



**BEST PRACTICES FOR  
BSL/ENGLISH INTERPRETERS  
WORKING IN LEGAL SETTINGS**

Edited by Karen Newby & Jason Weald

This document presents Best Practices and Protocols for British Sign Language interpreters working within court and legal settings. Adapted from an original submitted in the USA on behalf of the National Consortium of Interpreter Education Centres (NCIEC) by Kellie Stewart, Anna Witter-Merithew and Margaret Cobb, Legal Interpreting Workgroup Members, March 2009 (see Appendix A for further details).

## Table of contents

Table of contents .....	3
Introduction.....	4
Background and Acknowledgements.....	4
Purpose of Best Practices .....	5
Overview of the Best Practices Document .....	6
The Best Practices and Protocols.....	7
Section A: Best Practices in Producing Effective Interpretation in Court and Legal Settings.....	7
Section B: Best Practices in Team Interpreting for Court and Legal Settings .....	13
Section C: Best Practice in Collaborating with Deaf Interpreters in Court and Legal Settings.....	15
Section D: Best Practice of Visually Recording a Statement or Interpretation in British Sign Language.....	18
Section E: Best Practices for Obtaining Training, Experience and Credentials for Legal Interpreters.....	20
Section F: Best Practice for Recruiting Practitioners in Legal Assignments .....	22
Section G: Best Practice for Interpreter Preparation in Court and Legal Matters.....	29
Section H: Best Practice for Interpreting Lawyer-Client Interactions .....	33
Section I: Best Practices for Effectively Interpreting Law Enforcement Interactions .....	34
Definition of Terms.....	39
References .....	44
Appendices.....	48

## Introduction

The Association of Sign Language Interpreters (ASLI) was established in the United Kingdom in 1987 as a forum for professional discussion on all issues relating to sign language interpreting and the provision of interpreting services. From the beginning our aims have been simple - to encourage good practice in sign language interpreting and to support our fellow professionals. We have sought to achieve this by:

- Providing a forum for professional discussion on all interpreting related issues
- Promoting the raising and maintenance of standards in interpreting
- Encouraging training and other initiatives
- Supplying information to interpreters and consumers
- Promoting research into areas of relevance to interpreters or interpreting services
- Advising and cooperating with others interested in sign language interpreting

Legal interpreting is considered a specialist domain of work and therefore requires particular consideration to ensure general interpreting practice and standards are protected and maintained. Drawing on experienced practitioners and academics within ASLI's membership, the Legal Interpreting Standards Group (LISG) was established in April 2015. The remit for the LISG is to maintain a dialogue with legal interpreting practitioners, legal interpreting providers, users of legal interpreting services and academics to preserve the accuracy, currency and usability of this ASLI endorsed best practices document. This document is scheduled for review during 2018 to ensure its content remains concordant with empirical research and general practices.

## Background and Acknowledgements

The National Consortium of Interpreter Education Centres (NCIEC) *Best Practices: American Sign Language and English interpretation within Legal settings* was published in the USA in 2009 (see Appendix A). The NCIEC have granted permission for their document to be adapted to suit the legal system in place in England and Wales and the profession of British Sign Language/English interpreting. Detective Sergeant Jason Weald, Lead Interview Advisor with the Metropolitan Police (now retired), and Karen Newby, registered BSL interpreter, mentor and trainer, completed their edit of the original document in June 2015. This resulting document fulfils every aspect of ASLI's mission statement. ASLI would like to extend our thanks to the NCIEC for their important contribution to our professional understanding and practices, and to Karen and Jason for their initiative leading to this new publication, which will benefit the entire BSL/English interpreting profession.

Special thanks must go to Robert Skinner, Research Associate on the JUSTISIGNS project, based at Heriot Watt University, Edinburgh, who has been invaluable in highlighting European legislation and other documentation. Also, Gloria Ogborn, a long-established BSL interpreter and legal interpreting practitioner, who advised extensively on proposed edits of this document. Other ASLI members who contributed time and commentary were: Mo Bergson, Caron Wolfenden, Karen Green, Rachel Williams and Mark Schofield.

### **Purpose of Best Practices**

For the purpose of this document, a Best Practice is defined as the most efficient (least amount of effort) and effective (best results) way of accomplishing some element of work associated with a particular discipline - in this instance, interpreting in court and legal settings (Tileston, 2000). These practices have been applied by expert practitioners in the field, over time and in a wide range of legal situations. Consensus around these practices has been sought by the NCIEC and will continue to be sought through survey and focus groups with a broad base of legal interpreting practitioners. Several of the practices within this document have been researched and found to result in the desired outcome and, where applicable, that research is cited. Scholarly works from the fields of interpreting and interpreter education that have contributed to these Best Practices are cited throughout the document.

The purpose of this Best Practices document is to offer an explanation and rationale for a series of practices that are deemed by expert practitioners to result in a desired outcome with fewer problems and unforeseen complications. It is anticipated that application of these Best Practices by interpreter practitioners and interpreter educators will result in more standardised, reliable and effective outcomes. It is also anticipated that, as part of the evolving process associated with these Best Practices, more and more of these standards will be researched in an effort to determine if they are in fact the most effective practices for interpreting in the legal setting.

The JUSTISIGNS project is embarking upon a study into the experiences and outcomes of deaf people in the legal systems of Europe ([JUSTISIGNS](#)) and we expect to incorporate their findings and recommendations into future editions of this document.

## Overview of the Best Practices Document

These Best Practices are divided into nine (9) separate sections, each of which addresses a particular aspect of the work of legal interpreters. They are:

- A. Best Practices in Producing Effective Interpretation in Court and Legal Settings
- B. Best Practice in Team Interpreting for Court and Legal Settings
- C. Best Practices in Collaborating With Deaf Interpreters in Court and Legal Settings
- D. Best Practice of Visually Recording a Statement or Interpretation in a Signed Language
- E. Best Practices for Obtaining Training, Experience, and Credentials of Highly Qualified Legal Interpreters
- F. Best Practices for Recruiting Practitioners in Legal Assignments
- G. Best Practices for Legal Interpreter Preparation in Court and Legal Matters
- H. Best Practice for Interpreting Lawyer-Client Interactions
- I. Best Practices for Interpreting Law Enforcement Interactions

Each section includes a best practice topic statement, followed by individual numbered practices describing the elements essential to the delivery of high quality legal interpreting services. These elements include explanations and/or rationales designed to assist in determining the relevance and value of those practices to the experiences of legal interpreting practitioners. Existing research and scholarship supporting the practice is cited when available and appropriate.

---

We would particularly like to draw your attention to the **Definition of Terms** at the back of this document. Some of the terminology we have chosen may not be current common parlance, however selections have been deliberately made and rationale is included where necessary.

## The Best Practices and Protocols

The Best Practices presented in this document are critical in ensuring that professional interpreters working within court and legal proceedings perform their interpreting duties in the most effective, accurate and ethical manner.

### Section A: Best Practices in Producing Effective Interpretation in Court and Legal Settings

**Best Practice: A.1 - The best practice for producing an effective interpretation in court and other legal settings is to achieve an accurate, meaningful and effective interpretation that meets the cultural and linguistic needs of the deaf individual or party.**

- 1.1. **Due Process and Effective Interpretation** - The legal system in England & Wales guarantees individuals the right to due process and the right to meaningful participation in court and/or legal proceedings in which they are involved (Equality & Human Rights Commission, Right to a Fair Trial, 2009). Providing Limited English Proficient (LEP) and/or deaf or hard-of-hearing individuals with interpreters who possess the knowledge, skills and ability to provide a meaningful and effective interpretation is essential to upholding these individual rights (Crown Prosecution Service, 2002; Eulita, Improving Police & Legal Interpreting, 2012; Fair Trials, Roadmap, 2015).
  
- 1.2. **Achieving a Meaningful and Effective Interpretation** - Court and legal settings constitute a "high risk" venue for deaf and hard of hearing individuals. Miscommunication can have devastating consequences for those who find themselves involved in legal matters. Russell notes, "There is widespread agreement among experts in the field of interpretation that the principle of accuracy of courtroom interpretation is extremely important to the integrity of the legal system and to ensuring non-English speakers have equitable access to justice" (p. 57). An interpretation is functional and effective when conveying meaning from one language into another in a manner that meets the communication needs of the deaf individual or party.

- 1.3. **Producing an Accurate, Meaningful, and Effective Interpretation Requires Time** - It is not uncommon for the general public to assume that interpreting between two languages occurs almost instantaneously. It may appear that while one speaks or signs an interpreter instantly and effectively formulates an accurate interpretation into the target language. In reality, interpreting between two languages is a highly complex process requiring time, even from the most highly skilled, expert legal interpreters.

To achieve an accurate, meaningful and effective interpretation, it is necessary for legal interpreters to put the fidelity of the interpretation above any pressure to produce a speedy, pseudo-efficient interpretation.

