NAJIT

PROTEUS

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Telephone Interpreting

Technological Advance or Due Process Impediment?

Mirta Vidal

Although it has become commonplace to argue that telephone interpretation of court proceedings is a complex issue involving many different factors and considerations, I believe there are really only two schools of thought: some favor telephone interpretation because it is expedient and cheap, and others distrust it because they consider the telephone an inadequate medium for communication in a legal setting. What I propose to do here is lay out the various arguments pro and con, analyze the available data , albeit scarce, and offer some conclusions in order to initiate a discussion in which I hope all will participate, to help NAJIT articulate a clear and unequivocal position on what I think is one of the most important questions to challenge this profession since its inception two decades ago.

Let us look, then, at the defense of telephone interpretation offered by federal and state court administrators. First, they say, qualified interpreters can be provided by telephone to defendants in places where no competent interpreters are available, thus eliminating the use of unqualified interpreters in court. This argument can be summed up as "A good interpreter at a distance is better than a bad one up close, or none at all." Second, they say, this system is efficient and cost-effective, since an interpreter can be available over the telephone in a matter of moments and costs only a fraction of the fees incurred when an interpreter provides live interpretation.

At first blush, these are reasonable arguments. No one would disagree that a good interpreter is better than a bad one. And every court administrator points to shrinking budgets. (Why, at a time when the economy is booming, employment is at an all time high, the end of the cold war has reduced the need for astronomical defense expenditures and people are paying more taxes than ever, less money is available to provide services to help guarantee constitutional rights, is beyond comprehension. But that is a different matter.) Clearly, given a choice between spending more and spending less, a responsible administrator should not automatically approve the costlier option. But this is a false dichotomy. For the question here is not one of choosing between two equally good alternatives, one of which costs more. The question is one of the inherent unreliability of the telephone for meaningful communication of important legal matters.

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A significant body of research dating as far back as Darwin has given rise to a growing literature devoted specifically to the study of non-verbal forms of communication. On the Internet, for instance, a browser will find more than 15,000 entries under this heading. Scientific interest in what is popularly referred to as "body language" has spawned research in psychology, anthropology, sociology, ethology, psychiatry and linguistics, among other fields.

The linguist and anthropologist Ray Birdwhistell, recognized for his important contributions to the study of non-verbal behavior, has estimated that "no more than 30 to 35 percent of the social meaning of a conversation or an interaction is carried by the words." Another researcher, Allen T. Dittman (Siegman and Feldstein, 1978), has remarked, "We are constantly reading each other, or trying to, using all the information we can get, and we can get it from a lot more sources than just the words that pass between us."

Eye movement, hand gestures, posture and a wide range of facial expressions constantly contribute to the listener's understanding of the intent,

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Proteus

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Message from the Board

In May the NAJIT Board of Directors elected me as Chair, David Mintz as Treasurer and Dagoberto Orrantia as Secretary. I would like to begin my first message to the membership with a quick introduction. I am a freelance interpreter who has spent the last 12 years working in Austin, Texas and surrounding areas, having lucked into this profession while working on a Masters in Latin-American Studies at the University of Texas. Although I am federally certified, the majority of my in-court work is done at the state level. I hope that my experience as an interpreter in state court will enhance and lend to the dialogue in fulfilling our goals to further NAJIT's professional and continuing education activities.

My predecessor, David Mintz, like all previous Chairs, has done everything possible to make this transition smooth. He has been invaluable by making himself readily available to answer my endless questions and requests for information.

NAJIT's stated aim is to be the leader in promoting quality interpretation and translation services in the judicial system. During its last meeting the Board of Directors discussed its goal and objectives. The membership's input in this process is critical to the involvement and expansion of our organization. At this time our goals are to increase communication and feedback from the membership, provide the membership with continuing education opportunities and identify the needs and wants of our membership. In their desire for professional betterment, improved relations with the bar and bench, and optimal working conditions, NAJIT members are among the most vocal spokespersons of the court interpreting profession, and we need to harness that dynamism to foster greater communication within our association as well. To judge from the 1998 conference in San Antonio, which was both financially and intellectually productive, I know that this next year is sure to bring us success in all of our endeavors.

A total of 212 evaluation forms were returned for the sixteen educational sessions and two workshops held at NAJIT's 19th Annual Meeting. Attendees were asked to rate each session and workshop in three distinct categories: usefulness of information; interest level of presentation; and ability level of the presenter. Raters registered their responses using a five-point scale containing the categories "Excellent," "Very Good," "Good," "Fair" or "Poor."

The responses were overwhelmingly favorable: in the aggregate, 85% of the ratings for all categories were either "excellent" or "very good" while only 4% of all responses considered conference presentations "poor." These numbers surpass even the strong showing of the 1997 conference, which had an overall rate of 70% in the top categories ("excellent" or "very good"), with only 6% rated as "poor."

While the largest number of evaluations returned for any one session was 28, many sessions were not evaluated by the full complement of attendees. For future conferences, perhaps five minutes at the end of each session can be set aside so everyone remembers to complete the evaluation while the session events are still fresh in mind.

There were 199 interpreters in attendance at the 1998 Conference.

CRISTINA HELMERICHS D.
Chair, Board of Directors

Telephone Interpreting

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emphasis, direction and length of an utterance. According to Birdwhistell, the human face alone is capable of making some 250,000 different expressions. Seeing the speaker, therefore, facilitates an interpreter's ability to predict, anticipate and decode the meaning of a verbal message before rendering its equivalent in the target language. These, in fact, are among the skills interpreters are taught to develop in order to improve their performance. Visual access is necessary both to convey more clearly the messages uttered by the non-English speaker as well as to provide that person with a more nuanced, coherent and better organized version of the English discourse.

Birdwhistell also found that "there seemed to be some systematic regularity in the movement people made when they talked." Echoing William Austin, he concluded that these signals "amplify, emphasize, or modify the formal constructions, and/or they make statements about the *context* [emphasis in the original] of the message situation."

