COMPREHENSION OF LEGAL DISCOURSE IN INTERPRETER-MEDIATED JUDICIAL PROCEEDINGS

Julia Lambertini Andreotti

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DOCTORAL THESIS

Intercultural Studies Group

UNIVERSITAT ROVIRA I VIRGILI

Department of English and German Studies

Tarragona
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Supervised by Dr. Franz Pöchhacker

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I hereby certify that the present study, "**Comprehension of Legal Discourse in Interpreter-mediated Judicial Proceedings**", presented by **Julia Lambertini Andreotti** for the award of the degree of Doctor, has been carried out under the supervision of myself at the Center for Translation Studies of the University of Vienna and that it fulfills all the requirements for the award of Doctor.

Vienna, 30 October 2015

(Ao.Univ.Prof.Dr. Franz Pöchhacker)

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Abstract

In California, non-English speakers involved in judicial proceedings are assisted by a language interpreter to give them *equal footing* with English speakers, a purpose articulated in a code of ethics that also requires interpreters to preserve the source form in the target language, and keep silent even when non-comprehension is suspected. This intercultural communicative event involves judicial officers who use a formal register of legal language; Spanish speakers from a different culture, education level, and exposure to (a different) legal system; and interpreters who are required to be as invisible as humanly possible. This research aims to help gain a better understanding of the interpreter's role and the effectiveness of interpreter-mediated judicial proceedings. Within a translation-theoretical framework drawing on the concepts of target-text function (skopos) and institutional translational norms, a listening comprehension test was designed to examine the implied claim of equal access to language by comparing the comprehension achieved by English speakers and Spanish speakers, and exploring the possibility of enhancing Spanish speakers' comprehension by simplifying the language register. The test results indicate that while the English speakers' scores were not ideal, they were nearly twenty times higher than those of the first group of Spanish speakers (equal register), and much higher than those of the second group of Spanish speakers (simplified register). Interviews were also conducted with interpreters and attorneys to explore their views on Spanish speakers' comprehension, register adjustment, and interpreter intervention. The results show, first, that interpreters and attorneys acknowledge the comprehension gap caused by the inaccessibility of the legal register for Spanish speakers and their inability to articulate non-comprehension; and, second, that although interpreters follow established institutional norms when in plain view, when the risk of exposure is low, other norms may obtain: register simplification, clarification, explicitation, and intervention in cases of non-comprehension. The results also show that attorneys welcome and value interpreter interventions, and ask that they intervene and simplify the language to improve communication. In short, the results show that established institutional norms prevent interpreters from achieving the equal footing purpose. To attempt to achieve it, interpreters behave as experts when circumstances allow and the risk of criticism or challenge is low, and attorneys expect and request interpreters' intervention and cooperation.

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I dedicate this work to my father, who gave me the love for knowledge; my mother, who gave me the love for languages; and my daughter, whose love sustains me.

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Chapter 1. Introduction

"In a criminal proceeding, rights are conveyed by words. Words have meaning. If the words have no meaning to a defendant, then such a defendant has no rights. A trial without rights is a proceeding without due process of law and fundamental fairness. It is a sham" (Judge Carr 2001). This statement was meant to reinforce and highlight the need to provide court interpreters for non-English speakers, in the sense that words would have no meaning if interpreters were not provided. However, what if court interpreters were provided and words still had no meaning? Would this still apply? The purpose of this thesis is to investigate the comprehension of legal language by non-English speakers in judicial proceedings when assisted by an interpreter. More specifically, this research is focused on the Spanish language and on California, where the demand for and provision of court interpreters have increased considerably in the last decades due to the great influx of immigrants, mostly from Latin America. Although the title of the study refers to language comprehension, this comprehension is analyzed in the context of interpreter-mediated encounters, that is, as a byproduct and consequence of the interpreter's decisions as constrained by institutional norms and purposes. The comprehension of legal language in interpreted judicial proceedings is at the core of a particular intercultural communicative event framed by the system and the participants. Therefore, in order to develop an understanding of comprehension opportunities, all constraining and facilitating angles must be examined: the non-English speaker, the system and its legal actors, the legal language, and the interpreter's role.

1.1. Motivation for the study

The motivation to research the comprehension of legal language in interpreter-mediated judicial proceedings was personal as well as professional. I became a court interpreter over twenty years ago, after completing an 18-month interpreting program and several attempts at the oral certification exam. The program had introduced literally thousands of new words and concepts in both working languages and their varieties, words that candidates were required to understand, memorize, and retrieve at 140 to 160 words per

minute. Despite having over eighteen years of formal education, these words and concepts were completely new to me: the judicial system, forensics, firearms, drugs, slang, idioms, and the like. Having graduated from the course with considerable self-confidence and self-assurance that I was more than prepared for the task, two things made me reevaluate my presumed readiness when, upon passing the certification exam, I began working in different judicial settings, including the court: I had a very hard time understanding speakers of Spanish (my first language), and they had a very hard time understanding me. Aside from the difference in vocabulary due to the many Spanish varieties in play, there was another category of words and expressions that were half English and half Spanish, deeply rooted and widely varied, but nevertheless unknown to me. The Spanish variety they were using did not match my variety or the variety required for the certification exam. On the other hand, instances of Spanish speakers asking for clarification or explanation during breaks or after a proceeding had finished became too frequent, even in terms of "who won?" or "which one is my attorney?" I was following the code of ethics, interpreting as required into a language register that took me years to learn, for non-English speakers who not only had not had any exposure to the U.S. judicial system, but whose education level was usually elementary school. It was clear that communication was not always achieved, but there was really not much interpreters could do. Several years later, while pursuing my coursework in Translation Studies, I was exposed to different translation theories and other ways of looking at translation, outside the Californian context. It was not until I learned about the existence of different paradigms that I could start to envision a way to understand the mutual misunderstandings. Following a code and rules based on formal equivalence, I then learned that it was not only possible but also necessary to take into account the social and cultural factors that made up the intercultural communicative event and that target-audience constraints could also be part of the equation, and the idea of investigating court interpreting from a target-oriented approach seemed to offer promising possibilities for my quest.

1.2. Court interpreting in California

According to the *Professional Standards and Ethics for California Court Interpreters*, non-English speakers involved in legal proceedings are assisted by a language

interpreter so that they may be placed on an *equal footing* with those who understand English (CAJC 2013a: 3). Laws and guidelines recommend that target-language equivalents be found to elicit the same reaction from target-language listeners as would be elicited from source-language listeners (CAJC 2001). Implied in these guidelines is the premise that language is the only gap between English speakers and non-English speakers, and that using an interpreter would be enough to bridge said gap. However, this premise does not seem to account for several other constraints present in this intercultural communicative event: on the one hand, a multiple challenge faced by immigrants in U.S. courts that far exceeds the language difference, and includes linguistic, cultural, social, educational, and contextual factors; and on the other, issues related to the interpreter's role, competence, capabilities, loyalty, and ethics. It would be too ambitious to explore in detail every possible constraint on comprehension in this intercultural communication event, so this research will focus on the interpreter's role, and more specifically, on the standards requiring source orientedness and invisibility. The source orientedness in this context refers to standards requiring interpreters to be faithful only to the source text, and invisibility refers mainly to the standards preventing interpreters from intervening in cases of non-comprehension. Interpreters are required to follow a code of ethics that sets the standards for interpreter performance, among which is the requirement to maintain the register of the source text in the target text, and to keep silent even when miscomprehension is suspected. The rationale for maintaining the register when interpreting into English is related to conveying a true image of the non-English speaker for the judge and the jury. The rationale for maintaining the register when interpreting into the foreign language is twofold: not interfering with legal strategy (during questioning) and not giving the non-English speaker an advantage over the English speaker who would hear the same language in the same situation.

