



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

November 15, 2019

Hon. Mary T. Noonan  
State Court Administrator  
Catherine J. Dupont  
Deputy Court Administrator

## MEMORANDUM

**TO: Policy and Planning Committee**  
**FROM: Kara Mann, Language Access Program Coordinator**  
**RE: Guidelines for Interpreting Recorded Evidence**

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As the use of dash-cam video, lapel video, belt tapes, social media, wiretaps, and cell phone audio and video recordings in court proceedings increases, the demand on spoken and sign language interpreters to provide on-the-spot interpretations of these materials has greatly increased. The guidelines herein seek to balance best practices for interpreters, with the challenges a court faces when confronted with recorded materials that require interpretation or translation.

The court should not ask onsite interpreters to provide instantaneous interpretations of audio or video recordings. On-demand interpretation or translation of complex recorded or written materials is often in conflict with recognized best practices and with the Code of Professional Responsibility for Court Interpreters. Best practices are designed to create the greatest degree of accuracy when interpreting and translating court proceedings and documents.

### **Materials in a Language Other than English**

To ensure accuracy, sound and video files that a party intends to use in court should first be transcribed in its source language and then translated to English by the party introducing the recording. Materials presented in sign language require the same steps in the opposite order – they must first be interpreted into spoken English, then the interpretation transcribed into written form.<sup>1</sup> This process must take place prior to presentation of the materials in court. Parties wishing to use the materials are responsible for assuring the materials are properly prepared in English and for paying the cost of such preparation.<sup>2</sup> In accordance with the National

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<sup>1</sup> Onsite Simultaneous Interpretation of a Sound File is Not Recommended, National Association of Judiciary Interpreters and Translators (NAJIT), 2006.

<sup>2</sup> See CJA 3-306.04

**The mission of the Utah judiciary is to provide an open, fair,  
efficient, and independent system for the advancement of justice under the law.**

Association of Judiciary Interpreters and Translators (NAJIT), the standard unit of measure for transcription and translation of a recording is one hour of work for each one minute of sound.

It is recommended that judges look to the Utah Rules of Evidence to determine whether the offering party should be required to establish its translation witness's expertise in both English and the language other than English, the witness's ability to translate from one to the other, and the witness's attestation to the accuracy of the translation.

Once approved by the parties and ruled admissible by the court, the written English rendition and a copy of the original material should be provided to the assigned court interpreter before the scheduled proceeding, ensuring the interpreter has sufficient time to prepare.

### **Materials in English**

Audio and video files recorded in English that will be played in open court for a case involving a Limited English Proficiency (LEP) or deaf or hard of hearing party should be reviewed prior to the proceeding by the interpreter(s) who will be providing language services for that hearing.

Court interpreters assigned to a given proceeding shall inform the judge if they are unable to provide an on-site interpretation of audio or video recordings. This can be due to:

- Length of material
- Quality of recording
- Number of speakers or signers
- Variety of accents or regional variations
- Sufficiency of contextual information
- Degree of deviation from standard forms of language
- Level of audio or video intrusions and distractions
- Degree of technicality or specialization of vocabulary and content
- Lack of opportunity to request clarification of a word or an ambiguity

The judge should consider the interpreter's opinion and decide whether to proceed with the case. The factors listed above are the types of considerations which should also be taken into account when determining whether brief and/or non-complex material permits on-site interpretation or, if not, establishing a reasonable amount of time necessary for the interpreter to accurately interpret the materials.

### **Interpreters as Expert Witnesses**

Court Interpreters assigned to interpret during a given proceeding shall not be used as expert witnesses to evaluate, during that proceeding, the quality of a previously completed interpretation or translation provided for audio, video or written material originally in a language other than English. The party wishing to question or evaluate the quality of an interpretation or translation for the record shall arrange for a qualified individual to serve as an expert witness during the proceeding in accordance with Utah Rules of Evidence.