In a talk presented at NAJIT's Annual Educational Conference in May of 1997, Janis Palma made reference to Carmen Judith Nine Court's study of non-verbal cues in Puerto Rico and provided a glossary of physical gestures used to substitute for spoken words entirely. Palma's point was that "Judiciary interpreters must develop a cultural competence on a par with their linguistic competence that will allow them to integrate paralinguistic information into the overall deciphering of meaning conveyed through spoken language."

Need for Visual Contact

Of course, it would be extremely useful to have studies done of the paralinguistic components of communication in a legal setting, and hopefully someone with expertise in the field will eventually do so. It should be borne in mind, however, that the burden is not on the interpreting community to prove that visual contact is essential to rendering a complete and accurate version of the original message. Rather, the burden is on the proponents of remote interpreting to demonstrate that visual contact is not necessary.

One professional interpreters' association has already expressed an unambiguous position on this subject (Mintz, 1998). The standards established by the International Association of Conference Interpreters (AIIC) state:

> In order to successfully fulfill his role as a conduit of multilingual communication, the conference interpreter must simultaneously perform several complex tasks: listen to the speaker, observe the non-verbal signals of his message, as well as the reactions it triggers in the individual listener and the audience as a whole; analyze a fleeting and yet real message in its entirety (the spoken and the unspoken); interpret the message into another language, preserving the characteristics of form and substance inherent in another culture; establish visual/gesture-oriented contact with the listeners in order to confirm that the message has been received. In this regard, having a direct view of the entire context of the event where the messages are being interpreted is essential.

On the subject of remote equipment, AIIC states:

> The temptation to make certain technologies deviate from their original goal by coming up with the idea, for example, of placing interpreters in front of monitors/screens to interpret from a distance a meeting at which all the participants are gathered in the same location (tele-interpretation), is **unacceptable** [emphasis in the original].

If not being present on-site and a lack of visual contact are unacceptable conditions for conference work, such conditions are even more unacceptable for judiciary interpreters, where much greater precision is required and human life and liberty are at stake.

The Bilingual Courtroom, Susan Berk-Seligson's 1990 study of court interpreters in action, describes a number of ways in which interpreters routinely interrupt the proceedings. She stressed that "perhaps the most important finding of this study is that the interpreter affects whatever power an interrogating attorney may have over a testifying witness or defendant. Through her interruptions, many of which may be subsumed under what have been called here 'clarification procedures,' the interpreter unwittingly usurps some of the power of the interrogating attorney."

During a recent telephone interpreting event between Alaska and New Mexico that I was able to observe, the proceeding lasted about an hour and the interpreter had to interrupt at least a dozen times to inform the parties that he couldn't hear them and ask that they speak into the microphone. Although we had been warned that the equipment was not optimal, the fact remains that during a guilty plea in a federal courtroom, the sound drifted in and out, and the ends of words were frequently cut off, sometimes forcing the interpreter to finish sentences based not on what he actually heard but on his familiarity with the protocol.

Safeguarding Conditions

Since a certain amount of interruption by the interpreter is inevitable, one could argue, why be concerned by a few additional intrusions caused by remote

equipment? The challenge, however, remains to safeguard conditions which optimize the interpreter's accuracy, and to eliminate—not create more—obstacles.

It is simply not true that telephone interpreting has been limited to short proceedings.

In support of remote equipment, telephone interpreting enthusiasts argue that it will only be used for short and routine proceedings; it will only be used in outlying areas where no qualified interpreter is "reasonably available," and it will be mostly used to alleviate the problem of providing quality interpretation in languages other than Spanish, the so-called exotic languages.

All of these assertions are contradicted by the facts. Let's look at the recent history of telephone interpretation in the federal and state court systems.

The U.S. Court Telephone Interpreting Project was approved by the Judicial Conference in mid-1989 and the first system was assembled in November of 1990 in Las Cruces, New Mexico. During a trial period the staff office there provided telephonic interpretation for district courts in many other states. The Administrative Office assembled a committee to discuss extending the program to other staff offices, a call for bids for the equipment provider went out, statistics were compiled, and program publicity was assembled. The Judicial Conference voted to expand the program in September of 1995, informing Congress that the number of court sites offering telephone interpreting services would be expanded "to achieve greater savings." Three other district court interpreters offices are now participating, providing telephonic interpretation in Spanish to their own satellite courthouses and to a number of other remote locations. In fiscal year 1996, 402 federal court hearings and 222 off-the-record events were interpreted over the telephone.

Parameters of Use

What parameters have been drawn for the use of this service? In a news article about the project, the Federal Court Management Report (1996) defined "short proceedings" as pretrial hearings, initial appearances, arraignments, motion hearings, and probation and pretrial services interviews. Many interpreters would take issue with this definition of "short" proceedings, since we know in reality these events can last for an hour or two. Motion hearings have been known to go on for several hours or even days. Moreover, it is debatable whether a defendant's credibility and forthrightness can be properly gauged by a pretrial or probation officer over the telephone. But at any rate, it is simply not true that telephone interpreting has been limited to short proceedings. The program publicity proudly announces that "Simultaneous interpreting by phone has stood the test of proceedings lasting from a few minutes to *several days with extensive Spanish-to-English witness testimony* [emphasis added]."

Although the proponents claim that telephonic interpretation will only be used in areas where qualified interpreters are not "reasonably available," this assertion, too, is disingenuous. Included in the twelve states where district courts have used Spanish/English telephone interpretation are California, Florida, New Mexico and Texas—hardly remote areas where qualified interpreters are not reasonably available.

We have seen that some courts are quick to claim that qualified interpreters are not "reasonably available" to justify hiring unqualified interpreters. Often a certified interpreter is quite reasonably available, but the courts turn to non-certified interpreters as a cost-saving measure.

