**GUIDELINES FOR IMMIGRATION LAWYERS WORKING WITH INTERPRETERS:**

**EXTENDING LEGAL ASSISTANCE ACROSS LANGUAGE BARRIERS**

The experience of working with an interpreter through the many different facets of client counseling is new to many lawyers. Training in this particular aspect of attorney/client communication has not been generally available. But since attorneys will often not be fluent in all the languages represented among immigrant clients, access to counsel for a substantial segment of the population depends largely on the availability of competent interpreters and of professionals willing and able to work with them.

Working through an interpreter brings added complexities to the services provided by lawyers. The question of professional role boundaries is likely to arise and cannot be ignored. When working through an interpreter, attorneys should take care not to relinquish any part of the assessment and counseling responsibilities which are appropriate to their role. They should be conscious that the same professional standards and rules of conduct that apply to services rendered without interpreters continue to apply when interpreters are used. Consequently, it is in the best interest of attorneys to work with interpreters who are not only competent to communicate across language barriers, but also capable of abiding by professional standards and ethical practices. By the same token, providing legal services through untrained individuals carries clear risks for the attorney and should be avoided whenever possible. It is best not to use family members or friends of the client as interpreters, because they generally lack the appropriate training and, most importantly, the objectivity needed to perform the interpretive tasks without interfering in the assessment or counseling process.

Scarce resources may nevertheless lead to a less than optimal selection of individuals who can take on the role of interpreter. In such cases, it becomes crucial for the legal professional to have some knowledge about the tasks of the interpreter and how they should be performed. The step-by-step procedures offered below can be implemented in a variety of situations involving both trained and untrained interpreters. It should be recognized, of course, that issues of interpreter competencies and role responsibilities require less attention when dealing with trained interpreters.

Before the session

1. Meet with a novice interpreter separately and review in detail the requirements of the interpreting task, the expectations placed on him/her, and the problems that could arise. This will serve to elicit the person's cooperation and to give helpful guidelines on how to provide accurate interpretation.

2. Determine the interpreter's level of language sophistication, sensitivity to immigration and/or refugee issues, and general disposition for the task(s) to be performed.

What is his/her level of education in each language? How well does s/he speak each language?

Has s/he trained to do interpreting? Has s/he interpreted before?

Does s/he know anything about immigration issues? Has s/he interpreted for immigrants before? This may be particularly significant if your client is a refugee, because of the especially sensitive issues and personal histories involved.

3. Determine if the interpreter is a "good match" for your client.

Consider age, sex, country of origin, cultural background, personal maturity, etc.

Keep in mind possible language/dialect variations (e.g. Arabic as spoken in Algeria can differ significantly from Arabic as spoken in Lebanon—and the less formal education the applicant and/or interpreter have, the more these differences are likely to matter). This is particularly important with regard to issues of client credibility if the session will become part of a written record directly relevant to immigration proceedings. Your client may think s/he is saying something different from what the interpreter is translating, which may later lead to apparent contradictions in testimony.

Consider also issues of trust. The interpreter, though speaking the same language as your client, may come from a country, ethnic or social group, etc. which your client may have reason to fear or mistrust.

Consider the interpreter's level of maturity and personal history. The interpreter should be capable of dealing with sensitive, often emotional material seriously and competently. For example, if the interpreter is or has been a refugee in the past, it may be difficult for him/her to be confronted with stories which evoke his/her own traumatic experiences.

When counseling involves regular contact with your client over a number of sessions, it may be useful to use the same interpreter each time. The degree to which your client trusts the interpreter will typically increase over time, and familiarity with the interpreter's personality may facilitate your client's task when relating traumatic or emotionally loaded events. Bear in mind, however, that a different institutional interpreter will be used in any hearings in immigration court. This may cause your client unexpected difficulties if s/he has been accustomed to dealing with a familiar interpreter for some time. For this reason, you should prevent your client from relying too much on your interpreter, and not allow improvements in their relationship to interfere with your client's independent ability to tell his/her story clearly and in full detail.

*Important note on cases before the immigration court:*  If your case is to be heard in immigration court, the court will provide an interpreter for the hearings and will not let you use your own. It is very important to tell the court (at an early master calendar hearing) what language you will need, and also to specify the dialect, if applicable. If you do not speak the language in which the hearing will be taking place, it is a good idea to take your own interpreter with you to the hearing, so that he/she can alert you if there are significant translation problems. It is also very important to educate your client about the need to inform the court if the client becomes aware that there is a problem with the interpretation. The immigration judge will normally ask your client and the interpreter to speak to each other before the hearing gets underway to confirm that they understand each other. In practice, this often means that client and interpreter simply exchange a few polite greetings, which are often the same across dialects and which give no indication of how the interpretation will go on more complex topics, or of the interpreter’s ability to translate (or even simply to speak English). If the quality of the interpretation is interfering with your client’s right to a fair hearing, you can object to the interpreter. If the interpreter is generally competent but there are instances of mistranslation, you should raise these then and there, on the record, and ask for retranslation/correction.

4. Establish role guidelines and responsibilities.

Discuss confidentiality and the ethical guidelines that apply in the professional relationship with the client. Emphasize the confidential nature of the interview, and make sure the interpreter understands and is prepared to comply with the requirements of the client's privacy.