This scenario involves several arguably conflicting factors: (1) an interpreter who is bound by a code and must be faithful only to the source language, (2) a language accessible for the most part only to members of the judicial discourse community, (3) a fundamental cultural and educational difference between interlocutors, and (4) a code of ethics interpreters must follow and comply with at the risk of being sanctioned (in Dueñas González et al. 2012: 1303). The requirement to conserve the register of the source language in the target language seems to be supported by all standards and codes, leaving the fate of non-English speakers to be decided in a linguistic framework unfamiliar to them and a culture that is not their own.

O'Barr describes four varieties of courtroom language: (1) formal spoken legal language, which lawyers and judges use when addressing each other and judges use for addressing the jury, discussing motions, passing judgment, and "speaking to the record;" (2) standard English, which includes a formal lexicon and is used mainly by attorneys and most witnesses; (3) colloquial English, similar to everyday talk and used by some attorneys and witnesses; and (4) subcultural varieties (1981: 396). In criminal cases, the defendant may not be compelled to testify. If the defendant does testify, during testimony the interpreter will most likely work in the consecutive mode (both from Spanish into English and English into Spanish) and the register used will be standard English, colloquial English, or a subcultural variety. The questions and answers will be heard by all present, who will most likely be able to identify comprehension issues as they will be evidenced either by a non-responsive answer (i.e. an answer that is not a direct or relevant response to the question asked; see Montz 2002: 291), by the defendant's silence or puzzled look, or by the defendant's request for clarification. Except for the testimony of other lay witnesses, the rest of the proceeding will be conducted using the formal legal language described by O'Barr (above) to argue motions, objections, legal precedents, during expert testimony or jury instructions, all of which together may represent the whole proceeding for defendants who do not testify, or most of the proceeding for defendants who do. If the defendant does not testify, the interpreter will interpret the whole trial only for the defendant, usually in simultaneous mode, by whispering or through electronic devices. It is precisely this English into Spanish delivery that this research aims to study, excluding all types of dialogue between the Spanish speaker and any other participant, as during this simultaneous delivery comprehension issues are not observable and defendants do not have the chance to ask for clarification. In other words, this research is not concerned with how the non-English speaker will be perceived by the judge or the jury, or how the interpreter may impair legal strategy, which are the first two reasons cited above for conserving the original register and which may occur only during testimony. This research is only concerned with the English into Spanish delivery in non-dialogic interpreting, when the only reason for conserving the original register would be to avoid placing non-English speakers in an advantageous position over the English speaker; when the interpreter's delivery does not influence witness perception and does not interfere with legal strategy; and when the only target-language listener is the non-English speaker.

1.3. Translation theoretical framework

In keeping with the sociocultural turn that has made itself felt in Interpreting Studies, this research seeks to bring the social, cultural, and educational constraints of the target-language receiver into the equation of modern-day judicial interpreting in California, which is still guided by principles of formal equivalence and source orientedness. Interpreters are instructed to follow strict performance guidelines that, as court officers, they must accept without any challenge or reflection. The reality of the courtroom against this backdrop seems to trigger a communicative clash in which an interlocutor whose comprehension may be hindered due to cultural and educational constraints must confront a high formal register of legal language. In order to account for these target constraints, a target-oriented approach was applied to investigate this communicative event borrowing concepts from skopos theory and Toury's notion of norms (1980, 1995), two conceptual frameworks that challenged the equivalence paradigm (Schäffner 2010). Functionalist translation theory (skopos theory) seems an appropriate theoretical framework to examine this complex intercultural communication scenario because it allows giving priority precisely to the sociocultural and situational constraints of the target-culture receiver. Since many of these constraints are intimately related to institutional and professional norms, this intercultural communicative event will also be examined by investigating the norms at play and interpreters' attitudes toward these norms.

Drawing on these two conceptual frameworks, I will attempt to move from a formal equivalence relationship between texts as prescribed by the institution and situate this relationship in a sociocultural context, where interpreters' decisions are guided by institutional norms and constraints. I will use the notion of translation as a goal-oriented action and borrow concepts from skopos theory to analyze the institutional framework of California courts with regards to the norms established for interpreting practices in this particular intercultural communicative event. I will attempt to determine if the practices established by the skopos-determining and norm-setting authorities are effective in meeting the *equal footing* purpose defined within the system.

1.4. Research problem

In recent decades, there has been extensive research on court interpreting, mostly focused on the ways interpreters' decisions affect a jury's perception of non-English speakers, and there has also been research on the comprehension of English legal language by English speakers. However, there is not enough information about non-English speakers' comprehension of interpreted English legal language, or about how this comprehension compares to that of English speakers. This lack of attention is significant because the *equal footing* premise assumes that non-English speakers are receiving the same information as English speakers, when in fact they may not have the same tools to understand or apply the information they receive. The Sixth Amendment to the United States Constitution guarantees defendants procedural rights in all criminal proceedings, including the right to confer with their attorney at any time and the right to see and hear all evidence and witnesses presented against them (CAJC 2013a: 33-34). The fundamental principle of fairness requires

> that an LEP [Limited English Proficient] individual be able to be fully present during a legal proceeding: an interpreter is provided in order for him to understand what is discussed and decided (including questions asked of him, the statements of the judge, and testimony of others), and to participate in the proceedings (including consultations with an attorney, cross-examination of witnesses, and delivery of his own testimony). (ABA 2012: 20)

In this particular context, the official purpose of interpreting as articulated in the code of ethics is to ensure that non-English speakers and English speakers show the same level of comprehension (equal footing); however, the same code also requires that the source form and register be maintained (CAJC 2013a). Skopos theory posits that in order to achieve the purpose of the translation, both linguistic correspondence and adaptation to target audiences are equally conceivable and negotiable skopoi. To address and begin to develop an understanding of this problem, this study aims to compare the comprehension levels achieved by English speakers and Spanish speakers in both ways: with linguistic correspondence (as required by the client) and with adaptation to target constraints (as allowed by the theory). In skopos theory, the translator/interpreter is the expert in charge of making strategic decisions in line with the skopos determined for the communicative event, taking into account the sociocultural constraints of the receiver. Adjusting the register in order to facilitate and

attempt to achieve the purpose of communication may be one of those strategic decisions. I will attempt to determine whether by focusing on target audience comprehension—as allowed by skopos theory—and hypothetically giving interpreters license to adjust the register, comprehension (and communication) during judicial proceedings with Spanish speakers can improve. This research is based on the following two hypotheses:

1. English speakers and Spanish speakers will not show the same level of comprehension when presented with a spoken text reflecting the same high register of legal language.