Any success in the use of the telephone for languages other than Spanish, if any, has not to my knowledge been publicly reported.

On the state court level, the National Center for State Courts also launched a telephone interpreting pilot program with an initial $170,000 grant. AT&T Language Line is handling the contracting of interpreters and provision of the services. Approximately a year ago, AT&T was offering to pay a federally certified interpreter $100 per day for an 8-hour day of non-stop work. While their publicity stresses the high quality of the interpreters they use, few professionals with the requisite credentials would work for less than half of their usual fee (and about one fifth of the standard rate for assignments in private industry).

The NCSC's home page on the Web reported on March 5 that the feasibility report at the conclusion of the project will "emphasize ways to make the service self-supporting (in the case of public agency providers), or profitable (for commercial carriers)."

The equipment installed by AT&T in the Pomona Superior Court in Los Angeles is simply an intercom that picks up all sounds in the courtroom, and can only be used for the consecutive mode. A year ago, Beverly Hills and Long Beach were also scheduled to be equipped by AT&T. In the Superior Court of Tucson, Arizona, the court considered acquiring equipment, but the chief judge decided against it, citing the advantages of live interpretation. Still, many courts will be won over to AT&T's sales pitch promising an interpreter of any language in seconds at an affordable price. The federal courts can also be expected to jump on the bandwagon.

The question, then, is not whether telephone interpreting will proliferate or not. The question is what position court interpreters and the organizations that

represent them should adopt in the face of this phenomenon.

Obviously, many interpreters will view telephone interpreting as a potential source of work, regardless of their opinion on the merits of the method, and it would be foolish to condemn individuals for accepting these assignments. But in the federal court system, at least, far from creating job opportunities, the telephone interpreting program is shifting the workload onto staff interpreters who cover events by telephone, thus eliminating the need to hire freelance interpreters. Several colleagues report this to be the case, even in areas like Dallas, Texas and Nashville, Tennessee.

What the future holds

Once court administrators complete the pilot phase of these programs, conclude they are successful and seek the go-ahead from the judges, we can expect courtrooms across the country to be equipped, with a majority of judicial proceedings—long or short—being covered by a relatively small number of staff and AT&T interpreters. Common sense should tell us that, as telecommunications technology advances in the next few years, live interpreters will become the exception rather than the norm, unless a concerted effort is made to prevent it.

Some professionals argue that telephone interpreting does have a place in the courtroom, provided that norms are established and enforced, and limits placed on its use—that is, only for short proceedings, only where no qualified interpreters are available, only if the equipment is sufficiently sophisticated, and so on. But who would develop these norms and, more to the point, what mechanism would the courts use to establish and monitor compliance with the standard?

Let's look at how reliable court administrations have been so far as enforcers of norms and practices aimed at safeguarding quality interpretation. The Court Interpreters Act calling for the use of certified interpreters has been the law of the land for 20 years, and yet the Administrative Office asserts that it has no power to alter the practice of some judges who routinely choose non-certified over certified interpreters. That interpreters should work in teams during long proceedings has been well established and recognized by all professional interpreter associations, and yet this practice is not followed in most state and a number of federal courts. There is also ample evidence that the only way to safeguard the legal rights of limited-English litigants to a competent, qualified interpreter is by developing valid and reliable interpreter testing and training programs. And yet the federal courts have dropped an earlier commitment to test and credential interpreters of other languages, and neither state nor federal courts have seen fit to allocate funds for serious and sorely needed training programs.

In light of such a track record, it seems naive to think that the court administrations will implement and abide by norms intended to prevent the abuse of telephone interpreting. While this might be an acceptable compromise in an ideal world, we live in a world governed by the profit motive, and private companies are quick to see they can make money on federal and state contracts. At the same time, court administrators cite the lack of funds—real or imagined—to justify every decision, regardless of its impact on the quality of services provided. From there it is a small step to viewing live interpretation as a luxury the system cannot afford.

The arguments in support of telephone interpreting may sound reasonable to some, including those who find fault with it but consider it the lesser evil in remote areas where a live interpreter cannot be produced on short notice. But in practice it has become obvious that the primary purpose for eliminating in-person interpretation in the courts is to save money, not to improve the quality of the services or ensure defendants' right to due process.

And due process rights happen to be the yardstick the courts use to measure fairness. While telephone interpreting is primarily a work issue for language specialists, for the courts it is an issue of diluting the quality of justice. Only those who must take an oath to interpret fairly, accurately and completely can fully understand the complexity of the task and the burden of responsibility that such an oath places on them. The judicial system has an obligation to ensure that interpreters are helped—not hindered—in carrying out that oath.

While telephone interpretation might be suitable in some situations where accuracy is secondary and only the substance of the message is important, judiciary interpreters should take a firm stand against the proliferation of the telephone in a formal legal context. To do otherwise would be to place the financial interests of court administrations above the due process that we are pledged to serve.

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MOSHE DAYAN USED TO LIVE IN ZAHALA

Meir Turner

At the outset of depositions interpreters take a solemn oath to fairly and accurately interpret the proceedings. This obligation is repeatedly reinforced in interpreter education courses and in articles that appear in professional journals. Despite all of these directives, some interpreters continue to interject themselves unnecessarily into colloquy with the parties and fail to remain neutral. The excerpts below, from a transcript of a deposition, offer examples of some pitfalls interpreters should do their best to avoid. In all but one case, the deponent responded in Hebrew. His answers appear in English as rendered by the interpreter. My comments appear in brackets. All names have been changed to protect the parties' privacy.

ATTORNEY [to the interpreter]: Ms. Bloom, did you meet with Mr. Mizrachi [the deponent] prior to coming here today?

INTERPRETER: I drove down with him from [a city's name appears in the original transcript and is omitted here], yes.

[Interpreters should try to avoid the company of the deponent prior to the deposition.]

