



## National Association of Judiciary Interpreters & Translators

### NAJIT POSITION PAPER SUMMARY INTERPRETING IN LEGAL SETTINGS

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](http://www.najit.org).

#### ■ Introduction

Approved modes of interpreting in judiciary settings<sup>1</sup> include consecutive interpreting and simultaneous interpreting as well as sight translation — verbally rendering in a target language the contents of a document written in a source language. Modern professional standards forbid summary interpreting in the courtroom and other legal settings in almost all instances. The purpose of this paper is to explain why all interpreters and users of interpreter services should refrain from using summary interpreting in legal settings.

#### ■ What is summary interpreting?

When an interpreter summarizes, she renders what has been spoken aloud in a shorter and more condensed form, regardless of the actual words used by the speaker. The National Center for State Courts gives the following explanation in its publication *Court Interpretation: Model Guides for Policy and Practice in the State Courts*:

Interpretation means the unrehearsed transmitting of a spoken or signed message from one language to another. Interpretation is distinguished from “translation,” which relates to written language. Two modes of interpreting are used in court by qualified interpreters—“simultaneous” and “consecutive.” A third common mode is “summary” interpreting, which should not be used in court settings.<sup>2</sup>... Summary interpreting is paraphrasing and condensing the speaker’s statement. Unlike simultaneous and consecutive interpreting, this method does not provide a precise rendering of everything that is said into the target language.<sup>3</sup>

#### ■ Why is summary interpreting unacceptable in legal settings?

By its very definition, “summary” implies condensing and necessarily omitting some of what is said. The nature of summarizing goes against the grain of standard rules and canons of judiciary interpreting. The judiciary interpreter’s duty is to convey accurate and complete messages between or among parties. Summarizing, whether from spoken or

written communication, requires an interpreter to participate in creating part of the message. With the very few exceptions noted below, summary interpreting does not enter into the acceptable practices of a professional judiciary interpreter. When an interpreter is allowed to summarize, she is being permitted to decide or evaluate what portion of testimony or statements given by the parties is relevant. An interpreter is not qualified to make such determinations. A defendant or litigant has the right to hear everything taking place. Finally, by using summary interpretation, an interpreter is no longer an impartial communicator but becomes a participant in the proceedings.

The landmark decision deeming summary interpreting inadequate to ensure due process arose from the case: *US ex rel. Negron v. New York*, 434 F.2d 386 (1970).<sup>4</sup> During a murder case, the prosecution’s interpreter provided the Spanish-speaking defendant with summaries of witness testimony in sessions lasting from ten to twenty minutes. “However astute [the interpreter’s] summaries may have been, they could not do service as a means by which Negron could understand the precise nature of the testimony against him.”<sup>5</sup>

Interpreters working in legal settings run the risk of compromising their code of ethics and canons of professional conduct if they opt to summarize the message from one party to the other. An interpreter has no personal knowledge of the events leading up to a lawsuit or criminal case. Moreover, an interpreter does not have access to all documents or written information surrounding a case. If an interpreter evaluates the weight of any statements, he becomes a party to the case and assumes a role far beyond that of the professional interpreter. If this occurs, adherence to the tenets of neutrality and impartiality is compromised. The final opinion of the National Center’s *Guide* is: “[Summary interpretation] is a mode of interpreting that should not be used in court settings.”<sup>6</sup>

The standard reference work for judiciary interpreting, *Fundamentals of Court Interpretation*, makes only one reference to summary interpreting: “In the past, summary interpretation (informing the defendant of the gist of testimony or arguments at the trial) was occasionally provided when interpreters were untrained non-professionals who were unable to keep up with the rapid pace of courtroom discourse; and, therefore, this mode is not recommended for use during witness testimony into either language.”<sup>7</sup>

### ■ Minor exceptions

There are a few situations in which summary interpreting may safely be employed as follows:

#### UNRELATED COURT ACTION

When courtroom personnel – judges, attorneys, clerks, probation officers or court officers (bailiffs) – discuss the details of a case not involving the defendant, summary interpreting can serve a limited purpose to inform a defendant that the current discussion does not involve her case.

#### OVERLAPPING CONVERSATIONS

Some attorneys, court personnel and judges have telegraphic, overlapping conversations. If an interpreter were to repeat the fragments such as: “I think I have; On what page; Let me look at; Where are those references,” the rendition would be unnecessarily confusing. An acceptable rendition would be: “Looking for the correct page (reference, exhibit).” Any doubts are generally clarified immediately after by the parties.

#### SIGHT TRANSLATION IF REQUESTED

On the web site of the U.S. District Court for the Southern District of New York, there is only one mention of summary interpreting in five pages of guidelines. In the section covering “Sight Translation of Documents” the author indicates, “You may give a summary [of the document’s contents] only if the judge requests one.”<sup>8</sup>

### ■ Technical note: Economizing is not summarizing

To some extent, condensing a statement or economizing words occurs occasionally when interpreters are working between source and target languages, as interpreter trainers readily point out, but this is different from summarizing. Interpreter trainers speak of “economizing” words from the source to the target language. For example, if there is a more concise means of transmitting the *same message* with all its subtleties from the source to the target language, then the shortest phrasing could be chosen by the interpreter.