2. When the register is simplified, the comprehension level in Spanish speakers will increase.

1.5. Methodology

Since this research design involves quantitative and qualitative components utilized to address different aspects of this intercultural communication event concerning an interaction among (at least) three main interlocutors, this study triangulates data from all three sources: interpreters, attorneys, and non-English speakers. This quantitative and qualitative research consists of three main sections:

1. The comprehension of legal language by non-English speakers may be hindered by several constraints related to sociocultural differences, the interpreter's role, and the limited accessibility of legal register. This study provides an overview of each of these factors, but focuses on the adjustment of English legal register when translating into Spanish as a way to enhance comprehension. In alignment with the premise in the code and literature that providing an interpreter means placing the non-English speaker on *equal footing* with the English speaker, the quantitative component consists of a listening comprehension test that was designed to examine the implied claim of equal access to language in terms of comprehension. This test involved a listening comprehension exercise administered to three groups with ten participants each: one of English speakers, and two of Spanish speakers working with different language registers.

For this test, five sentences were selected from sample interpreter certification exams and California jury instructions, and each of these sentences was paired with a

listening comprehension question. These five original English sentences were translated into Spanish with conservation of register, and these five translated sentences were later modified to reflect a simplified register. The Spanish translation of the five original English sentences with register conservation was produced by a focus group having nine court certified interpreters, and the register simplification of these five translated sentences was produced by a second focus group comprised of six court certified interpreters. The first set of original English sentences was used with a group of English speakers, the first set of Spanish translations with original register conservation was used with a group of Spanish speakers, and the second set of Spanish sentences with register simplification was used with a different group of Spanish speakers.

2. The qualitative component of the design involved gathering data through semi-structured interviews with interpreters and attorneys. The interviews with interpreters focused on gathering information about their views and attitudes about register and the rationale behind the code requirement, adjustment of register, intervention, differences in practice across settings, and role constraints in matters of facilitating comprehension, mainly in terms of exploring their attitudes toward established institutional norms. Interpreters' views were also explored in the second part of the first focus group: after completing the translation task, some of the most relevant points of this study were presented to invite a discussion and obtain feedback. The interviews with attorneys focused on gathering information about their discourse practice while working with English-speaking and Spanish-speaking clients, issues of comprehension, and their views on interpreter interventions.

3. A third focus group with six monolingual lay Spanish speakers was convened with two purposes: to obtain feedback about the terminology found in the five original-register Spanish sentences, and to attempt to collectively produce another set of simplified-register Spanish sentences in order to compare them with the simplified-register Spanish sentences produced by the interpreters in the second focus group, mainly in terms of vocabulary. These two sets of sentences were compared to examine similarities and differences in criteria on vocabulary comprehension between interpreters and monolingual Spanish speakers.

1.6. Thesis outline

Following the introduction, chapter 2 will first examine the demographic, educational, cultural, and linguistic aspects of the setting, California. Chapter 3 will examine court interpreting in California: the laws that provide for interpreting services in judicial proceedings, state requirements for interpreter certification, and the standards interpreters must follow once they are certified. Among these standards, this study will particularly review the requirement to maintain the register from the source language into the target language and its implications. This chapter will also include an overview of judicial proceedings and the language of the law. Since one of the main concerns in this research involves the standard of maintaining the original register and the impact this might have on comprehension, the language register will be examined next in chapter 4. This chapter will include a description of register features, and an exploration of the register of legal language as well as of the Spanish language varieties most commonly found in California. Another main focus of this research involves aspects of comprehension and communication, which will be discussed in chapter 5. This chapter will also examine the comprehension of legal language and three major events that were brought about to facilitate it: the plain language movement, the revision of jury instructions in California, and new legislation enacted to provide language access for people whose primary language is not English. This new legislation seems to put a different view of the interpreter's role into perspective; this will be presented at the end of this chapter. Following the examination of all contextual aspects of this study, chapter 6 will present the translation theoretical frameworks of functionalist theory and translational norms, and explore the way in which the norm-governed roles assumed by all participants shape non-English speakers' comprehension in this particular intercultural communication event. Chapter 7 will describe the research question followed by the research design and a pilot study conducted to test the instruments, which were designed to collect empirical data to explore English speakers' and Spanish speakers' comprehension of legal language, attorneys' views on interpreter intervention, and certified interpreters' views on register and register adjustment. The methodology for the main study will be detailed in chapter 8, including the participants, instruments, and procedures for each of the components: semi-structured interviews with interpreters and attorneys, a focus group with lay Spanish speakers, and the listening comprehension test with English speakers and Spanish speakers. It will also describe the procedures

followed to design the instrument for the listening comprehension test, including the two focus groups conducted with court interpreters to produce the Spanish versions of the sentences for the test. Chapter 9 will describe the findings of the research, in which I collected information from multiple sources to triangulate the data with the purpose of increasing the validity of the results, gaining a better insight into this particular communication event, and exploring it from different standpoints. Chapter 10 will include a discussion of the main results, and chapter 11 will present a summary of the key findings and an outlook on further research.

Chapter 2. Sociocultural context

2.1. Demographic background

According to the U.S. Census (2014), in 2014 the United States had about 319 million residents, including over 55 million Hispanics who represented about 17.4 percent of the total U.S. population. As of 2010, the United States had the second largest Hispanic population worldwide, following only Mexico (Infoplease 2015). Also in 2014, California was home to about 39 million residents, including almost 15 million Hispanics—the nation's largest minority and the fastest growing population—who represented 38.6 percent of the state's total. Long Beach, a metropolitan area in Los Angeles, California, is home to about 5.8 million Hispanics—the nation's largest Hispanic population—representing about 11 percent of the nation's total. The largest Hispanic group is of Mexican origin, estimated at 11.5 million and representing 83 percent of the Hispanic population in California, and 65 percent of the nation's Hispanic population. The Mexican population is followed in size by that of El Salvador and Guatemala, at 22 and 21 percent of the U.S. Hispanic population, respectively. The Hispanic population grew about 43 percent between 2000 and 2010, including a 54 percent increase in the Mexican-origin population. From the California Hispanic group, the U.S. Census Bureau estimates that 5.4 million or 37 percent are foreign-born from Latin America, 78.8 percent of whom are from Mexico. This represents the largest immigrant population in the nation: since March, 2014, Hispanics have surpassed the White population in California (Latin Post 2014, Take Part 2014).

"The use of the terms 'Hispanic' and 'Latino' to describe Americans of Spanish origin or descent is unique to the U.S. and their meaning continue to change and evolve" (Pew 2012d). The terms *Hispanic*, *Latino*, and *Spanish* are commonly used to refer to any person who originates from Spain or any of the Latin American Spanish-speaking countries, and this origin "can be viewed as the heritage, nationality group, lineage, or country of birth of the person or the person's parents or ancestors before their arrival in the United States" (U.S. Census n.d.). For the U.S. Census Bureau, however, Hispanics are "anyone who says they are" and they can be from any country, any race, any immigrant status, and not all Hispanics from Spanish-speaking countries identify themselves as such (Pew 2009a: 1). For example, in 2010 over 19 million people

selected the category "some other race" in the Census questionnaire, most of whom were Hispanics (Pew 2012c: unpaginated). A Hispanic survey conducted by Pew found that while half of Latinos identified their race as "some other race" or "Hispanic/Latino," 36 percent categorized themselves as White, and 3 percent as Black (Pew 2012d: 3).