ATTORNEY: Mr. Mizrachi, my name is Joseph Smith. I'm the attorney who - -

INTERPRETER: The more frequently we stop, the more accurately I can translate.

[Interpreters should know the difference between interpreting and translating. Also, the interpreter should not interrupt the questioner at such short intervals, even in the name of accuracy. An interpreter who does not have sufficient recall should take notes and refer to them.]

ATTORNEY: Mr. Mizrachi, did you give Mr. Stein any information regarding David Rosen's family estate so that Mr. Stein - -

DEPONENT: It's not an estate. His parents, his parents— I'm sorry [said by interpreter]— his parents are alive.

INTERPRETER: I'm sorry. It's very tough, some of this.

[If an interpreter says anything, she should indicate that it is she and not the deponent who is speaking. The above comment is not only gratuitous and inappropriate; it also confuses the record.]

ATTORNEY: Could you just read the last answer back?

INTERPRETER: I'm just telling him to ask you the questions for clarification and not me because I am not, ask me. Tell me your question. I'll ask you. I just want to explain something to you, something to him about translating. I'm explaining about first and third person, that's all.

[The interpreter should neither provide explanations nor tell either party what to do or say. She may only, when necessary, ask that the deponent be instructed to answer the questioner directly. If the interpreter wants to address the witness, she must request permission from the parties. Otherwise, as happened here, the interpreter's attempt at clarification will only compound the confusion.]

ATTORNEY: You are looking at Mr. Zangwill and I wish you wouldn't... Look at me.

DEPONENT : [in English] I look only for you. Okay.

INTERPRETER: He's saying he only has eyes for you.

[The interpreter should never say "He's saying" unless the deponent has said "He's saying" in the source language. Here, either the interpreter rethought the rendition of the last phrase and inserted an explanation using the third person pronoun, or else she pro-

Telephone

(continued from page 5)

of Judiciary Interpreters and Translators, Seattle, Wash.

Second report sent to Congress on the optimal utilization of judicial resources. 1998. The Third Branch. Newsletter of the Federal Courts. February 1998. p.5.

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A version of this paper was presented at the 1998 NAJIT Annual Educational Conference in San Antonio, Texas. E-mail: vidal@najit.org

vided an explanation of the deponent's English language answer. In either case, the interpreter's statement is improper, and, unless the deponent is enamored of the attorney, also inaccurate.]

ATTORNEY: And where is that located?

DEPONENT: In Zahala.

INTERPRETER: Moshe Dayan used to live there.

[While the deponent simply identifies the location, the interpreter, in an apparent attempt to display her knowledge, provides additional information. While the deponent may have an interest in playing down the value of the property, the interpreter is, in effect, advising the deposing attorney that the property is in an affluent area. The interpreter's neutrality has been compromised. Also, a grammatical point, since Moshe Dayan is dead, the correct usage is "he lived there." To say "he used to live there" implies that he is still alive and has merely relocated.]

ATTORNEY: Who owns it with her?

DEPONENT: About another twenty people.

ATTORNEY: Why?

INTERPRETER: Okay. This is a very tough concept. It's kind of land called *musha* land, and there really is no translation for it. You can ask him to explain it and I will translate it for you.

[The attorney asked a simple, one-word question: "Why?" The interpreter should have interpreted that word into its one-word Hebrew equivalent and left it at that. Instead, she anticipated the answer and then, inappropriately, provided her own (inaccurate) statement that the word musha *has no English equivalent.]*

ATTORNEY: Let the record reflect that I was handed documents mostly in Hebrew from - -

INTERPRETER: Do you need some help with it?

ATTORNEY: ...From the witness. I'm going to mark these.

[The interpreter should not interrupt an attorney in mid-sentence in order to offer unsolicited services.]

In conclusion, this interpreter became actively involved in the proceeding, and was unable to limit herself to interpreting, which should have been her sole function.

Meir Turner is a simultaneous Hebrew-English interpreter who lives in New York City.

Charlotte's Corner

Web on the Web — Part IV

Alexander Rainof

One of the most wonderful contributions of the Court TV Web site, as discussed in Parts I-III, is that documents on specific topics are grouped together. The selection appears to be based on documents of vital importance, immense public interest, and/or subjects of heated controversy. Some of these themes are "The Death Penalty," "Patholysis (Medically-Assisted Suicide)," and "Tobacco Litigation." These documents have great pedagogical value for training forensic interpreters in written and sight translation as well as in consecutive and simultaneous interpretation. Their size (some are over one hundred pages long) and number allows for training in conference interpretation as well, comprising a very complete and well-integrated thematic curriculum. As each document presents a variety of points of view on a given subject, these statements can be read by a variety of speakers and interpreted simultaneously. If some of the documents have already been translated during prior training into a target language other than English, these translations can be incorporated into the conference and will supplement and reinforce the work done before at the sight and written level. Furthermore, this approach makes it possible to create a simulated conference in any language, or group of languages.

"Civil Rights Documents and Cases" (**www.courttv.com/library/rights/**) has many documents germane to the intensely debated and litigated issue of patholysis in general and to Dr. Jack Kevorkian's role in medically-assisted suicides. To start a simulated conference with a bang, so to speak, one might begin with the rather fiery debate between Geoffrey Fieger, one of Dr. Kevorkian's defense attorneys, and prosecutor John Skrzynski, as appears in **www.courttv.com/library/rights/rtdebate.html**.