**Best Practice A.2 - When interpreting complex utterances in court and legal settings, consecutive interpretation is the best practice for achieving an accurate, meaningful, and effective interpretation.**

- 2.1. **Evidence for the Increased Accuracy When Using Consecutive Interpretation versus Simultaneous Interpretation** - Spoken language interpreters have primarily interpreted consecutively, waiting for an utterance to come to a logical conclusion or stopping point before speaking the interpretation of that intact segment. They have done so for both pragmatic and technical reasons. Listening to a spoken interpretation at the same time a foreign speaker is speaking creates difficulty hearing the message, as well as monitoring the fidelity of the interpretation. Literature and research within the field of spoken language interpreting states that "consecutive interpreting is used whenever a high degree of accuracy is needed (Gonzalez, Vasquez and Mikkelson, 1991, p. 379) Research from the field of sign language interpreting reinforces that "consecutive interpretation allows for a greater degree of accuracy than simultaneous interpreting." (Russell, p. 2)



British Sign Language (BSL) is a distinct and separate language from spoken English. It is a visual language with its own grammar, syntax and cultural complexities that affect the way the language is used among deaf people for whom BSL is a native or primary language. Interpretation between two languages requires an interpreter who is bilingual and bicultural in BSL and English in order for the interpretation to be effective. Because BSL/English interpreters are working between two distinct languages, experience and research demonstrate that consecutive interpreting can substantially increase the accuracy, meaning and effectiveness of the interpretation.

Dr. Debra Russell conducted a research study comparing the differences in the effectiveness of sign language interpretation using simultaneous and consecutive approaches. Russell found that when court interpreters used consecutive interpreting, a higher degree of interpreting accuracy was achieved (Russell, 2002, p. 159). This study lends support to the experiences of highly qualified legal interpreters in the use of consecutive interpreting in court and legal proceedings to improve the accuracy and effectiveness of the interpretation (Russell, p. 53). Russell's more recent work supports a "blended" approach, with interpreters moving back and forth between simultaneous and consecutive interpreting during discourse according to fluctuations in the demands and complexity of utterances (International Journal of Interpreter Education, 2, 2010, pp. 111-119).

- 2.2. **Consecutive Interpretation Essential during Expert Testimony, Examination-in-Chief and Cross Examination of Deaf Witnesses** - In Russell's research (2002), evidence showed fewer error rates during expert witness testimony and in the examination-in-chief and cross-examination of a deaf witness when compared to simultaneous interpreting. Russell notes that, "While all aspects of a trial are important, the area of giving direct evidence and the subsequent cross examination is critical". Given that these discourse types play an evidentiary role in courtroom interactions, increasing accuracy and reducing errors in testimony is essential to the fidelity of the evidence and trial process (Russell, p. 160).

- 2.3. **Consecutive Interpretation Essential in Other Legal Settings** - When interpreting in legal settings involving interactions other than taking a statement or testimony, the use of consecutive interpreting continues to be the most effective method for achieving a higher degree of accuracy when interpreting between two languages. These interactions may involve investigations, lawyer/client interviews, interviews of witnesses, mediation, court ordered meetings, etc.

**Best Practice A.3 - When engaged in consecutive interpreting, note-taking is a best practice that significantly improves the interpreter's ability to recall details, organise ideas for deep processing and increase the accuracy, meaning and effectiveness of an interpretation in court and legal settings.**

- 3.1. **Practice Shows Significant Benefits to Memory and Effective Interpreting When Note-taking During Consecutive Interpreting** - Interpreting between two or more languages engages both short-term and long-term cognitive memory (Cokely, 1992). When interpreting consecutively, interpreters rely heavily on recalling details to ensure an accurate and effective interpretation. The high stakes nature of legal interpreting emphasises the critical need for interpreters to take measures that will assist in the accurate recall of a message, particularly when interpreting witness testimony.

Both spoken and signed language interpreting professions have identified significant benefits to the use of note-taking in consecutive interpreting. According to Hanh (2006), note-taking helps improve the interpreter's concentration, relieves the pressure placed on an interpreter's working memory and helps to ensure that details are not lost in the interpretation (p. 13). This is critically important for consecutive interpretation within court and legal proceedings where testimony becomes or has the potential to become evidence in a court case. Note-taking is a skill that must be developed in order that longer, more complex utterances can be interpreted consecutively. If a BSL/English interpreter is not yet confident utilising this strategy, they should deal only with short utterances when the complexity of discourse calls for consecutive interpreting to be employed.

**Best Practice A.4 - Legal interpreters engage the use of simultaneous interpreting when it achieves accuracy, meaning and effectiveness in the interpretation and meets the cultural and linguistic needs of the deaf party.**

- 4.1. **Evidence of the Limitation of Simultaneous Interpretation** - Historically, simultaneous interpretation has been the most prominent method of interpreting within the field of British Sign Language and English interpretation. This occurred, in part, because interpreting between a spoken language and a visual language does not create overlapping or competing sound between a message and the interpretation. Simultaneous interpretation has allowed for greater efficiency in the production of the interpretation because the interpreter is signing while listening to spoken English or listening to spoken English while producing the interpretation into BSL (Russell, p. 52).

While simultaneous interpretation is perhaps more efficient, it is not a guarantee of accuracy and effectiveness, particularly when interpreting between two languages such as BSL and English. In Russell's research, she indicates that interpreters were aware that simultaneous interpretation was less accurate, but that there often remained tremendous pressure on interpreters to "keep up with the volume" (p. 155). In particular, she found that there were increased errors during simultaneous interpretations of expert witness testimony, direct examination and cross-examination. (p. 160)

Thus, it is critical for legal interpreters to always remain cognisant of the limitations of simultaneous interpretation. It is not uncommon for interpreters to experience mental interference while attempting to simultaneously process incoming and outgoing messages. This interference not only increases the risk of errors in the interpretation, but also makes it increasingly more difficult for legal interpreters to catch interpreting errors as they occur.

- 4.2. **Factors Affecting the Accuracy of Simultaneous Interpretation** - There are situations in which simultaneous interpretation can be meaningful and effective, such as when interpreting for a deaf person fluent in the English language. Not all deaf people are fluent in British Sign Language (BSL). Some may be bilingual in both signed English and BSL. Others may only be fluent in signed English. When interpreting from spoken English to Sign Supported English (SSE), simultaneous interpreting can be both effective and efficient. It is important to keep in mind, however, that an efficient interpretation is not more important than an effective one, and the more dense or technical the material, the longer the interpretation process.

Whether or not simultaneous interpretation is effective can also be influenced by a number of other factors, such as the interpreter's familiarity with the subject matter, the predictability of communication, the amount of prior preparation, the speed at which the interpreter is expected to keep pace, mental and/or physical fatigue, the specific language needs of the deaf party, etc. (Russell, pp. 154 - 168). Thus, legal interpreters should evaluate all the interpreting related demands of the situation to determine the most appropriate method of interpreting.

- 4.3. **Cautions in the Use of Simultaneous Interpretation in Court** - While simultaneous interpretation does have its application in court and other legal proceedings, and with particular deaf parties, legal interpreters must examine the assumption that it is the status quo approach. They must be able to assess the pragmatics of each situation and determine whether or not the use of simultaneous interpretation meets the best practice of meaningful and effective interpretation. Proceedings interpreters frequently use simultaneous interpretation while interpreting open court or legal proceedings in which the deaf party is "playing a passive role in court". Given the research on simultaneous interpretation, it is important to consider that for a deaf person who is fluent in BSL, effectiveness of the interpretation might be compromised when interpreting simultaneously. This can adversely affect whether a deaf person has sufficient understanding of the proceedings to assist counsel in his or her defense.

## Section B: Best Practices in Team Interpreting for Court and Legal Settings

**Best Practice B.5 - Legal interpreters recognise that working in teams is the best practice for achieving an accurate, meaningful and effective interpretation in court and legal settings.**

- 5.1. **Purpose of Effective Team Interpreting** - Team interpreting is the quality control mechanism, implemented to preserve the accuracy of the interpretation process in any circumstances. Within the field of sign language interpreting, it generally refers to the industry standard of hiring two or more hearing interpreters to work together to accurately and effectively interpret a communication exchange. Team interpreters are necessary for the purposes of turn-taking to reduce mental fatigue, reducing the potential for errors in the interpretation, monitoring the accuracy of the interpretation, assisting with note-taking and monitoring the environment and logistics of the setting while the interpretation is produced.
  
- 5.2. **Evidence Supporting the Best Practice of Team Interpreting** - Studies from the fields of spoken and signed language interpreting have shown that mental fatigue sets in after approximately 30 minutes of sustained simultaneous interpretation, resulting in a marked loss in the accuracy of the interpretation (Cokely, 1992; Moser-Mercer, 1998). This is the case regardless of the level of experience or skill on the part of the interpreter. A study by Barbara Moser-Mercer and her colleagues at the University of Geneva's École de Traduction et d'Interprétation on the effects of stress and fatigue on conference interpreting, showed that the interpreters not only exhibited an increase in errors after 30 minutes, but also "appeared to be unaware of this decline in quality" (Vidal, p. 1).

Broadly speaking, the need for team interpreting is determined by a variety of factors including, the length of the assignment, the number of deaf consumers, the varieties of communication modalities and language used by multiple deaf and hard of hearing parties in a given case or legal setting, as well as the complexity of the subject matter and situation. "The subject matter of court hearings varies, but may include legal arguments in a motion to suppress evidence; cross-examination of experts; syntactically dense jury instructions; nervous witness testimony; or a complex or under-articulated recitation of facts. There is a limit to the focused concentration needed to comprehend complex language at high speed and render it accurately in another language. Inattention, distraction or mental exhaustion on the part of the interpreter can have adverse consequences for defendants, litigants, witnesses, victims, and the judicial process in general" ([NAJIT](#) - USA).