2.2. Education

The education data collected by the U.S. Census Bureau for California does not differentiate foreign-born from U.S.-born Hispanics, so the educational attainment levels reported cannot account for the school years completed by Hispanic immigrants alone. From the data collected about the United States as a whole, Pew (2012: unpaginated) reports that in 2012, about one million U.S.-born Hispanics (7.23 percent) and over five million foreign-born Hispanics (32.3 percent) ages 25 and older had an educational attainment level of less than ninth grade, while about 1.5 million U.S.-born (12.3 percent) and about 2.6 million foreign-born (16.7 percent) had attained an educational level of between ninth and twelfth grade. Based on this data, the total of Hispanics who had attained less than a high school degree was approximately 68.6 percent in 2012. However, this information may be somewhat misleading for several reasons, among them the reliance on self-identification (see 2.1. above). Other problematic aspects of data collecting relate to low response rates due to low education, literacy and language ability, distrust and fear of deportation or changes in eligibility to participate in government benefit programs, and/or the limited access to rural residents (The Leadership Conference 2015: unpaginated). Also, the U.S. Census does not report detailed educational attainment levels below the ninth grade, so this category includes people who have never attended school, people who are completely illiterate, and people who only reached second or third grade. The data about educational attainment levels also shows inconsistencies with relevant literature.

Fortuny et al., for example, indicate that most adults between 25 and 64 years of age who have completed less than nine years of schooling are immigrants: "92 percent in California and 94 percent in Los Angeles" (2007). While Grogger (2002: 11) finds that the average educational attainment of foreign-born Mexicans is about eight and a half years of schooling, Palerm et al. (1999: 73) state that over 60 percent of Mexican

immigrants have only an elementary education (sixth grade). High school completion of Hispanic immigrants over 25 years of age is reported at 30-35 percent (CDC 2012a: 15, EDD 2007), compared with 86.4 percent for the general U.S. population (Pew 2012: 15-17).

In general, it is reported that the educational attainment levels of Hispanics (Stamps et al. 2006: 4; Pew 2013a: 9, 17; Reyes 2001: viii; Rearick 2004: 544) and particularly immigrants from Mexico (Grogger 2002: 11, Brick et al. 2011: 7, Reed 2005: vii, Hill 2003: 10, Camarota 2001: 17) are significantly lower than the educational levels attained by any other ethnic group in the United States. According to Valdés et al. (1998: 476), it has been shown that most Mexican immigrants in the United States have not attained a high educational level. In contrast, in 2012 only 2.6 percent of Whites alone and 4.7 percent of Blacks alone had an educational attainment level of less than ninth grade. In the same year, the average education attainment level for Whites alone was 13.5 years (Pew 2012: unpaginated).

The educational disparity between non-English speakers and English speakers is also noted in the school setting. Echevarria et al. report that non-English speakers show significantly lower achievement levels, lower standardized test scores in reading and math, and have the highest dropout rate of any group (2004). Erisman et al. (2007: 5) also report that immigrants from Latin America and the Caribbean have the highest school dropout rate and are the least educated group, particularly those who migrate between 13 and 19 years of age. The reasons cited include lack of information about the education system, limited English proficiency, financial needs, work and family responsibilities, and insufficient academic preparation, even among those who have completed high school (see also Pew 2013b: unpaginated). Pew reports that the dropout rate in 2013 was almost three times the rate for Whites, and that Latinos grow up in less educated families, with over 40 percent indicating their parents do not have a high school diploma. Furthermore, 65.7 percent of foreign-born Hispanic youths are not enrolled in high school or college (2013b: unpaginated). A report submitted by the United States-Mexico Cultural and Educational Foundation to the U.S. Department of Labor (Bulow 2005: 4) states that employers develop training materials free of language, which rely on colors and pictures because Hispanics lack basic language skills.

2.3. Sociocultural traits

Spanish speakers in California include U.S.-born and foreign-born residents with roots in many different countries and cultures, and it would be unfeasible to attempt to describe individual features of each and all. However, the literature describes some strong common traits among the Latino subgroups that are worth mentioning, as they are relevant to this research. Marcos et al. (1980: 134) state that psychiatric evaluations of Spanish speakers in the United States have found that this population is distinguished by certain cultural values, and that clinicians who are not familiar with these cultural traits often misunderstand or misdiagnose these patients. These traits include culturally-bound notions of machismo, respect, dignity, family, and a particular stance toward authority, among others. For instance, Hispanics usually prefer not to establish eye contact during conversation in order to show respect (Scarcella 1990: 132), or because it may be interpreted as challenging or intimidating (Guarnero 2005, CDC 2012b: 15). This occurs particularly when communicating with authority figures toward whom they would display limited verbal expressiveness (Rivera 1997: 76-77). Respect is inherently ascribed to people in higher positions, as opposed to the U.S. mainstream ideology, where respect must be earned (Schauber 2001: 135). In school, students may prefer not to ask the teacher for clarification because they feel that it is disrespectful or impolite to use the teacher's time to that end (135-136). Nelson et al. (2001: 468) interviewed Mexican students in Mexico and native English-speaking students in the United States. In comparing the results, they found that the notion of respect held a different meaning for Mexican students than for U.S. students. Some of the findings showed that U.S. students felt that when they disagreed with a teacher, this teacher would listen with respect, maybe thank the student for catching something the teacher may have missed, and discuss the disagreement in class based on the student's intervention. On the other hand, most Mexican students in the same situation would blame themselves for misunderstanding and fear that teachers would assert their authority and reprimand them (2001: 468-469). The U.S. Department of Health and Human Services sets up training programs for serving Hispanic consumers, in which they also address the issue of respect. They recommend not asking direct questions about problems concerning sexual practices, mental health, domestic violence, etc. because Hispanics usually keep this information private within the family, and it could prove to be an embarrassment or a challenge (HRSA 2001: 30). They also point out that the notion of respect may lead

Hispanics to avoid disagreeing, asking questions, or admitting confusion about medical treatment, and that patients might withhold information to avoid showing negative feelings, which is a cultural norm. Based on values such as respect and dignity, they usually avoid interpersonal conflict and disagreement (Triandis et al. 1984: 1363), and show politeness (Guarnero 2005) and formality (Clutter et al. 2009: unpaginated), as conveyed by the distinction between the polite "usted" and the familiar "tú" forms of address. They are warm, open, and silence can be perceived as punishment, meanness (Albert 2004: 256, 273-274) or "doubt, shyness, disapproval, anger, politeness, or not understanding" (CDC 2012a: 15).

The family is considered "the primary group from whom they derive a sense of satisfaction, connection, and identity" (Schauber 2001: 135), and "the most important social unit" (Clutter et al. 2009: unpaginated). It includes members outside the nuclear family (Clutter 2009: unpaginated, Schauber 2001: 134), and values *privacy*, which may apply to domestic issues that Mexicans consider private and outside the state's jurisdiction (Palerm et al. 1999: 84). Having a domestic issue tried in public may be "seen as a humiliating and intolerable violation of privacy and loss of control," and it would be hard to accept restraining orders because they cannot accept the court's involvement in their family life. For example, women are commonly unwilling to discuss the particulars of sexual crimes (Bauer 1999: 25). Palerm et al. also refer to the *pride* of the Mexican culture, which may prevent Spanish speakers from providing negative information about themselves or members of their family. This pride is related to a Latino trait of masculinity, whereby the family relies on the men for support and safety (1999: 92-93).

