



National Association of Judiciary Interpreters & Translators

NAJIT POSITION PAPER

ONSITE SIMULTANEOUS INTERPRETATION OF A SOUND FILE IS NOT RECOMMENDED

The information provided in NAJIT position papers offers general guidance for court administrators, judiciary interpreters and those who rely on interpreting services in legal settings. This information does not include or replace local, state or federal court policies. For more information, please contact: National Association of Judiciary Interpreters & Translators, 206-267-2300, or visit the NAJIT website at www.najit.org.

■ Introduction

When participants in a judicial process face the examination of an evidentiary sound file in a language other than English, the court, in an effort to be expeditious and conserve resources, may order the court interpreters present in the court room to provide an on-the-spot simultaneous interpretation of the sound file in question. The quality of in-court interpretation of a sound file will almost always fall short of the evidentiary standards that must be met, due to the lack of time, technology, and resources required by the practitioner to perform the task correctly. This paper explains why simultaneous interpreting of a recording in the courtroom is usually an impossible task that should not be ordered by a court, nor attempted by an interpreter.

■ Why not interpret a sound file on the spot?

Transcription/translation (TT) is a highly specialized discipline within the broader range of language services for the judiciary. These critical factors come into play when converting information on a sound file from one language to another:

- Knowledge of the transcription/translation process
- Time
- Technology
- Research tools

Clearly some of these factors are lacking in the courtroom when the judge orders the immediate simultaneous interpretation of a sound file—even when the recording is of short duration, for example, a 911 call. The interpreter present may have knowledge of the TT process, but will lack the other tools listed above, needed to perform the task at hand successfully. It follows that simultaneous interpreting of a recording in the court room will yield at best mediocre results when the life and liberty of a defendant and the pursuit of justice are on the line. A forensic psychiatrist would be remiss, indeed disqualified, if he provided an expert opinion on a patient based upon seeing the patient for the first time in the court room. Along the same lines, forensic TT requires expertise, time, and technology to perform the work required to an adequate standard.

■ Why transcribe a sound file in a foreign language?

The rationale to transcribe a sound file in a language other than English follows on the heels of the rationale to transcribe sound files in English. Transcripts as an “Aid to Understanding” were first distributed by the prosecutor with permission from the Court in *People v. Feld*, in the 1953 decision of New York’s highest court. An alternate view of the transcript as an Aid to Understanding is the Transcript as Opinion Evidence. In either instance, a transcript is produced by the prosecution to aide in processing sound that may not be readily accessible to the unassisted ear of jurors, the parties, and the Court.¹

There may be rare instances where a tape is so perfectly clear that everyone can hear it, and it leaves no room for a challenge. However, this rarely happens, and a challenge often follows. When any portion of the sound file is challenged in the absence of a transcription/translation, the only source of reference is the official record, which will have to be read every time reference is

made to a specific portion of the recording. If someone challenges the use of a specific word, there is no transcription to reference for the word in question. Aside from a reading from the official record, the only other options are to rely on the memory of the interpreter, who may or may not be present in the courtroom during all proceedings, or to listen to the sound file each and every time a word or phrase is challenged. This method is not expeditious. For this reason, a transcription translation that stands up to scrutiny in the courtroom and meets legal evidentiary standards should always be used.

■ What qualifies an individual to perform transcription/translation?

A qualified TT practitioner will meet an extensive range of criteria, some of which are listed below; this list is not exhaustive. Fuller details on the necessary qualifications will be included in NAJIT's Transcription/Translation Guidelines, now under preparation.

- Acute hearing
- Native-quality knowledge of languages
- Understanding of cultural factors
- Expertise in recognition of language registers
- Formal higher education
- Analytical skills
- Attention to detail
- Knowledge of research methodology
- Ethical expertise
- Problem-solving skills
- Neutrality
- Awareness of forensic testimony requirements
- Ability to self-monitor and correct
- Openness to third-party review
- Knowledge of technical tools
- Openness to new technology and methods

■ The actual product of transcription/translation

1) **Investment of time.** In order to produce a transcribed and translated text, a substantial investment of time is required. Ordinarily, the standard unit of measure for TT is one hour of work per minute of sound. Some practitioners working with very clear audio and simple content can produce a good product at a faster rate, while practitioners working with unclear and distorted audio may take even longer.

2) **Transcribing poor-quality audio.** Initially, a recording may appear unintelligible or inaudible. Sometimes the voices in the recording overlap, or there

are multiple layers of noise mingled with the dialogue. The poorer the audio, the more technical enhancement is required. Listening over and over to the recording and, sometimes, enhancing the sound file takes time. It is through multiple hearings and the use of professional equipment that the discourse eventually emerges from the fog of noise and overlaps. When the audio quality is very poor, the transcriber/translator may also need to put the task aside and come back to it later — the fatigue factor is very prevalent in TT work. Only this extended process makes it possible to go beyond the noise, distortions, and overlaps, to obtain a good final transcription, the first stage of the process.

3) **Translating the transcribed audio.** The second stage is to prepare a translation into English of the transcribed audio recording. This phase often requires specialized library and internet research. Additionally, to ensure accuracy in the entire process, the practitioner must frequently consult with other members of the team possessing specialized knowledge in specific areas such as slang, regionalisms, or myriad technical issues.

4) **Form of final product.** The final product of this process is a two-column page placing both the foreign-language transcription and the English translation side by side, so that easy reference and checking for accuracy is possible. The conventions recommended to produce this product in the most usable format will be fully detailed in NAJIT's Transcription/Translation Guidelines, now under preparation.

■ Potential violation of interpreter's oath

Despite the considerations given above, an interpreter may be ordered to interpret a recording on the spot in the simultaneous or consecutive modes. The interpreter's oath mandates faithfulness and accuracy to the best of the interpreter's ability. The interpreter should make it clear to all parties that an immediate rendition of the material in question will likely fail to meet the high standards set forth by that oath.

■ Conclusion

Given all that is at stake in the courtroom, there is no room to cut corners in the forensic TT process. What may appear to be a savings in time and money may cost twice as much in the end, when the entire project must be redone. For this reason, it is to the benefit of all parties involved in the judicial process

to familiarize themselves with the fundamentals of transcription/translation and all that it entails. There are very substantial reasons why onsite simultaneous interpretation of a sound file is not recommended.

■ **Footnote:**

1. Clifford Fishman, "Recordings, Transcripts and Translations as Evidence." Draft distributed internally for publication review.

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