Redundancy is frequent in legal language. Due to the blending of Norman and Anglo-Saxon terminology, many phrases employ one word from each source language to convey the same meaning. Sometimes there are three words used to convey the same meaning. In this case, the message does not suffer by using two adjectives with the same meaning instead of three, or indeed only one, while keeping in mind that “our goal is to make a full and faithful interpretation of courtroom speech.”<sup>9</sup>

### ■ Modern practice has evolved

In the past anyone able to speak two languages (English and a foreign language) and willing to help out in court was considered to be an interpreter. No professional guidelines or rules were in place. Over the last 40 years, the role of an interpreter in court has received judicial and legislative attention. It is now recognized that an accurate, unbiased interpreter is necessary to protect the legal right of a non- or limited-English speaking defendant to participate fully in his or her own defense. And the services of an interpreter, logically, have been extended also to victims and witnesses.

In other words, the principal purpose of providing an interpreter in the courtroom is to put the defendant, litigant or witness on an equal footing with English speakers of a similar education and background. Starting from this concept, everything said in the courtroom that can be heard and understood by an English speaker must be interpreted for the non-English speaker. Conversely, anything said audibly by non-English speakers must be interpreted to the court. This concept is the basis of the profession of judiciary interpreting as practiced today.

### ■ Recommendations

Canon 1 (Accuracy) of NAJIT’s Code of Ethics and Professional Responsibilities explicitly bans omitting or paraphrasing speech that is to be interpreted:

Source-language speech should be faithfully rendered into the target language by conserving all the elements of the original message while accommodating the syntactic and semantic patterns of the target language. The rendition should sound natural in the target language, and there should be no distortion of the original message through addition or omission, explanation or paraphrasing

NAJIT recommends that summary interpreting be excluded from interpreter-assisted exchanges in legal settings. The following guidelines are intended to help interpreters and the other participants in the judicial process comply with professional standards:

#### JUDGES

- Judges should specifically prohibit summary interpreting during interpreter-assisted proceedings.
- If it seems necessary to direct that a summary sight translation of a document be provided, judges should take into account the difficulty of the task and the possibility that an important detail of the document may be omitted through inadvertence or time pressure.

#### ATTORNEYS

- Attorneys should not request that interpreters summarize speech during interpreted exchanges.
- Outside the courtroom, if an attorney believes that a summary of a document is sufficient, it is up to the attorney to provide such summary. The interpreter will interpret the attorney’s summary, not create a summary.

#### INTERPRETERS

- When asked to summarize speech, the interpreter should cite the legal precedent *U.S. ex rel. Negron vs. New York* and the canon of ethics as the basis for declining.
- When asked to give a summary sight translation by a judge or an attorney, the interpreter should be particularly careful to remain accurate despite the time pressure of the situation.

## ■ Conclusion

Summary interpreting makes the interpreter a participant in the interpreted exchanges, runs the risk of compromising due process, and violates the canon of ethics and professional responsibilities. Summary interpreting has no formal place in the courtroom and does not belong in the professional judiciary interpreter's choice of modes for interpreting speech. Summary sight translation must be practiced with extreme care for accuracy.

## ■ Footnotes

- <sup>1</sup> Established by Federal Statute 28 USC section 1827.
- <sup>2</sup> National Center for State Courts, *Court Interpretation: Model Guides for Policy and Practice in the State Courts* (www.ncsconline.org/wc/publications/Res\_CtInte\_ModelGuide Chapter 2Pub.pdf), pp. 31-32 (*Model Guides*). Alicia Edwards in *The Practice of Court Interpreting* (Philadelphia, PA: John Benjamins Publishing, 1995) never mentions summary interpreting.
- <sup>3</sup> NCSC, *Model Guides*, p. 33.
- <sup>4</sup> *Federal Reporter*, second series, Volume 434 F.2d: Cases Argued and Determined in the United States Courts of Appeals, United States Court of Claims and United States Court of Customs and Patent Appeals (St. Paul, MN: West Publishing Co., 1971), pp. 386-391.
- <sup>5</sup> *Ibid.*, p. 389.
- <sup>6</sup> *Model Guide*, p. 32.
- <sup>7</sup> González, Roseann Dueñas, Victoria F. Vásquez and Holly Mikkelson, *Fundamentals of Court Interpretation: Theory, Policy and Practice*, Durham, NC: Carolina Academic Press, 1991, p. 164.
- <sup>8</sup> Website <http://sdnyinterpreters.org/> for the United States District Court, Southern District of New York.
- <sup>9</sup> Edwards, *op. cit.*, p. 63

## ■ Additional references

Summit/Lorain Ohio Model LEP Program for Law Enforcement, pp. 37, 59, 97, 104  
[www.co.summit.oh.us/sheriff/LEP.pdf](http://www.co.summit.oh.us/sheriff/LEP.pdf)

Suggested Guide for Interpreter Proceedings  
[www.ccio.org/CCIO-SuggestedGuide.htm](http://www.ccio.org/CCIO-SuggestedGuide.htm)

"Interpreters as Officers of the Court: Scope and Limitations of Practice" This article provides additional background on summary interpreting with specific examples. [www.najit.proteus/back\\_issues/officers.htm](http://www.najit.proteus/back_issues/officers.htm)

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