Chavez explains that undocumented immigrants live in constant wariness and fear of being apprehended or deported. He adds that their participation in tax-supported programs such as health care, education, and housing is limited by government policies, and that they are the targets of workplace raids undertaken by INS agents (1992: 19). He stresses that "as *illegal aliens*, they are not members of the community" (emphasis in original), and thus are cast as outsiders. This fear of apprehension and deportation may lead immigrants to do things that authorities may question, such as delivering their children at home to avoid hospitals (1992: 168) and avoiding procuring medical care (CDC 2012a: 14). Pew estimates that among Hispanics, about 41 percent of those foreign-born and 58 percent of the foreign-born youth are unauthorized immigrants (2013b: unpaginated), and that 32 percent of Hispanics and 45 percent of unauthorized

foreign-born Hispanics "know someone who has been deported or detained by the federal government in the past 12 months" (2010: v, 11). Pew (2013a: 7) also reports that the naturalization rate of Mexicans is "half that of legal immigrants from all other countries combined" at 36 percent, and that the largest group of illegal immigrants are Mexicans, who account for "6.1 million (55%) of the estimated 11.1 million in the U.S. as of 2011" (Pew 2013c: 5). Among the legal residents, the reasons for not becoming U.S. citizens include language and financial barriers, as the cost is currently $680 per application. Paired with language barriers and lack of information, the unauthorized status of most Hispanics also precludes them from voting and having a voice in the political arena (Rearick 2004: 544, Johnson 2009). Due to lack of education, English proficiency, and legal status in the United States, the employment of about 52.4 percent of foreign-born Hispanics involves low-skill occupations such as agriculture, food and hospitality service, construction, manufacturing and production, and cleaning and maintenance (Fortuny et al. 2007: viii, Pew 2013b, Portes et al. 2004: 11927). These occupations pay low wages and usually do not offer health insurance: Hispanics have the highest uninsured rates among all ethnic groups in the United States, at 32 percent for the U.S.-born and 50 percent for the foreign-born (CDC 2012b: 11).

2.4. Hispanics in court

While the U.S. legal system originated in the Anglo-American or common-law system, Latin-American countries based theirs on Roman law or civil law. The common and civil law systems have numerous and fundamental differences, both in the meaning and the application of the law. One of the main differences is that while in civil law decisions are based on codified laws, in common law decisions are mainly based on judicial precedents. These are previous judicial decisions for comparable cases that the judge applies to make a ruling on each new case, and these new decisions become new binding precedents to be applied in subsequent cases. Common law operates within an adversarial system in which two opposing sides submit evidence and present their case before a judge who oversees the proceeding and decides the case. Civil law, on the other hand, is an inquisitorial system in which the judge examines the witnesses, clarifies the issues, and interprets and applies the written laws to make a decision based on what he determines as true. While civil law relies more on written evidence, common law relies

on oral arguments. Among the most significant differences relevant to this research is the fact that Latin-American countries have not had a tradition of oral trials, which are just now being implemented in Argentina (AAJJ n.d.) and Mexico (CJF 2011: unpaginated) for the first time. Messitte also points out that in civil law, the questioning of witnesses is conducted by the judge, who takes notes that will comprise the record, as opposed to a verbatim account of the proceedings (1999: unpaginated). Lastly and also of relevance to this study, civil law does not allow attorneys to prepare witnesses before the proceedings, while witness preparation is an important part of common law systems (Pejovic 2001: 834, Robbins 2010: unpaginated).

Besides the differences in laws and judicial systems, another relevant factor is the scarce contact that U.S. immigrants and refugees may have had with the criminal and civil systems in their home country, and the scarce knowledge they may have of the legal language and legal features that characterize the U.S. legal system (Moore 1999: 25, 167). Palerm et al. state that in Mexico the administration of justice is not open to ordinary citizens, and the use of juries is very recent. Therefore, it is highly unlikely that Mexican immigrants would be familiar with judicial roles or proceedings, and that the fact that the outcome of the case is decided by a jury of "peers" might confuse them (1999: 81-91). In other countries, low-income parties may not be afforded the right to a court-appointed attorney. Consequently, they view their attorneys as giving priority to the government's interests over their own (DeMuniz 1999: 160). In summary, if there has been any contact at all between immigrants and the law in their home countries, this contact has been with a different legal system than the one they will find in California, where very few of the jurors, whether of Hispanic origin or not, will be their peers in terms of education level, sociocultural background, and English language proficiency. This lack of knowledge will probably also affect their comprehension of U.S. judicial proceedings when they have their day in court.

The relationship between Mexicans, the government, and police authorities is also highly significant to this research. Palerm et al. explain that "Mexico continues to operate in a complex hierarchy and culture of institutionalized corruption and vigilante activities that intimidate the general population" (1999: 79). They also report that the police victimize, threaten, and rob citizens; that international and domestic human rights organizations often cite government agencies, and that judges and lawyers are seen as "the ultimate and powerful authorities to be feared" (1999: 81). In a study by Demuth, it was found that Hispanic defendants may be more reluctant to cooperate with authorities

out of fear, distrust, and lack of familiarity with the judicial system. They are also more likely to be detained, deported, or treated harshly, and "more likely to be denied bail, more likely to have to pay bail to gain release, required to pay higher amounts of bail, and more likely to be held on bail" (2003: 901). In a report on language use and interpreter need submitted to the California legislature in 2010, the Judicial Council reported that Spanish was the language most used in the five-year period of 2004-2008, representing 83 percent of all mandated service days (ISR 2010: xvi). This showed a strong Hispanic presence in the courts, one which has increased faster than the U.S. population in all parts of the criminal justice system (Pew 2009b: i). Pew also reports that about 31 percent of Hispanics are friends with, or related to, a current or former gang member, more so among the U.S.-born (40 percent) than the foreign-born (17 percent). Also, about 56 percent report the presence of gangs in schools (2013b: unpaginated).

Although English speakers may never have been involved in a judicial proceeding, the U.S. legal system is part of every high school curriculum, and it is displayed in the movies, news, and various media outlets. Noteworthy trials, such as O.J. Simpson's, are broadcast for several hours on different channels instead of the usual programming. Spanish speakers not only come from countries with different legal systems, but a large part of the Hispanic population in California comes from rural areas where the concept of a courtroom does not even exist.

2.5. The Spanish language in California

In 2012, over 38 million U.S. residents spoke Spanish at home, representing about 74 percent of the U.S. Hispanic population (Infoplease 2015: unpaginated). For 2009-2013, the U.S. Census Bureau indicates that there were close to 10 million Spanish speakers in California, of which roughly 4.5 million speak English less than "very well." Also in California, about 75 percent of Hispanics speak Spanish at home (U.S. Census 2015). Hispanic immigrants in California bring with them many varieties of Spanish; however, as Craddock points out, the English language exerts a powerful influence over all immigrant dialects (1981: 206). Since Spanish speakers do not always have enough vocabulary and education to fully adjust to the new culture, their language incorporates words and constructions from English (Gonzalez Echevarria 1997: unpaginated). The

long-term contact between English and Spanish in California has given birth to a new hybrid variety of Spanish, commonly called U.S. Spanish or *Spanglish*, which according to Stavans is "a vital social code, whose sheer bravura is revolutionizing both Spanish and, to a lesser extent, English" (2000: unpaginated). The term *Spanglish*, however, has given rise to much controversy as to its use, definition, classification, users, and the elements it should include (Lipski 2008: 38-40, Montes Alcalá 2009: 97-99). According to Lipski, this "third language" shows significant differences with English and Spanish, and is increasingly replacing the Spanish language in the United States: "Despite the lack of empirical evidence, the view that Spanglish constitutes a specific type of language is widespread" (2008: 39). For Otheguy et al., the term "is generally reserved for speech in casual oral registers" (2010: 86).