Instruct the interpreter to translate everything the client says, no matter how irrelevant, seemingly nonsensical, emotional or embarrassing. Alert the interpreter to the possibility of being confronted with sensitive material during the course of the interview. Ask him/her to translate what the client says as accurately as possible, including slang, obscenities, and unusual speech patterns.

Ask the interpreter not to screen the client's comments or messages for fear of offending you, or because they may reflect poorly on the client or the immigrant community.

Instruct the interpreter to ask for clarification immediately should s/he not understand either you or your client.

Make clear that the function of the interpreter is to guarantee the right of the client to consult with you (the attorney) in as direct a manner as possible.

5. Plan for the tasks to be accomplished during the session.

Discuss the purpose of the session, your plans, goals and expectations.

Address potential areas of difficulty.

Decide upon the mode of interpreting, seating arrangements and introductions.

During the session

1. Establish trust. Refugees who have endured past persecution are often justifiably wary or afraid of telling their stories to strangers. Explain the role of the interpreter to your client, and reassure him/her in the interpreter's presence of the confidentiality of the encounter.

2. Talk directly to the client and make sure the interpreter speaks for you and the client in the first rather than the third person (Good: "How are you feeling today?" Poor: "How is she feeling today?" or "Ask her how she is feeling today"). When you are speaking to the client, look *at the client.*

3. Use language that is within the ability or knowledge level of the interpreter.

Avoid using technical terms/jargon. (Good: "Have you ever been stopped by the police?" Poor: "Have you ever been convicted of a crime involving moral turpitude?")

Avoid obscure or ambiguous words, and follow up on any possible ambiguities. For example, the Spanish word "hermanos" can mean either "siblings" or "brothers". When asked "¿Cuantos hermanos tiene?'' [How many brothers/siblings do you have?], a client may include the number of his/her sisters in his/her response. Be sure to follow up by asking how many are girls and how many boys.

Avoid idioms/slang.

4. Regulate the pace of the interview.

Train yourself and your client to pause at the end of every sentence or every couple of sentences to give the interpreter time to translate. It is easiest if you establish this rhythm of interpretation from the start: Say the first sentence you want to say to the client, while looking at the client. Then pause until the interpreter launches into the translation of that sentence. If the interpreter doesn’t translate, you can turn briefly to the interpreter and look at him/her and/or remind the interpreter to translate what you just said. Then (looking again at the client) move on to your next sentence, then pause to allow for translation, and so on. Train your client to pause in the same manner. This quickly becomes a habit for all concerned and will come to feel much more natural than this description would suggest.

Make sure that all of the preliminary exchanges and explanations you would normally have with a client at the beginning of an interview, before launching into the heart of the subject, are actually translated. This is very important to building a relationship of trust and normal human communication with your client. For example, suppose you begin a meeting by saying, all in a rush, “Last week we had a very good meeting, and you gave me a lot of useful information about your early life and education and the problems you had as a student at the university, before your brother’s death, which I’m in the process of drafting up in affidavit form. But today I would like to talk about the death of your brother. How did your brother die?” The odds are good that a non-professional (or non-conscientious) interpreter will translate all this as: “How did your brother die?” And your client will be left thinking, “What a rude and insensitive way to begin a conversation!” Instead, pause as you go along until everything is translated. “Last week we had a very good meeting.” (Pause.) “You told me about your early life and your education.” (Pause.) “You also told me about the problems you had as a student at the university, before your brother died.” (Pause.) “I am preparing a statement for you, to help you explain your story to the Asylum Officer.” (Pause.) “All the information you gave me last time will be very useful to me in writing that statement.” (Pause.) “But today I would like us to talk about your brother’s death.” (Pause.) “How did your brother die?”

Keep sentences brief and concise.

Avoid chained questions (Good: "Are you religious?" Poor: "Are you religious, or do you belong to a particular minority group?")

5. Do not exploit the language barrier to talk about clients in their presence.

If you have some understanding of the client's language, acknowledge this at the outset.

If you are interviewing your client together with a colleague, do not discuss the client’s case with your colleague in English in the client’s presence or make comments to anyone else in the room about what the client is saying or what is going on. Imagine how you would feel if you were in the client’s place and attorneys treated you this way. If you do need to confer with a colleague, or with the interpreter, during your interview with the client, explain to the client what is going on and what you are talking about.

6. Be sure to allow sufficient time for the session. Particularly at first, the use of an interpreter can slow down the pace of an interview considerably. Your client should not be made to feel that time is running out, however, as this may damage the trust placed in you or greatly impair his/her ability to tell you crucial details of his/her story. If you know ahead of time that you will need to end the meeting at a certain time, it is a good idea to tell the client this at the outset, and explain that whatever you are not able to cover today will be continued at your next meeting.

After the session:

1. Discuss questions or concerns that emerged during the session.

Bring out for discussion any communication problems you or the interpreter noted. Discuss cultural issues and the interpreter's impressions of the client's use of language.

2. Debrief interpreter carefully, particularly if the session was emotionally charged.

3. Make any necessary arrangements/plans for future sessions.