As Vidal (1997) points out, "Fatigue for interpreters is not primarily physical, as in the case of athletes, whose muscles become strained after sustained exertion: it is mental fatigue. It results from complex mental processing and the high degree of concentration the interpreter must have to hear, then understand, analyse and finally express ideas coherently in another language." She quotes Patricia Michelson who reported in *The Court Management and Administration Report (USA)*, "Most people do not realise that an interpreter uses at least 22 cognitive skills when interpreting," and goes on to state, "other studies of simultaneous interpretation have shown that fatigue is exacerbated by environmental factors that interfere with various aspects of the cognitive process". Unrecognised errors in legal interpreting constitute a risk, both to the deaf party and the administration of justice. Thus, to maintain the accuracy and effectiveness of the interpretation, team interpreting is necessary to reduce the rate of error within the interpretation due to mental fatigue.

## Section C: Best Practice in Collaborating with Deaf Interpreters in Court and Legal Settings

**Best Practice C.6 - Where deaf people present with certain characteristics, it is best practice to collaborate with deaf interpreters in court and legal settings because deaf interpreters are able to enhance the accuracy, meaning and effectiveness of the interpretation. It should be noted that the role of Deaf Interpreter is distinct from that of an Intermediary and there may be cases when both classes of practitioner are required.**

- 6.1. **Appropriate and Reasonable Accommodation** - A significant population of deaf people exists which research has demonstrated will be unable to participate in the justice system to the level required by due process without the provision of a deaf interpreter. When deaf parties who could benefit from working with a deaf interpreter are not provided one, the meaning and effectiveness of the interpretation is likely to be adversely affected.
  
- 6.2. **Evidence Supporting the Effectiveness of Deaf Interpreters** - Interpreters must recognise that working with deaf interpreters can significantly enhance the accuracy, meaning and effectiveness of court and legal interpreting. In the USA, The National Consortium of Interpreter Education Centers (NCIEC) has undertaken two projects examining the benefits of working with deaf interpreters and the growing field of Deaf Interpreting. First, the NCIEC Work Team "surveyed the profession and concluded that deaf individuals with certain characteristics benefited from receiving interpretation services provided by a deaf interpreter" (March 2009, NCIEC Brief - The Deaf Interpreter in Court, p.9). These characteristics include:
  - Underdeveloped signed language skills
  - Limited socialisation in the Deaf Community
  - Limited education

- Cognitive challenges
- Delayed language
- Organic issues causing affect deficiencies
- Mental illness
- Problems caused by drug abuse
- Other physical challenges

Second, the NCIEC commissioned a lengthy document titled, "The Deaf Interpreter in Court: An Accommodation that is More than Reasonable," prepared for the NCIEC by Carla M. Mathers. This document outlines the numerous rationales in support of the best practice of hiring deaf interpreters in court and legal settings.

**Best Practice C.7 - Because deaf interpreters can improve the accuracy, meaningfulness and effectiveness of an interpretation for particular deaf individuals or parties, it is best practice for a deaf interpreter to be present and interpreting for the deaf party throughout the court case, court or legal proceeding, legal interview, etc.**



- 7.1. **Effectiveness of the Deaf Interpreter Requires Consistency** - When deaf interpreters are working with a particular deaf party or individual, those interpreters should always be engaged for any communication that occurs with that individual, no matter how insignificant the communication may seem. If the deaf interpreter is not present at any time, interpreting for that deaf party should be suspended until the deaf interpreter has returned or is available. To do otherwise can be detrimental to the accuracy, meaningfulness and effectiveness of the interpretation. In addition, it can undermine the relationship between the deaf party and the deaf interpreter. It can also perpetuate the false impression that the deaf party can receive an accurate, meaningful and effective interpretation in the absence of the deaf interpreter - an impression that is counter to the very reason the deaf interpreters were provided.
- 7.2. **Separate Deaf Interpreters as PI and TI** - As with non-deaf interpreters, separate Deaf Interpreters (or teams of Deaf Interpreters) will be required for the Proceedings Interpreter and Table Interpreter function (see F12 below).

**Best Practice C.8 - It is best practice for deaf interpreters to interpret for deaf children and young persons involved in court and legal matters.**

- 8.1. **Effectiveness of the Deaf Interpreter when Interpreting for Deaf Young Persons** - The communication and interpreting needs of deaf minors involved in court and legal matters present unique and precarious challenges for interpreters. Many factors such as age of the minor, life experience, whether or not the minor has a secondary disability, level of education, type of education, exposure to British Sign Language, experience communicating through an interpreter, emotional state, etc., affect whether or not a deaf minor has the linguistic, developmental and cognitive abilities to effectively engage in communication via an interpreter or even to understand an interpreted message. Professionally trained and qualified Deaf interpreters will usually be in a position to more accurately assess the interpreting needs of a deaf young person and to provide an accurate, meaningful and effective interpretation.

## Section D: Best Practice of Visually Recording a Statement or Interpretation in British Sign Language

**Best Practice D.9 - It is best practice to create a video recording of a deaf person's statement, interview, testimony (see NB: below), etc., and the interpretation of that interaction, when the deaf person's statement and/or the interpretation has the potential to become evidence or necessitate future analysis in a court or legal matter.**

- 9.1. **Video Recording Statements in British Sign Language** - Creating a visual recording through the use of VHS or digital technology is the only way to preserve a statement made by a deaf person using sign language. Without a record of the deaf person's statement, the interpretation of the deaf person's statement is all that remains. Although interpreters take precautions to reduce the potential risk of error in an interpretation, that risk does persist. Capturing the original statement of the deaf person on video is essential for preserving any evidence for a legal challenge that might arise during a court or legal proceeding. NOTE: It is assumed that when creating a video recording, all sound is also simultaneously recorded.
  
- 9.2. **Video Recording the BSL/English Interpretation** - Using technology to visually record a BSL/English Interpretation is the only way to preserve an accurate video record of the interpretation a deaf person received in the course of making a statement. Recording the interpretation is essential for preserving any evidence or future need for analysis of the interpretation that might arise during a court or legal proceeding. NOTE: It is assumed that a video recording includes all signed and spoken information.

- 9.3. **Recommended Video Recording Protocol** - When visually recording a deaf person's statement and a BSL/English interpretation, it is important that the technology capture a simultaneous, full, and clear view of both the statement and the interpretation for later analysis - this means both the video and audio being recorded simultaneously. If logistics prohibit obtaining a full and clear view of both the deaf person and the interpreter simultaneously on the screen, separate video cameras - one of the deaf person's statement and one of the interpretation - will be necessary to produce a clear video with audio recording of each.
- 9.4. **Providing Effective Guidance to Court, Legal, and Police/Law Enforcement Personnel** - It is still routine procedure for law enforcement personnel to audiotape statements by individuals who can hear. Since producing audiotapes of statements is the most familiar recording protocol, court, legal and law enforcement personnel may assume that audio recording the interpreter's verbal interpretation is sufficient for recording a deaf person's statement. Audio-recording the interpreter only preserves the voiced interpretation, not the original statement from the deaf person or the non-verbal information conveyed by the interpreter, which could be linguistically relevant to the exchange. Thus, it is important that legal and law enforcement personnel fully understand the options for preserving a deaf individual's statement on video and the ramifications of only preserving the spoken interpretation.

*NB: Whilst court proceedings in England and Wales are audio recorded, it is extremely rare for the testimony of a deaf party or witness to be video recorded. However, precedent was set at Snaresbrook Crown Court in June 2014 when His Honour Judge Wilkinson allowed the testimony of several deaf parties to be video recorded by a specialist deaf videographer:*

[Law Gazette report](#)

## **Section E: Best Practices for Obtaining Training, Experience and Credentials for Legal Interpreters**

**Best Practice E.10 - It is best practice for interpreters working in legal settings to have received specialist training, which includes the knowledge, skills and experiences necessary to provide an accurate, meaningful and effective interpretation in court and legal proceedings.**

**10.1. Legal Interpreting Requires Specialist Expertise** - "High-level proficiencies in the source and target languages and cultures, including knowledge of geographic variations, an understanding of the legal process and related terminology, the ability to manipulate the various discourse styles used in the courtroom, along with interpreting skills and adherence to standards of ethics and professional conduct [which are] essential in protecting a non-English speaker's right to due process" (de Jongh, 2008). The knowledge and skills required to provide a meaningful and effective interpretation in court and legal settings is vast and highly complex. BSL/English interpreters begin as generalist practitioners with a broad level of experiences and skills. Beyond a general practice, interpreters may pursue specialist training in the legal domain in an effort to gain the knowledge, skills and experience necessary to practice as a specialist in legal interpreting. Article 2 (8) of the European Directive 2010/64 on the right to interpretation and translation in criminal proceedings stipulates the right to access an interpreter who shall be of a quality sufficient to safeguard the fairness of the proceedings. Comparable ideology can also be found within our domestic guidelines (see references).