Despite the characterization in the literature of this language as the *U.S. Spanish variety*, California is home to Hispanics from many different geographical areas, and their contact with the English language varies to such a degree that it would be inaccurate to speak of "one" variety. Stavans (2000: unpaginated) explains that this variety is not just one language or dialect, but that there are many variations according to nationality, age, and class. The variety spoken by Cuban-Americans is different from the Dominicanish (or Nuyorican), for example. These different varieties present localisms, slang terms, and geographical and ethnic differences: Mexican-Americans in the Southwest, and Cuban-Americans in Florida, among others. Given the length of contact between these groups, their diverse origins, the number of Spanish dialects, English dialects, and U.S. Spanish varieties, the possible combinations are endless. According to Stavans, "Spanglish is proof that Latinos have a culture that is made up of two parts." Of this variety, Nobel Prize-winner Octavio Paz has said, "Ni es bueno ni es malo, sino abominable" (It is neither good nor bad, but abominable) (2000: unpaginated). Heather Williams, an assistant professor of Politics at Pomona College, states that "It's a way of celebrating their culture, it's a way for them not to be quite part of the United States and not quite from their homeland" (Sorokin 2001: unpaginated). According to Stavans, this variety is not defined by class, as it is used regularly by people of all social strata: from immigrant workers to politicians, academics, and TV anchors (2000: unpaginated).

U.S. Spanish is the basic means of communication in most of the Hispanic communities in California. Most U.S. Spanish speakers are first generation immigrants, and to a lesser degree, second generation. When immigrants arrive in California, they

find a new world, new jobs, and a new language. They are faced with situations and vocabulary that are completely new to them, and basically, concepts that are either unknown to them or that have no equivalent in their language. Newcomers are trained for their new jobs by coworkers who have arrived before them, and who have learned U.S. Spanish vocabulary in the same way, from their coworkers. The general opinion seems to be that U.S. Spanish is born out of an unfamiliarity with the languages and a need to communicate. Children of immigrants attend school and learn enough English to communicate by switching back and forth between languages in response to the situation in which they find themselves (code switching), but their Spanish variety is really the U.S. Spanish they learned at home. These children usually speak good English by the time they start high school, and tend to neglect whatever Spanish or U.S. Spanish they have learned at home. Their children, that is, the third generation, will most likely speak only English.

Although Hispanics of different nationalities cluster geographically and socially, the vast majority moves within closed circles that allow limited access to strangers, even to members of other Hispanic groups. These groups, particularly the monolingual Hispanics, attend their own church in Spanish, watch Hispanic TV channels, and listen to Hispanic radio stations, which seem to be the most important linguistic influences. Hispanic immigrants also find this language variety at work, at the market, at school, and very frequently when they approach an official or private agency or hospital, which often do not retain the services of professional translators to translate their informational materials, and which are also often computer-generated. The Washington Times reported recently that the website for the healthcare reform law *Obamacare* was written in *Spanglish*, sending users back to the English version (2014: unpaginated).

In general, the U.S. Spanish variety seems to include anglicisms with and without phonological and morphological integration, syntactic calques and loans from English, code switching, literal translations, and any combination of English and Spanish syntax (Lipski 2008: 53, 2004: unpaginated, Otheguy et al. 2010: 88-90, Olague 2003: unpaginated, Montes Alcalá 2009: 104-107, Valdés 2000: 110-114, Roca 2000, Silva Corvalán 1994). U.S. Spanish takes words from English and subjects them to Spanish phonological and morphological rules. New or unknown terms are usually either borrowed, in which case the orthography may be modified to conform to Spanish rules, or used in code-switching situations with their original phonology and morphology. For example, it is common to see signs that read *Prepare su income tax aquí* (Prepare your

income tax here). Borrowings may be core, for concepts that exist in the original language (*troca*, for truck), or cultural, for concepts that do not (*dónas*, for doughnuts). Borrowed terms appear in the workplace: words are created for almost every position (*trimeador*, for trimmer), tool (*paleta*, for pallet), and working condition (*obertáin*, for overtime). Borrowed terms also seem to begin as partial code switching, such as the term *show*, which has become *chóu* in Spanish TV programs. Other influences from the English language can be seen in terms and phrases that are calqued into Spanish, such as *amenidades* (for amenities), *llamar para atrás* (to call back, literally 'to call toward/for the back'), and *buscar por* (to look for), where Spanish does not require a preposition. Other calques produce false cognates, such as *elegible*, which in Spanish refers to someone who can be elected, *carpeta (*for carpet*)*, which in Spanish commonly means *folder* or *table runner*, and *sortear* (to sort), which in Spanish means to raffle, or to avoid. This process of affixation is also used to create non-words such as *submitar** (for 'to submit') and *accesar** (for 'to access'). Most of these terms seem to be formed following phonological and morphological constraints (Poplack 1980: 586, Lipski 1985: 64), however, some of them seem to not follow said rules, such as *fidear** (to feed). Another frequent occurrence is the confusion of similar verbs, such as the use of the verb *mirar* (to look) instead of *ver* (to see), so it is common to hear *mirar al doctor* (to look at the doctor) instead of *ver al doctor* (to see the doctor).

The Spanish variety mostly spoken in California has several important implications for the setting of reference. First, many candidates bring this variety to the interpreter certification exam, a variety that does not conform to the formal variety required to pass. Second, interpreters who are used to the standard Spanish variety will need a command of the U.S. variety to understand (and interpret) the speech of Hispanics in California. Finally, when Hispanics bring this variety of Spanish to the courtroom, they may have a difficult time communicating in the formal variety required in a verbatim rendition of high-register courtroom language. Implicitly, the use of a variety other than U.S. Spanish may not be conducive to comprehension for Hispanics who are not familiar with other varieties.

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COMPREHENSION OF LEGAL DISCOURSE IN INTERPRETER-MEDIATED JUDICIAL PROCEEDINGS
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Chapter 3. Judicial interpreting in California

3.1. Legislation governing interpreting

Although the United States Constitution does not explicitly grant the right to an interpreter, the courts have found that this right is embedded in the guarantees to due process: the right to confront witnesses, be meaningfully present at one's trial, and be assisted by counsel as articulated in the Fifth, Sixth, and Fourteenth Amendments. At the federal level, Title VI of the Civil Rights Act of 1964 provides that

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Justice. (USDJ 2015a: unpaginated)

This indicates that non-English speakers would be provided with an interpreter in courts receiving federal funds. The implementation and enforcement of Title VI is articulated in Executive Order 12250 and Executive Order 13166. The Court Interpreters Act of 1978 established the requirement for federal courts to provide interpreters in criminal and civil cases heard in U.S. District Courts. At the state level, Article 1, Section 14 of the California Constitution, as amended in 1974 (CLIa n.d.), provides that "A person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings." California Evidence Code Section 752(a) (CLIb n.d.) states,

> When a witness is incapable of understanding the English language or is incapable of expressing himself or herself in the English language so as to be understood directly by counsel, court, and jury, an interpreter whom he or she can understand and who can understand him or her shall be sworn to interpret for him or her. (CLIb n.d.)

