

Legal Interpreting Skill Development: Improving Interpreting of Lines of Legal Questioning

Peter Tiersma (1999), in his book entitled *Legal Language*, discusses the role of these interactive narratives in the courtroom - indicating that the attorney, even during direct examination, make polite commands to tell a “mini-narrative” followed by a series of questions to clarify, expand or focus on particular points.

- In direct examination, questions typically flow from open-ended questions/requests for a brief narrative to increasingly coercive or controlling questions to give the witness very little leeway. The broadest type of such questions is the WH question - however, even these types questions are phrased in such a way as to limit the answer to a brief replay.
 - EX: “With respect to the white young man, where was he when you first observed him?”
 - Also common are the yes/no questions: EX: “Did he appear to you to be deceased?”
 - Or the disjunctive question in which the answer is restricted to two choices, both explicitly present in the question. EX: “Who was closer to the door that you entered, the young man or the young lady?”
- In cross-examination leading questions are often used - these are assertions of fact or accusations for which the attorney seeks agreement. “The cross examiner should strive to make the assertions and statements of fact: the witness should simply be asked to agree with them” (Tiersma, 1999, p. 165). Although not all cross examination consists of leading questions - they are very common.

Samples of each type of legal question form.

1. **Open questions** are WH questions that do not restrict the content included in the response.

Q. Why was it important to join the organization?
A. Because only members were allowed to vote on critical issues.

2. **Semi-open questions** are similar to a yes/no form of a question in that they have a specific and brief answer that can be predetermined. They can also come in the form of a yes/no question. When they are posed in the form of a yes/no question, they are typically followed by another semi-open question.

Example 1:

Q. When did you join the organization?
A. In April of 1972.

Q. Do you know how many people belong to the organization?
A. Yes.

Q. How many people belong to the organization?
A. About 7,500.

Example 2:

Q. With respect to the young man, where was he when you first observed him?
A. Lying face down on the bed.

3. **Closed questions** are those that intend a response that is restricted to yes or no.

Q. And, did he appear to you to be deceased?
A. Yes.

Q. Did you check for a pulse?
A. No, I did not.

4. Disjunctive questions are those that intend the answer to be restricted to two choices, both explicitly present in the question.

Q. Who was closer to the door that you entered—the young man or the young lady?
A. The young lady.

Q. Who called 911 — you or Anthony?
A. I did.

5. Leading questions suggests there is only one correct answer, and in essence tries to 'lead' the witness to that answer. There are three common forms — negative yes/no question, making a statement followed by a tag, or making a statement with question intonation.

Q. Didn't you go to a bar that night? (negative yes/no question)
A. Yes.

Q. You went to Gino's Bar that night, didn't you? (statement w/ tag)
A. Yes.

Q. You stayed until the bar closed that night, isn't that correct? (statement w/tag)
A. Yes, I guess so.

Q. It is true, isn't it, that you talked with Coral that night? (statement w/ tag)
A. For a little while, yes.

Q. You talked with Carlos that night? (statement w/ question intonation)
A. No, he wasn't there.

Skill Development Activity:

1. Utilizing one of the trial transcripts from the Toolkit, analyze the transcript to isolate examples of each of the five questions forms. Attempt to identify at least 10-15 examples for each type throughout the transcript.
2. Consider the differences between direct and cross examination. Which types of questions are more prevalent in each? Discuss your findings with a peer and consider the similarities and differences in your findings.
3. Practice translating the examples you isolated into ASL. Use a legal dictionary if there are terms you need defined in order to convey the intent of the questions. When you are confident with your translations, record yourself generating the translation. Share your performance with a peer and/or mentor for feedback and discussion.
4. Incorporate the feedback and re-do the translation if appropriate/needed.
5. If time and opportunity allow, engage in a role play with other peers and practice interpreting the questions. In the peer group, rotate the role of attorney asking the question and the interpreter interpreting the question. The focus is on increasing your recognition of question types and accurately conveying the question into ASL. However, if the peer group is inclined to also rotate the role of the witness providing a response to the question, do so.
6. Repeat this process as often as needed or desired using as many of the trial transcripts as are available. The more familiar and comfortable you are with legal discourse and lines of questioning, the more prepared you will be to interpret trial proceedings.

References

Tiersma, P. (1999). *Legal language*. University of Chicago Press.