10.2. **Specialist Legal Certification** - In some countries, e.g. the USA, interpreters are able to gain a specialist certification in the legal domain. To do so they must demonstrate specialised knowledge of legal interpreting and greater familiarity with procedure and protocol followed within the court and legal system. These interpreters also demonstrate the necessary skill in being able to interpret complex legal discourse. Currently there is no such specialist certification available to BSL interpreters (a level 6 Diploma in Police Interpreting is available for around 50 spoken languages in the UK). Interpreters should endeavour to enhance their knowledge and skill by maximising their observation of legal procedure and its interpretation, studying available literature and attending training courses in this domain as they become available (EULITA, Improving Police and Legal Interpreting, 2012). It should be emphasised that maximal observation of court proceedings is invaluable, regardless of whether or not the event is interpreted.

**Best Practice E.11 - It is best practice for qualified interpreters novice to the legal domain to be mentored and supervised by highly experienced legal interpreters while gaining the necessary hands-on experiences interpreting in court and legal settings.**

11.1. **Mentoring and Supervision of Legal Interpreters** - Interpreters who have ideally completed additional training in legal interpreting (where available) must acquire supervised experience interpreting within court and legal settings. Practitioners new to this domain require mentoring and supervision by highly experienced legal interpreters during this process. Being mentored and supervised are important parts of the training process. Such oversight also provides a critical level of support and supervision for developing legal interpreters as they gain experience providing interpreting services in court and legal settings, while maintaining best practice for accuracy.

## Section F: Best Practice for Recruiting Practitioners in Legal Assignments

**Best Practice F.12 - It is best practice for legal interpreters to be placed according to distinct functions when interpreting within court or administrative proceedings.**

- 12.1. **Distinct Functions of Legal Interpreters in Court** - Court and legal personnel are sometimes under the assumption that one interpreter is sufficient to interpret any and all parts of a court or legal proceeding involving a deaf person (Mathers, p. 82). Yet, depending on the number of deaf people involved in the court case and the role of each deaf person in the case, one interpreter will most likely not be sufficient. Ethical, procedural and legal conflicts can occur that will adversely affect the integrity of the interpreting process when interpreters do not maintain distinct roles for the various functions of court interpreting. When the integrity of the interpreting process is compromised, communication from that point on is open to greater scrutiny.
  
- 12.2. **Proceedings Interpreter - Officer of the Court** - Interpreters functioning within the role of Proceedings Interpreter are officers of the court. They swear an oath to interpret accurately and to protect the integrity of the interpreted proceedings. As such, they interpret all aspects of the open court process such as all open court dialogue and witness testimony from both sides of the case. For example, in a civil case with adversarial deaf parties, Proceedings Interpreters interpret the open court process for opposing deaf parties, including witness testimony for both sides of the case. In criminal cases where there may be a deaf witness for the prosecution in addition to a deaf defendant, Proceedings Interpreters provide the interpretation for the open court process and witness testimony. Proceedings Interpreters do not engage in interpreting between a deaf party and their lawyers (Mathers, p. 86).

Normally the Proceedings Interpreters can effectively interpret for more than one deaf party during the open court process or witness testimony. However, when multiple deaf parties use different types of language or communication methods, one set of Proceedings Interpreters will not be able to provide an interpretation which is accurate, meaningful, effective and accessible for all of them.

Considerations must also be given for creating effective sight lines when the Proceedings Interpreters must be visible to both a deaf party or parties and a deaf witness in a case. Interpreters must be able to face the deaf person when interpreting. Proceedings Interpreters should not be positioned where they block a jury's view of a witness. The configuration of some courtrooms may prevent a deaf person seated behind their counsel or in the dock from seeing the Proceedings Interpreters who are interpreting whilst facing a deaf witness with their backs to the advocates' bench. In such a configuration, the deaf person at the bench or in the dock cannot view the interpretation of what is being said to the witness. In that case, sightline considerations will have to be resolved prior to witness testimony. Likewise, if a deaf witness has been granted Special Measures (screen/video-link) and there are other deaf parties in court, e.g. the defendant, then separate teams of interpreters will be required to maintain effective access for all parties.

- 12.3. **Counsel or Table Interpreter** - Interpreters functioning within the role of Counsel or Table Interpreter (in criminal cases, commonly referred to as the Defence Interpreter) provide a deaf party access to their lawyers prior to, during and following a court proceeding. Table Interpreters usually sit at the desk behind their client's counsel and interpret privileged communications that may arise between the deaf party and his or her lawyer. Table Interpreters do not take an oath in court and do not interpret open court proceedings (Mathers, p.91, 131). Ethically, a conflict of interest exists when an interpreter works confidentially between a party and his or her lawyer and then proceeds to interpret open court proceedings as an officer of the court (Mathers, p.92). When there are multiple deaf defendants or parties involved in a court case, unless each defendant or party has access to a separate Table Interpreter, he or she would not have an effective means of communicating with his or her legal team prior to, during, or following the proceeding (Mathers, p.96)

12.4. **Monitoring of Interpretations** - Interpreters functioning within the role of Table Interpreter observe the interpretation provided by the Proceedings Interpreters to monitor the accuracy and effectiveness of the interpretation. This function is normally handled by the interpreter hired by the deaf party's legal team. However, the court or any party, even one without a deaf client, may hire an interpreter simply to monitor the Proceedings Interpreters for accuracy and to advise accordingly.

**Best Practice F.13 - It is best practice for interpreters to consider all of the complex factors that carry the potential to influence achieving effective interpreting outcomes prior to accepting and/or interpreting a court or legal assignment.**

13.1. **Assessing the Interpreting Needs of the Deaf Party** - Deaf people communicate in diverse ways. British Sign Language (BSL) is the native language of many deaf people. Other deaf people may use English-based sign language (sometimes referred to as Sign Supported English or SSE), but may or may not also be fluent in BSL. Others may not know a signed language at all; instead communicating in a number of other ways depending on when, where and how they were educated as children. In addition to the communication diversity among British deaf individuals, some foreign born deaf individuals may be fluent in languages other than BSL and English or may not possess standard language skills in any signed or spoken language.

Most court, legal and law enforcement personnel are unaware of the communication diversity that exists among deaf people. As a result, when courts, legal professionals and law enforcement personnel attempt to hire legal interpreters or request legal interpreters from a referral agency, little information is known about how the deaf person communicates. Thus, one important component of determining the interpreting needs of a deaf party is first understanding how the deaf person communicates.



- 13.2. **Evaluating the Interpreter's Qualifications Prior to Recruitment** - Many factors can have a profound effect on whether or not an interpreter is qualified and sufficiently able to provide an accurate, meaningful, and effective interpretation for a deaf individual or party involved in a court case or legal matter. An interpreter may hold a generalist interpreting qualification, be registered with a governing body and have experience interpreting in court and legal settings, but this alone does not ensure that the interpreter will be successful interpreting for a specific deaf individual involved in a specific court or legal proceeding or investigative interview.

Interpreters must consider factors such as the interpreting needs of the deaf party, the role of the deaf party in the court or legal matter, the training and qualifications of the interpreter, whether or not the interpreter has sufficient experience within the particular legal domain or court jurisdiction, whether or not a more skilled interpreter is available, how many interpreting teams might be necessary, whether or not the court is prepared to hire the requisite number of interpreting teams, whether or not the interpreter has any real or potential conflicts of interest, etc.

The considerations that are important when determining whether or not an interpreter is able to provide an accurate, meaningful and effective interpretation are numerous and will change depending on the factors that arise within any specific case. While this Best Practices document cannot provide an inclusive prescription for all possible considerations, interpreters, and those who engage interpreters for court cases, should be intimately familiar with the factors that can affect the accuracy and effectiveness of the interpretation in court. If there is any doubt, the opinion of a known Expert Interpreter should be sought in advance of proceedings.

- 13.3. **Assessing the Need for Multiple Teams of Legal Interpreters** - The number of deaf parties, the similarities or differences in their methods of communication, their roles in the case, their individual interpreting needs and the length of the court proceeding will affect the number of interpreters required for a court case. Other unique factors may arise within specific cases that can also affect the need for additional teams of interpreters, such as interpreter availability, whether or not there are multiple deaf witnesses, whether Special Measures are to be employed, and the ability of the Proceedings Interpreters to effectively interpret for every party present with a single interpretation. It is important that an accurate assessment of the number of interpreters needed for a case occurs prior to the start of the trial or proceeding. Court, legal and law enforcement personnel may typically assume that only one interpreter is necessary for any number of deaf parties. Court listings officers, interpreter booking agencies and interpreters must gather sufficient information to best determine if a sufficient number of teams and types of teams have been hired for a case. Also refer to Section B of this document for guidance on Team Interpreting.
- 13.4. **Assessing the Need for a Deaf Interpreter** - Section C of this document discusses the effectiveness of working with deaf interpreters. When assessing the communication needs of deaf parties involved in a court proceeding, interview, etc., it is critical to assess whether or not a deaf interpreter will be necessary for one or more deaf parties or witnesses. The BSL/English interpreter will analyse the case to ascertain, a) if the interpretation to be provided may be unsatisfactory, and b) if a deaf interpreter would improve or enhance the accuracy of the interpretation. If the answer is in the affirmative, the interpreter has a duty to inform the court as early as possible that a deaf interpreter is advised. Once the determination is made that a deaf interpreter will be necessary for a deaf party or witness to receive an accurate, meaningful and effective interpretation, the deaf interpreter becomes a critical member of personnel required for that case or proceeding (March 2009, NCIEC Brief - The Deaf Interpreter in Court, p.102). Ideally, any such recommendations will have been identified prior to the commencement of any criminal trial or civil court proceeding. Interpreters engaged in the earlier stages of an investigation or proceeding have a duty to notify law enforcement personnel and/or legal representation of any predicted difficulties. Any Deaf Intermediary involved in these earlier stages should include detail of communication requirements in their report to the court.