Following the Court Interpreters Act of 1978 (as amended in 1988) signed by President Carter (Public Law 95-539), which provided for interpreter services in federal courts and triggered the development of the federal certification examination, California Assembly Bill 2400, amended as 2370, provided for the testing and certification of state

court interpreters. Also, California Standard 2.10 of Judicial Administration provides that

> An interpreter is needed if, after an examination of a party or witness, the court concludes that: (1) The party cannot understand and speak English well enough to participate fully in the proceedings and to assist counsel; or (2) The witness cannot speak English so as to be understood directly by counsel, court, and jury. (CAJC 2013a: 49)

According to Government Code Section 68561 (CLIc n.d.) and Rule 984.2 of the California Rules of Court (CAJC 2015f), interpreters must be certified or registered to act in state judicial proceedings. The Judicial Council was thus charged with "implementing the legislation that deals with recruiting, training, testing, certifying, and evaluating interpreters in California" (Hewitt et al. 1998: 15). A Court Interpreters Advisory Panel was appointed in 1993 to assist with the implementation of a certification program, which included the responsibility to, among other things, "adopt standards and requirements for interpreter proficiency, continuing education, certification renewal, and discipline ... adopt standards of professional conduct for court interpreters" and adopt "programs for interpreter recruiting, training, and continuing education and evaluation to ensure that an adequate number of interpreters is available and that they interpret competently" (California Law 2012: unpaginated). In 1998, this panel had seventeen members: six judges, four court executive officers, one attorney, two certified interpreters, three registered interpreters, and one sign-language interpreter (CAJC 1998: unpaginated). In 2014, this panel had five judges, two attorneys, two court executive officers, three managers, one court service analyst, and six interpreters: three Spanish, one Russian, one Korean, and one Vietnamese (CAJC 2014a: unpaginated).

For state courts, the certification process entails passing a state certification exam, and attending a six-hour ethics workshop provided by the Judicial Council. Interpreters of languages for which there is no certification exam in place, take an English fluency exam and comply with the same requirements as certified interpreters. These are the *registered* interpreters. For federal courts, the process entails passing a certification exam.

3.2. Becoming a court certified interpreter

As stated above, the law requires interpreters to pass a certification exam to be able to work in judicial proceedings. Although there is no education requirement, given the complexity and low passing rates of these exams, many candidates participate in training programs to improve their chances at obtaining a certificate for court interpreting.

3.2.1. Training

When court interpreting started gaining popularity and salaries began to look appealing, private parties and colleges (through Extended Studies) began to develop short non-credit programs with the exclusive goal of preparing candidates for the certification exam. This was also a response to the urgent need to certify interpreters. As Matthews indicated,

> These certification processes, and the fact that success rates in both the state and federal court interpreter exams are notoriously low, has generated an increasing demand for the training of hundreds of aspiring interpreters. Interpreter training needs have primarily been addressed through short-term workshops and seminars offered by court administrators, professional organizations, and entrepreneurs, rather than through academia. (2013: unpaginated)

The Middlebury Institute of International Studies (formerly the Monterey Institute of International Studies) offers postgraduate programs in translation and interpretation, currently the only offered in California. There are also several short non-credit programs that focus on the material needed to pass the certification exam: vocabulary and technique, that is, offering *training* rather than an *education*. The Judicial Council offers suggestions of course subject areas for continuing education, and the list includes topics from skill areas and knowledge areas. Skill areas include interpreting skills (the three techniques: simultaneous, consecutive, and sight) and language skills (grammar, syntax, accent reduction, public speaking, etc.). Knowledge areas include only specialized terminology and general law. There is no mention of translation or interpreting theory, intercultural communication, discourse analysis, or anything outside language, vocabulary and techniques (CAJC 2013a: 75-76).

Students who take interpreting courses comprise about half of the candidates who take the state interpreter exam (ALTA 2007: 52), which some take many times before passing, if they pass at all. The rest of the candidates prepare for the exam on their own. Mikkelson et al. stated that court interpreters are mostly a diverse group of bilinguals who in general have not received formal training (1997: 58). However, the Judicial Council reports that 91 percent of candidates who do pass the exam "have completed coursework, a certificate program, a bachelor's degree, or a graduate degree in interpretation" (CAJC 2013b: unpaginated).

The overwhelming majority of training programs offer courses that only cover terminology and techniques to interpret in criminal and civil proceedings, and only a few cover extremely limited aspects of theory or intercultural communication. Since the programs offer no internship opportunities, most interpreters have no actual practice or contact with the courts until they get to work on the very first day after becoming certified. Future interpreters are therefore under the impression that their work consists of memorizing the meaning of thousands of new words, and handling the different modes of interpreting: this seems to relate to the concept of the translating "machine" (Roy 2002: 348). ALTA found in their report that a significant number of candidates do attend these programs, but that this training has little effect on whether they pass the exam (2007: 55).

Another issue relevant to training is the wide diversity of language proficiencies future interpreters bring to these classrooms. This diversity is a consequence of the many different possible combinations of several factors: place of birth, years of residence in the U.S. or abroad, years and place of education, parental educational attainment levels, years and place of language learning and/or acquisition, and employment history, among others. Although most of these programs have an admission exam, these exams are not rigorous, nor do they aim at grouping students by language proficiency level. Consequently, the same classroom may have a native English-speaking high-school graduate with a high proficiency level in English but low literacy levels in Spanish, next to an attorney from Mexico who has had little contact with the English language.

Since many if not most of these students are either foreign-born and/or raised in a foreign-born family, many would fit the description of *heritage learners*, as defined by Valdés: "The term 'heritage' speaker is used to refer to a student who is raised in a home where a non-English language is spoken, who speaks or merely understands the

heritage language, and who is to some degree bilingual in English and the heritage language" (UCLA 2002: 1). The varied range of skills exhibited by heritage learners has been described by Kreeft Peyton et al. (2001: 3), Roca (2000), and clearly described by the University of California Consortium for Language Learning & Teaching,

> Heritage Learners (HLs) have skills that distinguish them sharply from traditional foreign language learners. They typically have high oral/aural proficiency, combined with undeveloped, and in some cases non-existent, literacy .... Therefore, in a class with both HLs and non-HLs, neither group of students receives the instruction that they need to reach their potential. (2002: 2)

According to Hislope, "Although a wide range of proficiencies exists among heritage learners, much of their knowledge is normally of a more informal register which allows them to function successfully in their home and, perhaps, community environment" (2005: unpaginated). It is still true, though, that in order to understand and communicate in the register that characterizes the language of the law, future interpreters must undergo intensive training, whether institutionally or privately.

