is that the “unfolding of the story” occurs in a sequential manner - several related questions will be asked and answered, topics will be addressed in the order that the attorney feels are most favorable to his or her orientation to the story, and shifts from one topic to another will occur. It is the process of message coherence - showing the transitions between topics and the relationship between questions - that is the focus of this skill development activity.

This skill is important. Research has shown that interpreters are weak in conveying the internal logic and cohesion within a message. This can become extremely problematic when a Deaf witness is giving testimony, or if a Deaf plaintiff or defendant is working with his or her attorney in assessing the accuracy of another witness’ testimony. Tracking the logic within a text and conveying that through appropriate linguistic features is an essential skill for interpreters.

Activity Directions: Below are two texts that you will analyze. One transcript is from a client-attorney interview prior to a first appearance court hearing related to a DUI. The second transcript is a sample of direct and indirect examination of a police officer in a child abduction trial. Both texts focus only on the questions that were asked - the responses to the questions are not included. Analyze one text at a time.

As you analyze the texts, follow these steps.

1. Read through the texts to determine which questions are directly related to one another and where in the line of questioning there are shifts. Brackett off the related questions and place an asterisk where a transition in subject is needed.
2. Think about how you will show the relationship between questions. What ASL discourse markers will you use?

NOTE: One possible strategy is narrative weaving. In narrative weaving, you will use a portion of the last response provided [or the last question asked] and weave it into the next question to show the previous and current question are related. Here is an example:

Example - *Narrative Weaving*

Q: Who were you with that night?

THAT NIGHT ACCIDENT HAPPEN, YOU WITH WHO?

A: ME-WITH FRIEND NAME J-ON-WRIST. SPELL J-A-M-E-S, LAST NAME, B-A-R-N-E-S.

I was with my friend, James Barnes.

Q: Where were you going?

NIGHT ACCIDENT HAPPEN, J-ON-WRIST, YOU-TWO, GO-to WHERE?

A: WE-TWO, PLAN GO-to PLAY CARDS THERE (referent to left) DEAF C-L-U-B, SAME-as EVERY-FRIDAY.

We were going to play cards at the local social club for deaf people - just like every Friday night.

Q. Where is the social club located?

DEAF C-L-U-B, ESTABLISH-AREA, WHERE?

A. TOWN-there (index finger move upward) NORTHWEST, CLOSE AREA I-16, THAT AREA DEAF C-L-U-B.

It is located in the northwest part of town, near I-16.

Q. Did you take your normal route?

NIGHT ACCIDENT HAPPEN, YOU-Two GO-to DEAF C-L-U-B, DRIVE-there ROAD WHICH...SAME-as UP-TIL-NOW OR DIFFERENT, WHICH?

A.SAME-as UP-TIL-NOW , SAME.

Yes, we took the normal route.

3. Think about how you will show the transitions from one cluster of questions to another. Give attention to the level of transition which occurs. Is the new line of questioning totally unrelated or a logical next step in unfolding the story? Indicating the difference between these two transitions is an important part of the interpretation process. What ASL discourse markers will you use?

For example, in Text A below, notice how questions 2-3 are related to education, questions 3-9 are related to work, and question 10 shifts to family. A transition between each of these clusters would need to be created, as well as with other clusters you identify in your analysis.

4. Working with a peer, review your findings - discuss what questions you clustered together and why and where you indicated the need for transition.

5. Continuing to work with a peer, role-play the interpretation of the questions. One of you can read the question, while the other interprets and then you can alternate. If a third peer is available to work with you, that individual can observe and provide feedback and then all three roles rotate until all three of the peers have had an opportunity.

6. If possible, record your interpretations for review and discussion within a peer group or with a mentor. Re-do the interpretations based on feedback as appropriate.

7. Repeat this activity with the second text below and with other Trail Transcripts available in the Toolkit. Repeat this activity frequently until your awareness and attention to relationships and transitions is solidly established.

8. Whenever possible, observe seasoned legal interpreters and give attention to the strategies they use to create message coherence. Maintain a journal of strategies and practice application during your own skill development practice.