- 13.5. **Identifying External Factors Affecting Successful Interpreting Interactions** - Various factors can affect the success of an interpreting interaction. These factors include whether or not the deaf individual has a mental illness, is under the influence of drugs or alcohol, takes prescription medication that affects cognitive abilities or vision, or any other factor that may alter a deaf individual's ability to perceived and understand communication interactions.
- 13.6. **Identifying Conflicts of Interest when Recruiting for Cases** - The Ministry of Justice (MoJ), the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD), and the Association of Police and Court Interpreters (APCI) ethically require interpreters to avoid and disclose conflicts of interest prior to accepting an interpreting assignment or case. Conflicts of interest can be subtle and difficult to identify at times. Conflicts affecting legal interpreters are generally of two types: *Rehearsal conflicts* and *appearance conflicts*. Rehearsal conflicts can occur where the interpreter has assisted in preparing a witness prior to their testimony; been involved in investigative interviews preceding a case; or assisted lawyers to take instruction from their client. Appearance conflicts are those in which the interpreter's relationship with any party raises the prospect of bias. Interpreters must be cautious when accepting the role of Proceedings Interpreter in court cases. Prior personal or professional involvement of the interpreter with any of the parties that may interfere with the objectivity of the interpreter can create a conflict of interest or appearance of impropriety. Interpreting during any previous investigative processes (even if that particular witness is not called upon to testify) prior to a court case can also create a conflict of interest for an interpreter when accepting the role of Proceedings Interpreter.

**Best Practice F.14 - It is best practice to recruit legal interpreters for court cases, hearings and interviews in ways that promote consistency and continuity in the interpreting team.**

**14.1. Consistency and Continuity When Recruiting Legal Interpreters** - Maintaining interpreter consistency refers to having the same team of legal interpreters remain consistent throughout a proceeding or part of a proceeding, rather than bringing in a new interpreter or team of interpreters to take over midstream. Interpreter consistency can mean that the same interpreter provides the interpretation from beginning to end. It can also mean that the same team of interpreters remains consistent, switching interpreters within the team when necessary and appropriate.

Maintaining consistent interpreters for lengthy court trials or proceedings plays a critical role in maintaining the accuracy, meaningfulness and effectiveness of the interpretation. Interpreters will ideally engage in extensive preparation prior to interpreting a trial or legal proceeding. This preparation, along with the detailed knowledge of the case gained as the proceedings unfold has a positive effect on the interpreter's ability to interpret accurately and effectively for a deaf individual or party to a case. Legal interpreters appointed to lengthy cases should consider their availability to interpret the entirety of the trial or proceeding when accepting the appointment.

**14.2. Maintaining Consistent Interpreters for Deaf Witness Testimony** - Assuming that the interpretation is accurate, meaningful, and effective from the start, maintaining interpreter consistency is an important consideration for all court and legal situations. When interpreting the testimony of a deaf witness, maintaining interpreter consistency is also critical to the accuracy, meaningfulness and effectiveness of the interpretation. Evidence in chief and cross examination discourse can often be linguistically complex. Questions and answers unfold in ways that can impact subsequent questions, as well as, connect to questions that have been previously asked of the witness. Thus, when interpreting teams remain consistent for witness testimony, the interpreters are informed by the same frame of reference as the participants. This provides a higher level of continuity within the interpretation thereby retaining the accuracy, meaningfulness and effectiveness of the interpretation.

## Section G: Best Practice for Interpreter Preparation in Court and Legal Matters

**Best Practice G.15 - It is best practice for interpreters to engage in preparation prior to interpreting for a deaf party or witness involved in a legal matter in order to become familiar with information that will assist the interpreter in providing an accurate, meaningful and effective interpretation.**

- 15.1. **Reviewing Case Files, Motions and Other Court Documents** - In the USA, the Registry of Interpreters for the Deaf Standard Practice Paper on Legal Interpreting states, "The interpreter is ethically obligated to prepare for all assignments, particularly legal and court assignments" (p. 2). Most interpreters are not trained lawyers, yet they are required to interpret complex legal matters, including case law. It is therefore important for interpreters working in the legal domain to review case files, as well as other pertinent legal documents prior to interpreting an interview, court proceeding or trial. Interpreters must be familiar with the case related details in order to provide an accurate, meaningful and effective interpretation.
  
- 15.2. **Researching Additional Relevant Information** - In the course of preparing to interpret a court or legal proceeding or non-court situation, legal interpreters may need to engage in researching other relevant information such as criminal charges, anatomy and physiology, specific medical or psychological conditions, medical or psychological tests or procedures, the various names and descriptions of illegal drugs, prescription medication, etc. This type of research and preparation will assist legal interpreters in being able to consider possible ways to interpret legal, medical, psychological or other information in an accurate, meaningful and effective way.

**Best Practice G.16 - It is best practice for interpreters to meet with the presiding judge and all members of counsel to resolve procedural and logistical questions prior to interpreting complex court or legal proceedings.**

**16.1. Preparing for Meetings with the Presiding Judge and Counsel** - Certain legal proceedings call for a formal meeting with the presiding judge and counsel. For example, most often, meeting with the judge and counsel is prudent prior to the start of a jury trial. It might be necessary to request a meeting prior to a trial that does not involve a jury when circumstances exist that give rise to the potential for complications involving the interpretation procedures, logistics, etc. The opportunity for this may arise during a Plea and Case Management hearing. Interpreters should use discretion when deciding whether or not a meeting is necessary.

When meeting with the presiding judge and counsel, Proceedings Interpreters should arrive prepared to discuss all of the issues that pertain to the specific court case or legal proceeding. Interpreters should raise procedural and logistical questions and offer recommendations and justifications that are reasonable and meet the interpreting needs of the deaf individual or party.

**16.2. Resolving Seating, Sightlines, Lighting and Audio-Visual Needs** - Particularly in the case of trials (and in other instances as well), interpreters must be familiar with the courtroom seating protocol and determine whether the logistics of the room will meet the visual, lighting, and auditory needs of any deaf party and the interpreters. For cases involving more than one deaf party and more than one interpreting team, these logistical issues can be quite complex. Taking the time to consider the various ways to resolve these issues in advance will benefit everyone in the long run.

In addition, other logistical needs may require discussion, such as the need to switch interpreters, the need for breaks (including for the deaf party), protocol for administering of the Interpreter's Oath, where Proceedings Interpreters should wait when court has adjourned, etc.

It is prudent to draw the attention of the judge and/or court personnel to the potential for deaf observers to populate the public gallery and their need to access proceedings via the interpreting team. If there are difficulties, the case should be relocated to an alternative courtroom with a layout more conducive to the access of all parties.

- 16.3. **Assessing the Communication Needs of the Deaf Party or Parties and Deaf Witnesses** - It is important for interpreters to meet the deaf party or parties and/or deaf witnesses prior to interpreting a hearing, trial or proceeding for the purpose of assessing the communication and interpreting needs of those deaf individuals. Without an opportunity to assess the communication of deaf individuals involved in a court or legal proceeding prior to interpreting, the potential for misunderstandings and errors in the interpretation increases. These meetings should, ideally, be conducted in the presence of the party's legal representative or a police/law enforcement officer and rendered accessible to all who are present.

- 16.4. **Requesting Clarification of Ambiguous Questions or Statements** - There will be times during a legal proceeding or trial when the Proceedings Interpreters will need to request clarification of ambiguous questions or statements from the judge, counsel or witness prior to delivering the interpretation. Standard protocol is that interpreters use third person (reported speech) and break from direct speech when they are communicating directly with any person.

In the case of jury trials, the court may require interpreters to approach the bench prior to attempting clarification of ambiguous questions or statements. This should be discussed with the judge prior to the commencement of proceedings.

- 16.5. **Procedure for Correcting Interpretation Errors** - When an interpreter recognises that there has or may have been an error in the interpretation, the interpreter should first request permission to address the presiding judge. When a jury is present, the interpreter must request permission to approach the bench prior to explaining that an error has occurred. Once the court is informed of the error, the interpreter then uses third person to clarify the record. The use of third person indicates that the communication came from the interpreter rather than the deaf person.

Resolving procedural and logistical issues when interpreting for trials with no jury, e.g. in a Magistrates Court or Youth Court, can be different than they are when juries are present in the courtroom. For example, during a jury trial, the presiding judge may require an interpreter to approach the bench to discuss the interpreter's needs rather than allowing the jury to hear the request in open court. Court interpreters should be aware of these types of differences in process and include them in the planning discussion with the presiding judge and counsel when necessary.