In replying to the question if any countries have legalized medically-assisted suicide, the prosecutor states:

"The one that I am most familiar with is the Netherlands. It is not legal there, but the law is simply not enforced. Studies have been done on the Netherlands and show that patients are being euthanized even against their will. So-called assisted suicide is being abused by doctors in the Netherlands. That is the true danger of assisted suicide: There is no meaningful way to regulate it. Once you open the floodgates, you lose control. . .If assisted suicide becomes an option, I believe that there is a strong financial incentive to substitute assisted suicide for extended health care for those with chronic and terminal illnesses." Fieger: "Everything the prosecutor said is bunk. To think that the Netherlands, a progressive western democracy, is liberalizing euthanasia even though the prosecutor claims it is being abused, is absurd. Euthanasia and assisted suicide are legal in the following countries and geographic areas, either on a de facto or a de jure [basis]: Netherlands, Northern Territories of Australia, Germany, Norway, nine western states of the U.S., including Oregon, California and Washington, New York and the other eastern states which make up the Second Circuit Court of Appeals district. . .The prosecutor mouths the lies of [the] right-to-life [movement] and the moneyed medical society. Can you believe that in America in 1996 we have people like the Oakland County prosecutor not only saying that when we are suffering we can be kept alive against our will, but also that they can take all our money from us while they are keeping us alive?"

Fieger's claims to the existence of strictly controlled, merciful patholysis are substantiated in "The Rules for Assisted Suicide" (**www.courttv.com/library/rights/medassist.html**) released by Physicians for Mercy for "obitiatrists" (a medical specialty not yet recognized). At our simulated conference, a speaker supporting the "physician for mercy" position could quote these guidelines and the interpreter student would have to translate them simultaneously.

Medical terminology is, of course, an essential part of doctor-assisted suicide cases, and using this terminology in context becomes part of an integrated training approach. Thus, in "Federal Judge Declares Assisted Suicide Not a Constitutional Right" (**www.courttv.com/library/rights/kevrule.html**), we find a description of Dr. Kevorkian's "suicide machine": "[Kevorkian's] 'suicide machine' consists of a frame holding three chemical solutions fed into a common intravenous line controlled by a switch and timer. Defendant admitted that he inserted the intravenous line needle into Ms. Adkins' arm, but testified that Ms. Adkins activated the switch that turned on the machine. . . The device consisted of a board to which one's arm is strapped to prevent movement, a needle to be inserted into a blood vessel and attached to IV tubing, and containers of various chemicals that are to be released through the needle into the bloodstream. Strings are tied to two of the fingers of the person who intends to die. The strings are attached to clips on the IV tubing that control the flow of the chemicals.

As explained by one witness, the person raises that hand, releasing the drug called methohexital, which was described by expert witnesses as a fast-acting barbiturate that is used under controlled circumstances to administer anesthesia rapidly. When the person falls asleep the hand drops, pulling the other string, which releases another clip and allows potassium chloride to flow into the body in concentrations sufficient to cause death."

At **www.courttv.com/library/rights/assist.html**, the first case of its kind to be decided by a Circuit court sitting en banc regarding the right to patholysis, we find detailed descriptions of the medical conditions of three mentally competent adult patients who, together with Compasion in Dying (a Washington non-profit organization), Harold Glucksberg, M.D., and three other physicians, sued the state of Washington and its Attorney General because of the state's ban on medically-assisted suicide, which the Plaintiffs-Appellees claimed violated the constitutional rights of mentally competent, terminally ill adults to have a "dignified and humane death." The three patients, named in this lawsuit as Jane Roe, John Doe and James Poe in order to safeguard their privacy, wished to die because of the suffering caused by their heart-rending conditions. Jane Roe was a 69-year-old retired pediatrician who had suffered through seven years of cancer, which at the time of the trial had metastasized throughout her body. She had undergone both chemotherapy and radiation. Her doctor had referred her to hospice care (for which only patients with a life expectancy of less than six months are eligible). She was bedridden and in severe pain whenever she moved. John Doe, a 44-year-old artist was dying of AIDS, had experienced bouts of pneumonia, severe skin and sinus infections, seizures, and was going blind, so he could no longer paint. His long-term companion had died of AIDS. James Poe was 69 years old, suffered

from emphysema, was connected to an oxygen tank at all times, and was regularly administered morphine for pain in his legs and to calm the panic reaction to a a constant feeling of suffocation. All three patients died before a decision was rendered in the lawsuit.

Both court decisions articulate strong and at times spell-binding arguments on both sides of the issue. The Ninth Circuit's ruling was favorable to patholysis and to the position advocated by Dr. Kevorkian's attorney, although the District Court had agreed with the prosecution, that a terminally ill or intractably suffering adult who is mentally competent does not have a liberty interest protected by the Fourteenth Amendment's Due Process Clause in assisted suicide. Arguments and documents relating to the death penalty and to tobacco litigation, and their pedagogical uses, will be examined in Part V, in the next issue of *Proteus*.

This concludes today's web on the WWW in Charlotte's Corner. Please remember that a byte in time saves nine, so we would be most grateful to all of you if you were to share with us any useful URL you may have discovered. We will try to include them in Charlotte's Corner, and will most certainly give you credit for your contribution. Please send your information, or any questions you may have, to Dr. Alexander Rainof, either by mail (2835 Colorado Avenue, Santa Monica, CA 90404); by e-mail (arainof@ucla.edu); or by fax ((310) 828-4911)). With your help, Charlotte's Corner will be terrific.