**TEXT A. Attorney Questions in DUI Case
Client-Attorney Interview
(Client responses not included)**

1. Mr. Wells, these warrants show that you were driving while impaired and also driving while your license was revoked. I want to hear what happened but before that can you tell me a little bit about yourself and your background please?
2. Did you graduate?
3. OK. Do you have any education beyond that?
4. OK. What kind of work do you do?
5. How long have you been there?
6. Do you have any good friends or supervisor who might be willing to come to court and speak up for you if it came to that?
7. OK, do you know his last name?
8. OK. Does he know about the trouble you are in?
9. OK. Would it cause a problem if you told him about the fact that you got these charges and had previously had a DUI?
10. Good, good. Tell me about your family.
11. How old is he?
12. Does he live with you?
13. And do you support him?
14. I am sorry to ask you all these personal questions, but I never know when I might find something that will help.
15. OK. Now you're currently married to your second wife, is that right?
16. And how long have you been married to her?
17. Does she know about this, this charge?
18. How is she reacting to the fact that you were charged with this offense?

19. OK. Is she upset because you are in trouble, or is she concerned about the drinking? Or both?
20. OK. How long have you been drinking heavily enough to get in this kind of trouble?
21. So that would be since you were about 31, is that right?
22. Ok, that is what the warrant says. Why don't you tell me what happened on this evening?
23. Um...the offense we are talking about is the one you have to go to court on next month—the second offense. Then, we will go back and talk about the first offense.
24. Well, that is what I want to do is try to help you ...to figure out a way, first of all, if we can, to get you out of this. And, if we can't get you out of this, we can't avoid a conviction on these charges, then to minimize the impact on you.
25. And, I can tell you now that one of the ways to do that is going to be to get treatment for your alcohol problems, and for any other problems that led to you drinking and to your continuing to drink, ...and it will be my goal to try and make sure that you don't get some kind of long sentence and imprisonment.
26. Have you ever been convicted of anything else?
27. Well, it depends on how good you are about going into treatment. If you go into it with sincerity then the people who are doing the treatment will come to court and say, "Phillip Wells came to us and he is working on his problem and we think he's a good risk to be out on the street." And the whole object is to convince the judge that you shouldn't be locked up and that you are not a danger to the community. That's the only reason that a judge would put you in jail—is if you are a danger to the community or continue doing what you have been. So, if the facts that you tell me about lead me to conclude that you are going to get convicted or you are going to have to plead guilty to driving while impaired then I'm going to recommend that you do everything you can to convince a judge that you shouldn't be locked up. And there are some things you can do—like going into treatment. Unfortunately, there are some people go into treatment and they just do it, so they can keep driving or for reasons other than sincerely trying to work on their alcohol problems and that generally gets reported back to the judge and will hurt you rather than help you.
28. OK, so what we need to do first is talk about what happened that night, because one of the first issues is whether the police officer had probable cause to stop you. Police can't just stop anybody driving down the street and get them out of their car and smell their breath. They have to see something that gives them probable cause to believe that something illegal has happened.
29. Tell me what you drank that night and what you heard the policeman say and what you think you did that gave him cause to stop you. Did he tell you why he stopped you?
30. Did the policeman tell you that you were weaving when you first met him and had a chance to talk with him... or did he tell you later when you were at the law enforcement center?
31. OK. Did you feel like you had been weaving or driving improperly?

32. OK. Did the officer give you any field sobriety tests—the ones where he makes you touch your nose and walk in a straight line?
33. Did he tell you how he thought you did on that test?
34. Did you sense that you did well or poorly on the test?
35. Did anybody at any time give you any of the other tests—like walking a straight line, or walking toe to toe, or touching your nose?
36. OK. Did you notice whether any other police officers pulled up out there when the first officer stopped you?
37. When did you first learn that he knew you didn't have a driver's license?
38. OK. Where had you been drinking that night, and do you remember what you had to drink?
39. And, when did you get there. Do you remember?
40. And when did you leave? Right before this happened?
41. OK. Tell me what you drank if you remember?
42. Do you remember what you were drinking?
43. Is there a particular thing that you normally drink when you drink?
44. OK. But you have no idea how much you had that night?
45. OK. Were there other people there with you drinking that might be able to tell us how much you had?
46. What's his name?
47. Gary... so that's two people?
48. OK. Um...When you got down to the law enforcement center, what happened?
49. OK. Do you have any idea how much time elapsed between when you arrived at the law enforcement center and when you took the breathalyzer?
50. OK. The police report shows that you blew .19 twice within 5 minutes of each other and that's within an hour after your arrest. So, it looks like your blood alcohol content was higher than .19 when you were stopped.
51. Did the police tell you prior to the arrival of the interpreter that you were entitled to have a neutral, independent witness for the breathalyzer test?