**Best Practice G.17 - It is best practice for interpreters to state their qualifications prior to the start of a trial, court or legal proceeding.**

- 17.3. **Taking the Oath Prior to Interpreting in Court** - Courts will administer the Interpreter's Oath to the court interpreter prior to the start of proceedings. It is best practice for interpreters to state their registration status, qualifications and level of experience after completion of the Oath.
- 17.4. **Deaf Interpreter Taking the Oath** - If a Deaf interpreter is required to take the Interpreter's Oath, the hearing interpreter will already have taken the Interpreter's Oath prior to interpreting the Oath to the Deaf interpreter.



## Section H: Best Practice for Interpreting Lawyer-Client Interactions

Lawyer-client interactions are legal situations that often have direct connection to broader court and legal proceedings. These interactions typically occur because an individual is a defendant or claimant in an active court case, is engaged in signing legal documents, or is involved in a legal matter that has the potential for involving a court of law.

Thus, all previous sections of this Best Practice document also apply to interpreting lawyer-client interactions. Interpreters should consider all of these best practices prior to accepting this type of legal work:

- Section A: Best Practices in Producing an Accurate, Meaningful, and Effective Interpretation in Court and Legal Settings
- Section B: Best Practice in Team Interpreting for Court and Legal Settings
- Section C: Best Practices in Collaborating With Deaf Interpreters in Court and Legal Settings
- Section D: Best Practice of Visually Recording a Statement or Interpretation in British Sign Language
- Section E: Best Practices for Obtaining Training, Experience, and Credentials for Legal Interpreters
- Section F: Best Practices for Recruiting Legal Interpreters
- Section G: Best Practices for Legal Interpreter Preparation in Court and Legal Matters

**Best Practice H.19** - In order to maintain the lawyer-client privilege whilst interpreting lawyer-client interviews, it is best practice for interpreters to be present in the room with a deaf defendant only when their lawyer is present.

**19.1. Maintaining the Privilege** - Interpreters must be cognisant of the importance of privilege that exists between a lawyer and his or her client during confidential communications. In order to protect that privilege, interpreters should understand the circumstances that can lead to a waiving of the privilege. The privilege covers the confidentiality of communications that occur in the presence of the interpreter whilst they interpret between lawyer and client. It is best practice to take steps to ensure that the interpreter does not, by their conduct, compromise the privilege.

## **Section I: Best Practices for Effectively Interpreting Law Enforcement Interactions**

Interactions with members of the police force or other law enforcement personnel (for example, investigation officers representing the Department for Work and Pensions or Immigration Officials) often mark the beginning stage of a potential court or legal action. When law enforcement personnel conduct interviews of suspects, individuals in custody, victims of a crime or witnesses in an on-going investigation, statements made to a police officer become evidence whether or not legal action has been initiated in a court.

Interpreted interactions between deaf individuals and law enforcement personnel are always a potential source for appeals. Interpretations conducted during these interactions, especially when a suspect or detainee is given their legal rights and cautioned, are subject to analysis and review. In addition, whether or not an interpretation of the caution and subsequent statements given by a deaf individual are admitted as evidence in a court matter can depend on the credibility of the interpretation as being accurate, meaningful and effective. Given that these interactions carry a high risk for legal review and for parties being called to testify about the law enforcement interpretation, and given that statements made during these interactions may be presented as evidence in court, all previous sections of this Best Practices document also apply to interpreting law enforcement interactions. Legal interpreters must consider all of these best practices when accepting this type of work:

- Section A: Best Practices in Producing an Accurate, Meaningful, and Effective Interpretation in Court and Legal Settings
- Section B: Best Practice in Team Interpreting for Court and Legal Settings
- Section C: Best Practices in Collaborating With Deaf Interpreters in Court and Legal Settings
- Section D: Best Practice of Visually Recording a Statement or Interpretation in British Sign Language
- Section E: Best Practices for Obtaining Training, Experience, and Credentials for Legal Interpreters
- Section F: Best Practices for Recruiting Legal Interpreters
- Section G: Best Practices for Legal Interpreter Preparation in Court and Legal Matters

**Best Practice I20 - It is best practice for interpreters who possess the specialised training, credentials, experience and skill sets to interpret law enforcement interactions.**

20.1. **Interpreters for Law Enforcement Interactions** - Legal interpreters understand the implications that interpreting law enforcement interactions have in a future court case or proceeding. Interactions with law enforcement agencies are high stakes legal assignments even though they do not take place in a courtroom. Therefore, it is best practice for those interpreters who provide services in law enforcement interactions to hold the same training, credentials, experience, and skill sets as are necessary for interpreters working in other court and legal settings.

20.2. **Interpreters for Law Enforcement Investigations** - There are times when law enforcement officers must conduct interviews in specific settings where generalist interpreters may already be hired to interpret, such as in a school environment, at a hospital or medical setting, psychiatric facility, college or university, social service agency, etc. Given that interpreters with experience working in legal settings will understand the implications that interpreting law enforcement interactions have in a future court case or proceeding, only these interpreters should be employed to provide interpreting services in these instances where law enforcement investigations are taking place.

**Best Practice I.21 - Interpreters recognise that working within teams is the best practice for achieving an accurate, meaningful and effective interpretation in law enforcement settings.**

21.1. **Effective Team Interpreting in Law Enforcement Settings** - All Best Practices listed in Section B of this document also apply to this section. Due to the potential for scrutiny of interpretations of the caution and custodial interview, legal interpreters working in teams are essential to provide an accurate, meaningful and effective interpretation.

**Best Practice I.22 - It is best practice to collaborate with deaf interpreters in law enforcement settings because deaf interpreters are able to enhance the accuracy, meaning and effectiveness of the interpretation.**

**22.1. Effective Interpreting Involving Deaf Interpreters** - In addition to the Best Practices written in Section C of this document, legal interpreters recognise that working with deaf interpreters enhances the accuracy, meaning, and effectiveness of interpreting in law enforcement settings.

The potential for encountering deaf individuals who meet the characteristics of those who would benefit from working with a deaf interpreter is high in law enforcement interactions. Interpreters must recognise the factors that exist when a deaf interpreter is necessary and ensure that a deaf interpreter is present when the interaction with law enforcement personnel begins.

**Best Practice I23 - It is best practice to video record the interpretation of the caution given to a deaf individual prior to being questioned by law enforcement personnel.**

**23.1. Video Recording the Interpretation of The Caution Prior to Questioning** - Recording the entire interaction through the use of digital technology is the only way to preserve the actual interpretation of the advice of rights including the caution given to a deaf individual prior to being questioned by law enforcement personnel. Recording the interpretation preserves the evidence of whether or not the legal rights of the deaf individual were understood and allows for future analysis related to any legal challenge that might arise during a court or legal proceeding. According to PACE Code E, interviewing officers will remind suspects of The Caution and their rights at the start of each interview.

**Best Practice I24 - It is best practice to video record interactions between deaf individuals and law enforcement personnel, such as interviews, taking statements and other interactions that have the potential to become evidence in a court or legal matter. Whilst there is no statutory requirement for statements or suspect interviews to be visually recorded, PACE Code F paragraph 3.1 (d) suggests it would be appropriate for interactions “with, or in the presence of, a deaf or deaf/blind or speech impaired person who uses sign language to communicate”.**

**24.1. Video Recording Statements in British Sign Language** - As is the case with video recording the interpretation of the advice of rights, it is also important to video record interactions between law enforcement personnel and deaf individuals when the deaf individual is communicating in BSL or other form of signed language. Without a video record of the deaf person's statement or answers in BSL, the recorded interpretation of the deaf person's responses is all that remains. Although interpreters take precautions to reduce the potential risk of error in an interpretation, that risk does persist. Capturing the original statement of the deaf person on video is essential for preserving any evidence that might arise during a future court or legal proceeding.

**24.2. Video Recording the BSL/English Interpretation** - Creating a video recording of a BSL/English interpretation during law enforcement interactions is the only way to preserve an accurate record of the entire interpretation the deaf person and law enforcement personnel each received in the course of the exchange of questions and answers, or making a statement. Recording the interpretation is essential for preserving any evidence or future need for analysis of the interpretation that might arise during a court or legal proceeding.

## Definition of Terms

The following terms are either used in this document or are relevant to the subject of interpreting in the legal domain. Definitions are provided to establish the meaning of terms as used within this document and may not be in everyday use.

**Appropriate Adult:** A parent, guardian, social worker or other responsible person over the age of 18 brought in to safeguard the interests of children, young persons or vulnerable adults detained or questioned by the police. They must be present for a range of police processes, including intimate searches and identification procedures, as detailed in the Police and Criminal Evidence Act, 1984 (PACE).

**Association of Sign Language Interpreters (ASLI)** - A professional association of qualified and trainee sign language interpreters covering England, Wales, Northern Ireland and Scotland (see introduction on page 4).

**Association of Police and Court Interpreters (ACPI)** - A professional association of qualified and experienced interpreters working within the Criminal Justice System, which represents members' interests to work providers and government ([APCI website](#)).

*Please note: If the ACPI does not list a language, it simply means they currently have no members offering services in that language. BSL/English interpreter members are welcome to join.*

**British Sign Language (BSL):** A visual-spatial language created by deaf people. BSL is not English. It has all of the elements of any spoken language. Its grammar and conversational rules are different from spoken English but, like all languages, it comprises a set of abstract symbols agreed upon by those who use it.