VIVA LA DIFERENCIA (4)

Richard Palmer

Viva la diferencia is a compilation of Spanish-English false cognates which *Proteus* is publishing in installments.

educación
Su falta de educación se manifestó durante el banquete.
"His lack of breeding became apparent during the banquet."

education
"We wish to find out what type of education he has had."
Deseamos averiguar qué formación académica ha tenido.

egregio
El egregio doctor en filosofía, Carlos Riquelme, pronunciará un discurso esta noche con motivo del natalicio de Kant.
"The illustrious Doctor of Philosophy, Carlos Riquelme, will give a speech this evening on the occasion of Kant's birthday."

egregious
"That was an egregious mistake."
Ese fue un error garrafal.

elaborar
En la siderúrgica se elaboran diferentes productos de acero.
"In the steel mill, different steel products are manufactured."

elaborate
"I should like to elaborate on this matter so that you will understand it better."
Quisiera extenderme sobre este tema para que Vds. lo comprendan mejor.

elemento
Juan es uno de los elementos más preparados que enseña en el plantel.
"Juan is one of the best prepared individuals teaching at the school."

element
" What helped to make the raid a success was the element of surprise."
Lo que ayudó a convertir en éxito la redada fue el factor sorpresa.

evadir
Se evadieron de la prisión y vivieron a salto de mata durante seis meses.
"They escaped from prison and were on the run for six months."

evade
"The Board of Directors is only trying to evade the issue."
La Junta Directiva no hace más que tratar de soslayar el problema.

embarazado
"Cuando se enteró de que estaba embarazada, se sintió acorralada.
"When she found out that she was pregnant, she felt trapped."

entretener
Me quedé jugando con las máquinas de recreo para entretener el tiempo.
"I stayed there playing the game machines to kill time."

equivocar
Disparó contra el ladrón pero equivocó el tiro.
"He shot at the thief but missed."

escolar
El autobús escolar pasa por aquí a las ocho de la mañana.
"The school bus comes by here at eight in the morning."
espléndido
Por ser tan espléndido con todas sus amistades, hoy no tiene donde caerse muerto.
"Because he was so generous with his friends, he no longer has a cent to his name."
exaltar
Cada vez que yo le menciono el nombre de Daniel, ella se exalta.
"Every time I mention Daniel's name to her, she gets angry."

existencia
Ya no tenemos ese tipo de bolígrafo en existencia.
"We no longer have that kind of ball point pen in stock."

éxito
Todos esperamos tener éxito en la vida pero siempre hay decepciones.
"We all expect to succeed in life but there are always disappointments."
expedir
Me dijeron que iban a expedir la mercancía a la mayor brevedad.
"I was told that the merchandise would be shipped as soon as possible."

extractar
Voy a extractar el libro para que no tengas que leerlo.
"I am going to give you a resumé of the book so that you will not have to read it."
extravagante
Es tan extravagante que mandó pintar todas las habitaciones de su casa de negro.
"He is so weird that he had every room in his house painted black."

embarrassed
"Upon realizing that her slip was showing, she felt embarrassed."
Al darse cuenta de que se le salía el fondo, se sintió abochornada.
entertain
"They entertained him with a dinner at the best restaurant in town."
Le obsequiaron con una cena en el mejor restaurante de la ciudad.
equivocate
"I wanted a straight answer but all he did was equivocate."
Yo quería una respuesta clara pero él no hizo más que esquivar la cuestión.

scholar
"The new professor is a scholar in medieval studies."
El nuevo profesor es un estudioso de la época medieval.
splendid
"He has done a splendid job over the past nine months."
El ha realizado una magnífica labor durante los últimos nueve meses.

exalt
"That humble man was finally exalted to the highest position in the land."
Ese hombre humilde por fin fue ascendido al más alto cargo del país.
existence
"That company came into existence long after the war."
Esa compañía se fundó mucho tiempo después de la guerra.

exit
Exit 5 leads to an old quarry beyond which is the house.
La salida número 5 conduce a una vieja cantera más allá de la cual está la casa.

expedite
"I asked him whether he would be able to expedite the matter since time was running out."
Le pregunté si podría agilizar el asunto ya que el tiempo se acababa.

extract
"The dentist plans to extract her wisdom tooth tomorrow."
El dentista piensa sacarle la muela cordal mañana.

extravagant
"Those two are so extravagant that they spent all the money on three brand new cars."
Esos dos son tan despilfarradores que gastaron todo el dinero en tres coches flamantes.

extremo
En nuestra discusión no tocamos ese extremo.
"In our discussion, we did not mention that point."

facción
Ella es una persona de facciones regulares.
"She is a person with ordinary features."

facilitar
Facilíteme su pasaporte, por favor.
" Let me have your passport, please."

fama
Ese tipo tiene mala fama. Sácale el cuerpo.
"That guy has a bad reputation. Stay away from him."
fastidioso
Lo fastidioso es tener que volver a casa primero.
"The bothersome thing is to have to go back home first."
fatal
Yo soy fatal en ciencias.
"I'm lousy at science."

fenómeno
En los circos de antes, siempre había un espectáculo de fenómenos.
"At old-time circuses, there always used to be a freak show."

feudo
Ese feudo le pertenecía al archiduque de Lemos.
"That manor belonged to the Archduke of Lemus."

finalidad
Nuestra finalidad es recabar un millón de dólares para los niños lisiados.
"Our goal is to collect one million dollars for crippled children."
fútil
Yo que tú no me preocuparía por cosas tan fútiles.
"If I were you, I would not worry about such trivial matters."
formal
Si ella dijo que estaría lista a las siete, es verdad, porque es muy formal.
"If she said that she would be ready at seven, it is true, for she is very dependable.
franco
El sargento está franco de servicio hoy pero mañana estará aquí.
"The sergeant is off duty today but he will be here tomorrow."

extreme
"That is what is done usually, but this is an extreme case."
Eso es lo que se hace por regla general, pero éste es un caso excepcional.
faction
"The party broke up into different factions."
El partido se fraccionó en diferentes bandos.

facilitate
"The machinery will facilitate manual labor in the factory."
La maquinaria hará más fácil el trabajo manual de la fábrica.
fame
"Picasso is a painter of great fame."
Picasso es un pintor de mucho renombre.
fastidious
"She is very fastidious about cleanliness."
Ella es muy exigente en cuanto a la limpieza.
fatal
"The automobile accident proved fatal to the occupants of the car."
El accidente automovilístico resultó mortal para los que viajaban en el coche.
phenomenon
"That composer is a phenomenon as far as song production goes."
Ese compositor es un portento en cuanto a la producción de canciones.
feud
"There has been a feud between those two families for generations."
Ha habido enemistad entre esas dos familias durante generaciones.
finality
"He said with finality that he would never work there again."
Dijo de modo terminante que nunca volvería a trabajar allí.