52. Do you know if the interpreter worked for the police or was an independent interpreter?
53. And, did the interpreter tell you that you were entitled to an independent witness or a member of your family to come down and see the test?
54. OK, well, that may be something we can work with. Because there are some requirements about informing you of which witnesses can be present if they can get to the breathalyzer room quickly enough to witness the breathalyzer test.
55. We may have some trouble because they had to put you in a holding cell for a while, but it would be worth looking at whatever records they had down at the jail, and talking to any deputies who saw what happened, and we may be able to use that to block admission of the breathalyzer result.
56. I don't know. There are two problems. First, you can be convicted of driving while impaired without the results of breathalyzer, if the judge believes beyond a reasonable doubt that you were impaired based on testimony of people who saw you. And, it may be enough if the police officer testifies that he saw you driving erratically and that you were fumbling, and you had a strong odor of alcohol about you...and any other observations he made about you either out on the road or down at the law enforcement center.
57. So that even if we're able to keep the breathalyzer reading out of evidence, you still could be convicted. So, one of the things that would be helpful to do is talk to the police officer and see what he is going to say, and I'll do a little research on that before we make any decisions. But, it is possible that we can at least keep the breathalyzer out.

TEXT B. Direct and Cross Examination of a Police Officer

Child Abduction Case

(Witness/Police Officer responses not included)

Q: MR. REDDEN, I THINK WHEN WE FINISHED YESTERDAY, WE WERE ABOUT TO PLAY THE TAPE. PRIOR TO SPEAKING WITH THE DEFENDANT, DID YOU OBTAIN A CONSENT OR A WAIVER OF WHAT YOU WERE GOING TO DO?

Q: DID YOU EXPLAIN THE PROCESS OF THE INTERVIEW?

Q: AND DID HE DO THAT?

Q: AND DURING THE INTERVIEW WHAT TOPICS DID YOU COVER?

Q: WAS THERE A TIME THAT YOU DISCUSSED THE EVENTS AT SUPERSTITION MOUNTAIN?

Q: DID HE SAY SOMETHING UNUSUAL AT THAT POINT?

Q: WHAT DID HE SAY AT THAT POINT?

MR. DUSEK: YOUR HONOR, I HAVE HAD MARKED AS COURT'S EXHIBIT 59 AN AUDIOTAPE. AND I'VE HAD MARKED AS COURT'S EXHIBIT 59-A A TRANSCRIPT THAT IS FORTY-TWO PAGES LONG.

(AUDIOTAPE OF INTERVIEW OF THE DEFENDANT BY PAUL REDDEN MARKED TRIAL EXHIBIT NUMBER 59 FOR IDENTIFICATION.)

(TRANSCRIPT OF TRIAL EXHIBIT NUMBER 59 FOR IDENTIFICATION MARKED TRIAL EXHIBIT NUMBER 59-A FOR IDENTIFICATION.)

MR. DUSEK: AND I HAVE COPIES FOR THE JURY AND STAFF.

THE COURT: ALL RIGHT.

LADIES AND GENTLEMEN, WE'RE GOING TO DO WHAT WE HAVE DONE ON OUR PRIOR TAPES. THIS IS AN AUDIOTAPE. HAVING LISTENED TO IT, THERE IS A QUALITY PROBLEM ON OCCASION. SO, THESE ARE BEING DISTRIBUTED SO THAT YOU CAN FOLLOW WITH THE FLOW OF THE INTERVIEW.

AS I INSTRUCTED YOU YESTERDAY, THEY WILL BE PICKED UP FROM YOU AT THE CONCLUSION OF LISTENING TO THE TAPE.

THE COURT: OKAY.

MR. DUSEK: I BELIEVE THIS TAPE IS ABOUT FORTY-ONE, FORTY-TWO MINUTES LONG, YOUR HONOR. AND I WOULD ASK THAT WE BE ABLE TO PLAY IT, AND WE WOULD STIPULATE THE REPORTER DOES NOT HAVE TO TRANSCRIBE IT.

THE COURT: SO STIPULATED?

MR. FELDMAN: YES.

THE COURT: ALL RIGHT. THANK YOU.

MR. FELDMAN: YOUR HONOR, THERE HAS BEEN AN EXHIBIT MARKED.