**Best Practice:** A best practice is a technique or methodology that, by way of experience through application by practitioners and/or research, has proven to lead reliably to a desired result. A commitment to using the best practices in any field is a commitment to using all the knowledge and technology at one's disposal to ensure success.

**Conflict of Interest:** Any condition that interferes with the objectivity of an interpreter. Interpreters shall be impartial and unbiased and shall refrain from conduct that may give the appearance of bias. Interpreters shall disclose any real or perceived conflict of interest.

**Consecutive Interpreting:** The process whereby an interpreter waits until a complete thought or group of thoughts has been spoken or signed, in order to understand the entire

segment before beginning the interpretation, resulting in a very high standard of accuracy in the interpretation. (Russell, p. 52)

**Counsel Interpreter:** See **Table Interpreter**, below.

**Court Interpreter:** A term used to refer to the interpreter who performs the proceedings function in criminal and civil courts. The term "court interpreter" is used both by BSL interpreters and in the spoken language interpreting community. See **Proceedings Interpreter**, below.

**Deaf Interpreter:** A professional sign language interpreter who is deaf and who is, ideally, trained and registered on a par with their hearing colleagues (this is not always the case in the UK currently due to the low number of practitioners available). Deaf interpreters may be recruited to assist in communication with deaf individuals with limited language proficiency or those who use the signed language of another country. Also see **Relay Interpreter**, below.

**Defence Interpreter:** The interpreter working specifically with the defence team in criminal cases involving a deaf defendant. This practitioner will interpret all matters arising between defence counsel and their client that fall outside of open court proceedings, e.g. instructions and consultations conducted in private. These interpreters have legal privilege and do not interpret open court proceedings. Also see **Table Interpreter** and **Privileged Communication**, below.

**Direct Speech:** The most important standard technique an interpreter uses. Whilst interpreting, the interpreter assumes the same grammatical voice as the original speaker (first person) and, unless there is a clear reason to do otherwise, never interjects him or herself into the communication by using the third person (e.g. "He says that..."). The use of direct speech lessens confusion, keeps the written record clear by making it plain who is speaking, and enables the parties to communicate directly with each other as though no language barrier were present.

**Discourse:** A verbal, signed or written exchange; a conversation or communication.

**Effective Interpretation:** The production of an interpretation from one spoken or signed language into another that is functionally equivalent and meaningful for all participants.



**Effective Practice:** Those practices that have been established through scientific research, case law or other verifiable authority to be most successful for the purpose of achieving a desired outcome, for this document, effective interpretation.

**Expert Interpreter:** An interpreter with significant experience in the field of legal interpreting who may be called upon to advise the court and/or lawyers of best practices in matters relating to deaf defendants and/or witnesses.

**Hearing:** A term used to refer to an individual who is not deaf.

**Intermediary:** A trained and registered person who facilitates communication between the police, prosecution and defence legal teams and/or the court and a witness (not a defendant unless allowance is given by the court) to ensure that the communication process is as complete, coherent and accurate as possible. The intermediary is impartial and neutral and their duty is to the court. See [CPS: Intermediaries](#) and [The Advocates Gateway: Intermediaries](#)

**Interpretation:** The unrehearsed, transfer of meaning from a spoken or signed message within one language into another language.

**Interpreter's Oath:** The oath used to swear in a signed or spoken language interpreter prior to the commencement of an official court or legal proceeding. Example: "I do solemnly, sincerely and truly declare and affirm that I will well and faithfully interpret and true explanation make of all such matters and things as shall be required of me, according to the best of my skill and understanding." Religious alternatives are available.

**Law Enforcement Personnel:** This term acknowledges the fact that there are many professionals concerned with the practice of law enforcement who may take statements and/or conduct suspect interviews, such as members of the Police Force, HM Customs and Excise, the UK Border Agency, the Department for Work and Pensions and others.

**Lawyer:** Anyone who is a licensed legal practitioner qualified to give legal advice in one or more areas of law. Solicitors and counsel (instructed barristers) are types of lawyer and in this document we use "lawyer" to include both of these legal professionals.

**Legal Interpreting:** A broad category of specialised interpreting work which is practiced in a variety of legal settings including, but not limited to: police interviews and other law enforcement processes; lawyer-client interactions; courtroom proceedings.

**Limited English Proficiency:** A term for people who do not speak English as their primary language and have a limited or basic ability to communicate within or understand the English language.

**National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD):** A national regulatory body for BSL/English interpreters in the UK ([NRCPD website](#)).

**Police and Criminal Evidence Act 1984 (PACE):** Establishes the powers of the police to combat crime whilst protecting the rights and freedoms of the public. The PACE Codes of Practice cover: Stop and Search; Arrest; Detention; Investigation; Identification; Interviewing Detainees.

**Privileged Communication:** Communication that occurs in a setting of legal professional confidentiality. Lawyer/Client Privilege is an evidentiary privilege protecting the confidential communications between a client and his or her lawyer from disclosure to another party; this can be waived by the client but not by the lawyer or the interpreter.

**Proceedings Interpreter:** The name given to interpreters who provide interpretation to the court or in domains of administrative justice (such as tribunals) for all open court proceedings (also see **Court Interpreter** above). Proceedings interpreters should not be privy to privileged lawyer/client interactions.

**Registered Sign Language Interpreter (RSLI):** A category of registration that signifies the practitioner has met the National Occupational Standards in interpreting by demonstrating interpreting knowledge and skills that have the potential to meet the needs of consumers in a broad range of general interpreting assignments. The Ministry of Justice requires that interpreters working in a court, police station or other legal agency should be registered at this level with the NRCPD (or equivalent body).

*NB: In the UK this is currently the highest level of registration available. Many interpreters will have attended post-qualification training courses to acquire skills and knowledge in a variety of specialist domains, however, as yet, there is no professional certification available to denote a “legal interpreter” for the language combination of BSL and English.*

**Relay Interpreter/Deaf Relay:** Older terms for **Deaf Interpreter** (see above). A language broker (not necessarily qualified or registered) who functions as an additional layer between

a BSL/English interpreter and a deaf client in such cases where the client has limited language proficiency or uses the sign language of another country.

**Sight Translation:** The unrehearsed interpretation of written documents from text into a spoken or signed language.

**Simultaneous Interpretation:** The process whereby an interpreter begins the interpretation whilst the speaker is still speaking or signing, thereby overlapping the original message or source with the interpretation simultaneously. (Russell, p 52)

**Special Measures:** Special arrangements that can be made to protect a vulnerable or intimidated witness during their testimony. E.g. in a criminal court, witnesses may be shielded from the defendant by a screen or give evidence from another room via video link.

[CPS: Special Measures](#)

**Summary Interpretation:** A summarised paraphrase of a message from one language into another. Summary interpretations, by their very nature, are not dynamically equivalent to the original message nor can they be construed to be accurate and complete. (Emerson Crooker, p 27)

**Table Interpreter:** The interpreter who interprets privileged lawyer/client interactions that are not heard in open court. In criminal cases they may be referred to as the **Defence Interpreter** (see above). Table interpreters do not interpret open court proceedings.

**Team Interpreting:** The practice of two or more interpreters working together, in rotation, to provide simultaneous or consecutive interpretation in a given setting.

**Translation:** The rehearsed conversion of a written text from one language into another, be it written, spoken or signed.

## References

- Anderson, L. (1994). Simultaneous interpretation: Contextual and translation aspects. In S. Lambert & B. Moser-Mercer (Eds.), *Bridging the gap: Empirical studies in simultaneous interpretation*. Philadelphia, PA: John Benjamin.
- Andrews, J. F., Vernon, M., & LaVigne, M. (2007). The Bill of Rights, due process and the deaf suspect/defendant. *Registry of Interpreters for the Deaf Journal of Interpretation*.
- Berk-Seligson, S. (1990). *The bilingual courtroom: Court interpreters in the judicial process*. Chicago, IL: University of Chicago Press. (KF8725 B47 1990).
- Boudreault, P. (2005). Deaf interpreters. In T. Janzen (Ed.), *Topics in Signed Language Interpreting* (pp. 323-355). Philadelphia, PA: John Benjamins.
- Cokely, D. (1992). *Interpretation: A sociolinguistic model*. Burtonsville, MD: Linstok Press.
- Cokely, D., (2001). *Interpreting culturally rich realities: Research implications for successful interpretation*, Douglas Watson, (Ed.). *RID Journal of Interpretation*. Alexandria, VA: RID Publications.
- Collin, J., & Morris, R., (1996). *Interpreters and the legal process*. Winchester: Waterside Press.
- Conley, J. M., & O'Barr, W. M. (1998). *Just words: Law, language and power*. University of Chicago Press.
- Crown Prosecution Service (2002). *Trials Issues Group. Revised Agreement on the Arrangement for the Attendance of Interpreters in Investigations and Proceedings within the Criminal Justice System: [CPS Revised Agreement](#)*
- de Jongh, E. M. (2008, July/August). Court interpreting: Linguistic presence v. linguistic absence. *Florida Bar Journal*, 21.