futile
"It is futile to try to convince him because he is extremely stubborn."
Es inútil tratar de convencerlo porque es extremadamente terco.
formal
"They went to a formal dance last night and enjoyed themselves a great deal.
Fueron a un baile de gala anoche y se divirtieron mucho.
frank
"I want you to be frank with me and not hide anything."
Quiero que te sinceres conmigo sin ocultarme nada.

función
La última función no empieza hasta las diez de la noche.
"The last show does not begin until ten at night."

fusión
Ha habido una fusión de esas dos compañías y ahora controlan el mercado.
"Those two companies have merged and now they control the market."

function
"It is not my function to explain those things to newcomers."
No corresponde a mi cargo explicarles esas cosas a los recién llegados.

fusion
"The fusion of metals is done at high temperatures."
La fundición de metales se realiza a grandes temperaturas.

Richard Palmer's email address is richp9@hotmail.com

¿Gran jurado, jurado indagatorio, jurado acusador?

courtinterp-spanish@najit.org, NAJIT's email discussion list for Spanish<>English problems, recently turned to the question of how to translate grand jury. *Here follows a post by Luis García-Barrio:*

Me parece que, en casos como éste en los que acaso no haya un paralelo entre las estructuras jurídicas de las dos sociedades, cabe hacer dos cosas:

(1) Darle un nombre que refleje la etimología y la semántica del original aunque el resultado tropiece con el obstáculo de que no haya nada similar en el país del idioma terminal.

(2) Darle un nombre cuya meta sea describir la función que tiene en el original, sin someterse a su etimología ni a su semántica.

Si se sigue el camino primero se produce una situación en la que el receptor de la interpretación no establece un paralelo entre el término acuñado y algo conocido ya por el receptor. En un caso así, el receptor termina sin entender del todo lo que ha oído y con la opción de solicitar la aclaración correspondiente de alguien cuya función sea explicar esas cosas. En cierta manera, algo muy similar a lo que podría ocurrir en un caso en el que, sin haber necesidad de intérprete, una de las partes no supiese lo que quería decir la otra. En este caso concreto, Grand Jury (jurado formado por un número de miembros mayor que en el caso de otros jurados) da como resultado Gran jurado (o jurado grande) que no es inexacto, y que se aproxima todo lo deseado al nombre original.

Si se sigue el camino segundo, el intérprete, acaso sin que nadie más lo sepa, se toma la responsabilidad de describir un término jurídico, algo que no le incumbe. Es posible que, dados los conocimientos y la dedicación del intérprete, la descripción dada sea certera, pero si juzgamos por las traducciones propuestas en este intercambio, acaso lleguemos a la conclusión de que pudiera no ser así. Sin ir más lejos, se han propuesto por lo menos dos traducciones, lo que parece demostrar que acaso ninguna de las dos sea completa o exacta: "jurado acusatorio" y "jurado indagador"; cada una de ellas considera dos funciones (relacionadas pero diferentes) para las que se suele usar un Grand Jury.

Mi inclinación en estos casos (falta de paralelo en la estructura a la que se refiere el término), es dar preferencia al "nombre" en vez de dársela a la "descripción". Por varias razones:

(1) ni debo ni me incumbe a mí, como intérprete, explicar un término jurídico; (2) con la mejor buena fe pudiera no dar en el clavo o describirlo sin la precisión necesaria; (3) el intérprete, al hacer una descripción de cuño propio, tiende a eliminar la concienciación a la que deben verse sometidas las partes cuando acaso una de ellas no sepa bien de lo que se esté hablando; (4) tengo certeza lingüística grande de no haber dicho nada inexacto al hacer uso de "gran jurado".

Aunque no se relaciona directamente con el meollo del tema tratado, valga añadir que un respetado y conocido diccionario inglés-español de términos jurídicos, al explicar la función del "Grand Jury", dice un despropósito tan grande como que se trata de un jurado para determinar si hay o no hay indicios de culpa en un "reo".

Luis M. García-Barrio (LMBarrio@voicenet.com)

Welcome New Members

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Michael S. Bass, San Diego CA
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continued

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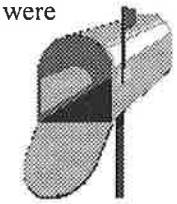
Letters to the Editor

I was recently working on a case in which an attorney's clients in a rural area of northern Mexico were instructed by long distance to have interrogatories and requests for production signed and "notarized" in Mexico.



This was when I learned about the new requirements concerning *la legalización de documentos extranjeros firmados en otro país para que surta efectos en los Estados Unidos* for countries participating in the 1961 Hague Convention, which abolished the requirement that foreign public documents be authenticated by a series of signatures.

For those who are unfamiliar with the form, I reproduce the Apostille ("Apostilla") from the Mexican Consulate in Houston. I will be glad to send anyone the instructions in Spanish or the Authentication Information; just send a SASE.

Consuelo Byrd
Houston, Texas

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Truly False Cognates?

Many thanks for publishing *Viva la Diferencia*, Richard Palmer's list of Spanish-English false cognates. On the whole, I've learned a lot from this feature, especially from the sample sentences offering the correct translation of the English false cognates. Sometimes, though, I think Palmer is a bit overzealous in calling some of these cognates "false." I'd appreciate reactions from other subscribers to the following:

- destino - destiny: Whoever heard of "la fuerza de la fatalidad"?

- deposición - deposition: *The Bilingual Dictionary of Criminal Justice Terms* (Benmaman et al.) gives "deposición" as well as "declaración jurada" (which to me is an affidavit).

- discriminar - discriminate: The unabridged *Larousse Spanish/English Dictionary* has "discriminar" or "hacer discriminaciones" . . .entre/en contra de/ a favor de . . .