THE COURT: YES. IT'S B -- OR A. EXCUSE ME. 59-A.

MR. FELDMAN: I'M SORRY, YOUR HONOR. 59 IS THE AUDIOTAPE; 59-A IS THE TRANSCRIPT?

THE COURT: YES.

MR. FELDMAN: THANK YOU.

(TRIAL EXHIBIT NUMBER 59 FOR IDENTIFICATION WAS PLAYED AT THIS POINT.)

THE COURT: OKAY. LADIES AND GENTLEMEN, LET'S SEE. PASS THE TRANSCRIPTS TO YOUR RIGHT.

ALL RIGHT. MR. DUSEK.

BY MR. DUSEK:

Q: MR. REDDEN, DID YOU JUST GET AN OPPORTUNITY TO READ OR LISTEN TO THE TAPE THAT WAS PLAYED?

Q: WAS THAT A TRUE AND ACCURATE RENDITION OF THAT PORTION OF THE INTERVIEW?

Q: AND THE TRANSCRIPT THAT WE WENT ALONG, WAS THAT ACCURATE AS HUMANLY POSSIBLE?

MR. DUSEK: THANK YOU, SIR.

THE COURT: ALL RIGHT. CROSS-EXAMINATION.

CROSS-EXAMINATION BY MR. FELDMAN:

Q: HOW MANY HOURS DID YOU SPEND SPEAKING WITH MR. WESTERFIELD?

Q: HOW MANY DIFFERENT TIMES DID MR. WESTERFIELD ASK YOU FOR COUNSEL?

Q: DID YOU HAVE A HEATER GOING IN THAT ROOM, SIR?

Q: DID YOU HAVE A HEATER GOING IN THE ROOM THAT YOU WERE SPEAKING TO MR. WESTERFIELD?

Q: AND DID MR. WESTERFIELD INDICATE THAT HE WAS ALWAYS HOT?

Q: AND HE ACTUALLY COMPLAINED ABOUT HOW HOT IT WAS, ISN'T THAT RIGHT?

Q: YOU ALSO TOLD US EARLIER YOU ARE FROM -- YOU WERE A POLICE OFFICER IN WYOMING, SIR?

Q: WHICH CITY OR TOWN?

Q: WHERE'S THAT?

Q: AS PART OF THE PROCESS OF YOUR -- YOU'RE CALLED AN INTERROGATION SPECIALIST, IS THAT CORRECT, SIR?

Q: AND WHAT'S AN INTERROGATION?

Q: AND WHAT'S THE DIFFERENCE BETWEEN THAT AND AN INTERVIEW?

Q: DID YOU CONSTRUE YOUR COMMUNICATION WITH MR. WESTERFIELD AS ACCUSATORY?

Q: PRIOR TO YOUR -- DO YOU RECALL WHAT TIME YOU STARTED TO SPEAK TO MR. WESTERFIELD?

Q: SO, YOU WERE AWARE THAT HE HAD BEEN WITH LAW ENFORCEMENT ESSENTIALLY ALMOST CONTINUOUSLY WITHOUT A BREAK SINCE ABOUT TEN TO 9:00 THAT MORNING?

Q: BEFORE YOU WERE ENGAGED IN THE PROCESS OF COMMUNICATING WITH MR. WESTERFIELD, HAD YOU BEEN BRIEFED BY OTHER OFFICERS?

Q: SO, YOU HAD AT LEAST THE INFORMATION THAT MR. WESTERFIELD HAD BEEN PREVIOUSLY WITH LAW ENFORCEMENT THAT DAY.

Q: AND YOU NEEDED THAT INFORMATION ANYWAY FOR YOU TO PERFORM YOUR JOB, IS THAT RIGHT?

Q: SO, IT WAS IMPORTANT FOR YOU TO FAMILIARIZE YOURSELF WITH WHAT HAD HAPPENED PREVIOUSLY.

Q: AS PART OF YOUR TECHNIQUE, YOU TRY AND MAKE THE SUBJECT COMFORTABLE, IS THAT RIGHT?

Q: AND AMONG THE WAYS IN WHICH YOU MAKE THE SUBJECT COMFORTABLE IS TO ENGAGE IN KIND OF CONVERSATIONAL TONE SUBJECTS, IS THAT RIGHT?