- Directive 2010/64/EU of the European Parliament and the Council (20, Oct 2010). On the right to interpretation and translation in criminal proceedings. [European Parliament Directive](#)
- Emerson Crooker, C. (1996). The art of legal interpretation: A guide for court interpreters. Portland State University: Continuing Education Press.
- Equality & Humans Rights commission (2009). Right to a fair trial: [EHRC Right to a Fair Trial](#)
- Fair Trials (2015). Roadmap Practitioners Tools Interpretation and Translation Directive Assessment of Interpretation needs Quality of Police Station Interpretation the 'Third Language' Issue Translation of Essential Documents. [Fair Trials: Language Rights Toolkit](#)
- Gerver, D. (1974). Simultaneous listening and speaking and retention of prose. Quarterly Journal of Experimental Psychology, 26(3), 337 - 341.
- Gile, D. (1995). Fidelity assessment in consecutive interpretation: An experiment. Target, 7(1), 151-164.
- Gile, D. (2002). Conference interpreting as a cognitive management problem. In Franz P^chhacker & Miriam Shlesinger (Eds.), The interpreting studies reader. New York: Routledge.
- Gonzalez, R., Vasquez, V., & Mikkelson, H. (1991). Fundamentals of court interpretation: Theory, policy and practice. Durham, NC: Carolina Academic Press.
- Hanh, Pham Hong. (2006). Note-taking in consecutive interpreting. Retrieved March 15, 2009, from: [Note-taking in consecutive interpreting \(pdf\)](#)
- Hewitt, W. (1995). Model code of professional responsibility for interpreters in the judiciary. In Court interpretation: Model guides for policy and practice in the state courts. Richmond, Virginia: National Center for State Courts.
- Improving Police and Legal Interpreting (IMPLI) 2011 - 2012. Final Report. [EULITA: IMPLI](#)
- Interpreters in the judicial system: A handbook for Ohio judges. Available at: [Ohio Judges Handbook](#)

- Janzen, T. (2005). Topics in signed language interpreting: Theory and practice. Amsterdam: John Benjamins Co.
- Miller, K. R., & Vernon, M. (2001). Linguistic diversity in deaf defendants and due process rights. *Journal of Deaf Studies and Deaf Education*, 6(3), 226, 226-27.
- Mathers, C. M. (2007). Sign language interpreters in court: Understanding best practices. Bloomington, Indiana: Author House. Mathers, C. M. (2009, March). The deaf interpreter in court: An accommodation that is more than reasonable. Document Prepared for the National Consortium of Interpreter Education Centers.
- Mikkelsen, H. (1995.). On the horns of a dilemma: Accuracy vs. brevity in the use of legal terms by court interpreters. *Translation and the Law*, ATA Monograph Series, Vol. 8, Marshall Morris, (Ed.). Philadelphia: John Benjamins Publishing Co.
- Moser-Mercer, B., Kunzli, B., & Korac, M. (1998). Prolonged turns in interpreting: Effects on quality, physiological and psychological stress. *University of Geneva, ...cole de Traduction et d'Interprétation. Interpreting*, 3(1), p. 47-64. John Benjamins Publishing Co.
- National Center for State Courts. Available at: [NCSC Online](#)
- NAJIT. (2007). Position paper: Team interpreting in the courtroom: [NAJIT](#)
- NCIEC (2007). Legal expert workgroup, draft document of best practices workgroup.
- O'Barr, W. M. (1982). *Linguistic evidence: Language, power, and strategy in the courtroom*. San Diego, CA: Academic Press.
- Parasnis, Ila, (Ed.). (1996). *Cultural and language diversity and the deaf experience*. New York, NY: Cambridge University Press.
- Pochhacker, F. (2004). *Introducing interpreting studies*. New York, NY: Routledge.
- Registry of Interpreters for the Deaf (RID) Standard Practice Papers: [www.rid.org](http://www.rid.org)  
Interpreting in Legal Settings (2000), Team Interpreting (1997), Use of a Certified Deaf Interpreter (1997).

- Rozan, J. F. - (n.d.) 7 Principles of note-taking. Interpreter Training Resources. Retrieved March 15, 2009 from: [Principles of note-taking](#)
- Russell, D. (2002). Interpreting in legal contexts: Consecutive and simultaneous interpretation. Sign Language Dissertation Series. Burtonsville, MD: Linstok Press.
- Seleskovitch, D. (1978a). Interpreting for international conferences. Washington, DC: Pen & Booth.
- Seleskovitch, D. (1978b). Language and cognition. in D. Gerver & H. Sinaiko (Eds.), Language interpretation and communication. New York: Plenum, 333-342.
- Tileston, D. E. (2000). Best Teaching Practices: How Brain Research, Learning Styles and Standards Define Teaching Competencies. Thousand Oaks, CA: Corwin Press, Inc. 23-25.
- University of Rochester. (2004). Short term memory's effectiveness influenced by sight, sound. Science Daily. Retrieved March 15, 2009, from: [Science Daily](#)
- Vidal, M. (1997, Winter). New study on fatigue confirms need for working in teams. Proteus, (6)

## Appendices

### Appendix A:

The National Consortium of Interpreter Education Centres (NCIEC) was funded from 2005-2010 by the U.S. Department of Education, Rehabilitation Services. This project was led by the Mid America Regional Interpreter Education Centre (MARIE).

The original Best Practices document may be found here: [NCIEC Legal Best Practices 2009](#)

*Permission is granted to copy/adapt the materials, provided that National Consortium of Interpreter Education Centres is credited as the source and referenced appropriately.*

### Introduction given in the original document:

The mission of the National Consortium of Interpreter Education Centres (NCIEC) is to build and promote effective practices in interpreting education. The NCIEC draws upon the wisdom and energy of experts, consumers and other stakeholders to advance the field. The NCIEC is dedicated to challenging the status quo by promoting innovation, strong partner networks and multiculturalism throughout its programming. As responsible stewards of public funding, NCIEC is committed to products, programs and services that maximize resources and are replicable, measurable, sustainable and non-proprietary.

Towards the goal of increasing the number of qualified interpreters and to advance the field of interpreting education, the NCIEC has established a number of work teams dedicated to a specific area of specialisation. One such workgroup is the NCIEC Legal Interpreting Workgroup, comprised of a group of core and expert members focused on defining the best and effective practices associated with legal interpreting.

Interpreting in the legal setting is a long-recognised area of specialisation in the field of ASL-English interpreting. Tradition from the field of spoken language interpreting and legal community contribute to the conventional way legal interpreting work is performed. As well, practices have been conceived by ASL-English interpreter practitioners over time through a process of application of theory drawn from the profession's scholarship. As more scholarship and research emerge, practices evolve, improve, and change.



The NCIEC Legal Interpreting Workgroup has sought to further this process by building a series of expert, practitioner, educator and consumer partnerships that deepen our understanding of the work of interpreters in the legal setting. Through a series of focus groups and expert consultations with deaf and non-deaf interpreter practitioners specialising in legal interpreting, and with consultation from members of the judiciary, the NCIEC Legal Interpreting Workgroup has developed this document of current Best Practice that addresses some of the most critical and essential elements of legal interpreting work.

As the work of the NCIEC Legal Interpreting Workgroup continues, and the practices discussed within this document are applied more consistently by legal interpreting practitioners, these Best Practices are likely to be improved and to evolve further. As well, additional practices, particularly those relating to unique settings within the legal system such as immigration, custodial interrogation, video remote interpreting and juvenile matters, will be considered, examined, and documented. Therefore, this document is viewed as an evolving one that will continue to improve over time and application.

© 2009 National Consortium of Interpreter Education Centres - Legal Interpreting Workgroup

## Appendix B

**Further reading**

Publicly available resources related to interpreting in legal settings:

Advocate's Gateway (2014) "Planning to question someone who is deaf": [Planning to question someone who is deaf](#)

ALVIC (2011) "Interpreting legal discourse & working in legal settings: An AVLIC position paper": [AVLIC Legal Discourse](#)

Crown Prosecution Service (2011), "Interpreters": [CPS: Interpreters](#)

Directive 2010/64/EU of the European Parliament and the Council (20, Oct 2010). On the right to interpretation and translation in criminal proceedings: [Directive 2010/64/EU](#)

The Equal Treatment Bench Book: [Equal Treatment Bench Book](#)

Equality & Humans Rights commission (2009). Right to a fair trial: [EHRC Right to a Fair Trial](#)

Improving Police and Legal Interpreting (IMPLI) 2011 - 2012. Final Report. [EULITA: IMPLI](#)

Law Society, (2011), "Police interviews involving sign language interpreters" (archive version): [Law Society: Police Interviews with SL interpreters](#)

Metropolitan Police (2007), "Working with interpreters": [The Met: Working with Interpreters](#)

Ministry of Justice (2011), "Achieving Best Evidence in Criminal Proceedings": [MOJ ABE](#)

Roberson, L., Russell, D., & Shaw, R. (2012), "American Sign Language/English interpreting in legal settings: Current practices in North America". *Journal of Interpretation*, 21(1), 6.

Stewart, K., Witter-Merithew, A., & Cobb, M. (2009), “Best Practices: American Sign Language and English Interpretation within Court and Legal Settings”. National Consortium of Interpreter Education Centres (NCIEC): [NCIEC Legal Best Practices](#)

## Appendix C

### Other sources

[Association of Police and Court Interpreters](#)

[European Legal Interpreters and Translators Association](#)

[JUSTISIGNS Project](#)