- discusión - discussion: I know a *discusión* is usually an argument, but several dictionaries give "discussion," and my Spanish professors used to announce *el tema de discusión de hoy* or even, *hoy vamos a discutir la obra de...* without appearing to expect bitterness and recriminations among the students. Palmer suggests *diálogo* for discussion, but what if it involves more than two people?

And finally—can anybody come up with other alternatives for "distort" or "distortion"? As a non-native, I know I'll never master the pronunciation of *tergiversar,* much less *tergiversación* well enough for simultaneous interpretation!

Thanks in advance for your comments and suggestions.

Pat Harpstrite
Kaneoha, Hawaii

Proteus *welcomes your letters to the editor. Please send them either via postal mail (to the address listed on the inside front cover) or via electronic mail to proteus@najit.org*

ITEMS OF INTEREST

- **October 25, 1998. Bellevue, WA.** Translating Crime Scene Investigation Terminology. Rogelio Camacho. Hilton Hotel, 9 a.m. - 4 p.m. CIMCE # 710. Information: 800-235-4458.

- **October 26, 1998. Bellevue, WA.** Translating Personal Legal Documents. Rogelio Camacho. Hilton Hotel, 9 a.m. - 4 p.m. CIMCE # 660. Information: 800-235-4458.

- **October 28-30, 1998, Santa Marta, Colombia.** III Seminario Nacional de Terminología, Universidad Tecnológica del Magdalena (UTM). Address: Prof. Berta Nelly Cardona; Escuela Interamericana de Bibliotecnología, Univ. de Antioquia. E-mail: bcardo@nutabe.udea.edu.co. Fax: 94-210 59 46 / 210 57 83; Tels: 94-210 59 38/30/45

- **November 4-8, 1998, Hilton Head, South Carolina.** American Translators Association 39th Annual Conference. For more information, contact ATA, phone: (703) 683-6100; fax: (703) 683-6122; e-mail: conference@atanet.org; http://www.atanet.org

- **November 22, 1998. San Jose, CA.** Translating Crime Scene Investigation Terminology. Rogelio Camacho. The Fairmont Hotel, 9 a.m.- 4 p.m. CIMCE # 710. Information: 800-527-4727.

- **December 3-6, 1998, The University of Texas at Brownsville.** Second Translation and Interpreting Studies Research Forum. For further information or to submit an abstract and bio, contact Dr. Jose L. Varela-Ibarra (jvarela@utb1.utb.edu).

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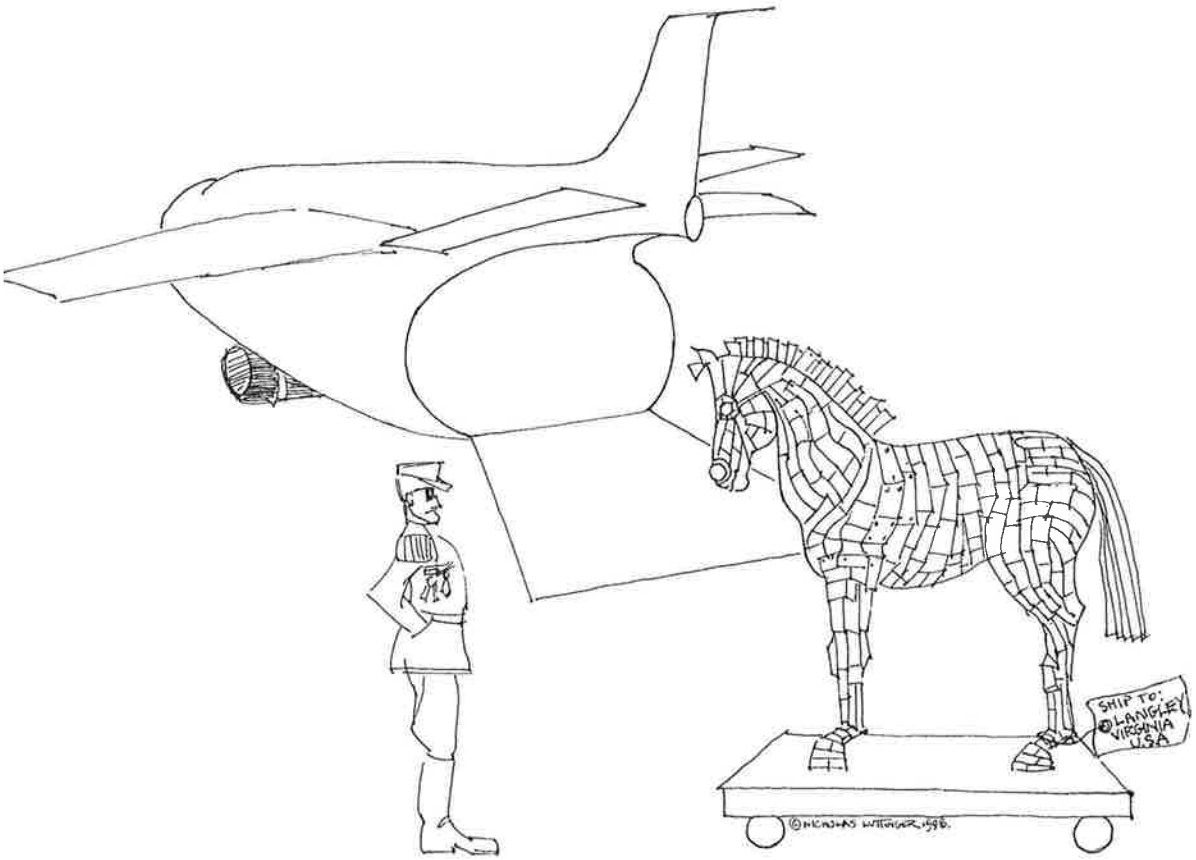

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