Q: AND IN THIS CASE YOU TRIED TO ESTABLISH A RAPPORT WITH MR. WESTERFIELD, ISN'T THAT RIGHT?

Q: YOU ASKED HIM, FOR INSTANCE, WHAT HIS JOB WAS.

Q: HE TOLD YOU HE WAS --

Q: SIR, YOU SAID ON TAPE THAT YOU HAD TROUBLE REMEMBERING YESTERDAY. WAS THAT PART OF THE PROCESS OF ESTABLISHING RAPPORT?

Q: WAS IT TRUE?

Q: I'M SORRY. JUST AS PART OF YOUR TRAINING AS AN INTERROGATION SPECIALIST, ARE YOU PERMITTED TO OR AS PART OF YOUR TRAINING TO PERMIT YOU TO LIE TO PEOPLE THAT YOU'RE TALKING TO?

Q: KIND OF LIKE A SALESMAN?

Q: EXCEPT IN YOUR SPECIFIC INSTANCE YOU'VE INDICATED YOU WOULD GO SO FAR AS TO NOT TELL THE TRUTH TO ESTABLISH THAT RAPPORT.

Q: WELL, SOMETIMES I HAVE TROUBLE REMEMBERING YESTERDAY. YOU JUST TOLD ME THAT WASN'T A TRUE STATEMENT, RIGHT?

Q: AND YOU DID MAKE THAT STATEMENT TO MR. WESTERFIELD.

Q: AND YOU MADE THAT IN THE CONTEXT OF TRYING TO ESTABLISH A RAPPORT.

Q: ALL RIGHT. ON THE TAPE WE HEAR THE NAME JACKIE. WHO WAS THAT?

Q: WE HEARD THE NAME NEAL. WHO WAS THAT?

Q: AND WE HEARD THE NAME LISA. WHO WAS THAT?

Q: DID YOU PROVIDE MR. WESTERFIELD ANY FOOD?

Q: COULD YOU TELL WHETHER OR NOT -- YOU HAD NOT MET MR. WESTERFIELD PRIOR TO THAT DATE, IS THAT RIGHT, SIR?

Q: DID YOU -- THEN YOU'RE NOT ABLE TO FORM AN OPINION AS TO HOW FATIGUED HE MIGHT HAVE BEEN, IS THAT RIGHT?

Q: WHAT DID HE TELL YOU?

Q: AND DID YOU ASK HIM WHEN HE HAD LAST EATEN?

Q: WHAT DID HE TELL YOU?

Q: DID YOU ASK HIM WHO OR -- ON THE TAPE WE HEAR A MENTION TO DAVE AND DEBBIE. DID YOU ASK HIM -- I'M SORRY. DO YOU KNOW WHO DAVE AND DEBBIE ARE?

MR. FELDMAN: NO FURTHER QUESTIONS AT THIS TIME.

THE COURT: ALL RIGHT.

MR. DUSEK, ANYTHING FURTHER?

MR. DUSEK: NO, THANK YOU.

THE COURT: ALL RIGHT.

IS MR. REDDEN TO BE SUBJECT TO RECALL?

MR. FELDMAN: PLEASE.

THE COURT: YES?

MR. FELDMAN: PLEASE.

THE COURT: ALL RIGHT.

MR. REDDEN, YOUR TIME WITH US IS DONE. PLEASE REMEMBER THE ADMONITION NOT TO DISCUSS THE CASE WITH ANYONE UNLESS IT'S PURSUANT TO THE ONGOING INVESTIGATION. ALL RIGHT?

THE WITNESS: YES, SIR.

THE COURT: THANK YOU VERY MUCH.

(THE WITNESS WAS EXCUSED.) THE COURT: ALL RIGHT. MR. DUSEK, IT'S CLOSE ENOUGH WE MIGHT AS WELL JUST TAKE THE MORNING BREAK RIGHT AT THIS POINT.

THE COURT: LADIES AND GENTLEMEN, PLEASE REMEMBER THE ADMONITION OF THE COURT NOT TO DISCUSS ANY OF THE EVIDENCE OR TESTIMONY AMONG YOURSELVES OR WITH ANY OTHER PERSONS NOR FORM OR EXPRESS ANY OPINIONS ON THE CASE UNTIL IT IS SUBMITTED TO YOU FOR DECISION.

LET'S BE OUTSIDE THE DOOR AT 10:35, PLEASE. 10:35.