3.2.2. Certification exams

The only requirement to become a court certified interpreter is to pass a certification exam: the Federal Court Interpreter Certification Examination—or FCICE—to work in federal court, and the State Court Interpreter Examination to work in state courts. Both exams are administered by the National Center for State Courts (NCSC) through the Consortium for Language Access in the Courts, which was established in 1995 with four states to "establish court interpretation test development and administration standards and provide testing materials, in order that individual states and jurisdictions may have the necessary tools and guidance to implement certification programs" (NCSC 2008: unpaginated). With time, other states joined the NCSC, which now covers all fifty states. The National Association of Judiciary Interpreters and Translators (NAJIT) also offers a certification exam, but it is currently not accepted in California.

The FCICE is administered by the National Center for State Courts under the supervision of the Administrative Office of the Courts. Currently, this certification exam is only offered for Spanish/English, and consists of a written and an oral exam each offered in alternate years, which means that the whole certification process will take two years if the candidate passes both exams. The written component has 200

multiple-choice items that cover reading comprehension, language usage (grammar and idioms), error detection, synonyms, and translation, where candidates do not actually translate but rather choose the best translation of a word or phrase. The passing score for the written component is 75 percent. The oral examination has five sections: two sight translations of around 230 words each to be completed in five minutes, one from English into the foreign language and one from the foreign language into English; consecutive interpreting, where candidates render segments of up to 50 words in length, to be completed in 18 minutes; one simultaneous interpreting segment of about 840 words at a rate of 120 words per minute; and another simultaneous interpreting segment of about 600 words at a rate of up to 160 words per minute, both from English into the foreign language. The passing score for the oral exam is 80 percent (FCICE 2015: unpaginated). This exam has been offered since 1980, and in 2013 there were 924 Spanish interpreters certified for the federal courts (NAJIT 2013: unpaginated). According to the Program Specialist at AOC, the passing rate for the federal written exam in 2012 was 24 percent, and the passing rate for the federal oral exam in 2013 was 7.7 percent. As of December, 2014, there were 1,280 Federally Certified Court Interpreters of Spanish (personal communication, December 23, 2014).

Up until 2010, California was one of the few states that offered its own certification exam. In that year, mainly due to budgetary reasons and based on a study conducted by ALTA Language Services, Inc., California joined the National Center for State Courts' Consortium for Language Access in the Courts, and adopted the exam provided by NCSC. ALTA's study concluded that the exam offered by California and the exam offered by the NCSC were "comparable in structure, content, and level of difficulty" (ALTA 2010: 5), however, the study "did not take into account the latitude afforded Consortium members in determining their individual policies regarding test administration and performance standards set by states" (Dueñas González et al. 2012: 1187). The exam offered by NCSC consists of a written screening test followed by an oral exam for the candidates who pass the written portion. The written screening exam has 135 multiple-choice questions in English only, on general language proficiency, legal terminology and usage, and ethics and professional conduct (NCSC 2012: 1). The oral exam consists of three parts: consecutive interpreting, where candidates render segments of up to 40 words in length, to be completed in 22-30 minutes; two sight translations of around 225 words each to be completed in six minutes, one from English into the foreign language and one from the foreign language into English; and a

simultaneous interpreting section of approximately 850 words from English into the foreign language at a rate of 120 words per minute, a rate that is "*much slower* than most ordinary courtroom speech" (emphasis in original). This exam is designed to test candidates in three areas: the ability to speak both languages fluently and without hesitation, the ability to transfer meaning faithfully between both languages, and pronunciation in both languages without interfering with meaning and comprehension (NCSC 2011: 3).

There are some very relevant differences between the NCSC exam and the California state exam offered until 2010. The California written test included both an English and a Spanish component and 155 multiple-choice questions in each language, which covered vocabulary, word usage, grammar, reading comprehension, and translation from English into a foreign language. The California oral exam also consisted of three parts; however, sight translations had about 300 words each (almost 30 percent longer), and the simultaneous component reached about 140 words per minute (16.6 percent faster). Another important difference is the cut off rate, at 70 percent for NCSC and 80 percent for California. NCSC shares financial resources with the other member states, offers exams in more languages, and also offers certification reciprocity among the member states. This would mean that interpreters from other states who pass the exam may now be deemed certified in California, a major cause of concern that "people who passed a flawed exam in another state will now have a negative impact by lowering standards in California" (CFI 2011b: unpaginated). Candidates may now pass the oral portion just by hitting the key words, as the exam "assumes that meaning is constructed by the accumulation of isolated parts of speech" (CFI 2011c: unpaginated) and "has eliminated the subjective scoring component, which tests for various elements that impact comprehension" (CFI 2011a: unpaginated). The elimination of the foreign-language written component of the exam is and has been another major concern for the California interpreting community. The California Federation of Interpreters (CFI) circulated a petition to maintain certification standards (CFI 2011a: unpaginated) and voiced significant complaints in the Court Interpreters Advisory Panel: by not screening foreign-language ability, candidates without proper or even acceptable skills would eventually pass the exam by becoming familiar with its contents (CFI 2011b: unpaginated). Also, by eliminating the foreign-language screening section, candidates lacking foreign-language proficiency may sit for the oral exam with no real chance of passing, which translates into a waste of effort and funds. Candidates

may also pass the exam and become certified interpreters without actually having a clear understanding about the law or the legal system. Lastly, court interpreters are usually assigned the (written) translation of court documents; however, this exam does not test reading or writing skills in Spanish or translation skills, as the foreign-language component has been eliminated from the written portion of the exam.

The California Judicial Council reports that in 2010-2011 there were 2,196 exams administered, and only 7 percent of exams resulted in certification. The written exam though, had a passing rate of 57 percent (CAJC 2014: unpaginated). The Judicial Council also reports that interpreting had been the main occupation for 71 percent of the candidates, and that 94 percent have attended college. For the two-year period July 2010-2012, the passing rate was 10.8 percent for the oral exam and 57.9 percent for the written. However, this information is for all languages testing; no information is provided for Spanish alone (CAJC 2013b: unpaginated). Although they may range from acceptable to excellent, the bilingual immigrant's English writing skills and the bilingual U.S.-born's Spanish writing skills were often not enough to pass the written portion of the state exam, which required at least some formal education or intensive preparation in both languages. Also, the United States does not offer bilinguals many opportunities to continue developing their native language skills (Dueñas González et al. 2012: 176). The elimination of the Spanish component from the State written exam seemed to be a solution to half of the problem. However, even though the written certification exam passing rate has increased, the oral exam passing rate remains significantly low. As of December, 2015, there were 1,890 State Certified Court Interpreters of Spanish (CAJC 2015a: unpaginated).

The Judicial Council states that the passing rate is lower than the California State Bar exam because the former has no screening or preparation prerequisites, and because "unlike the court interpreters exam, most *professional* examinations test knowledge and not *ability*" (emphasis added) (CAJCb n.d.). This may seem to imply that interpreters are not considered professionals, and that no knowledge is required to be a court interpreter, just ability. For Hewitt and Lee, the low passing rates are due to

> the inherent difficulty of the work and ... the lack of professional training among those people whom courts use to provide interpreting services ... very few bilingual people pass the tests because very few bilingual people who think they are qualified to interpret in court (or who someone else thinks are qualified) actually are qualified. The tests are doing the job they were intended to do. (1996)

Some of the reasons for failing the state exam, as indicated by NCSC, include the use of false cognates, awkward or unintelligible interpretation, paraphrasing, literal translation, inability to maintain the original language register in the translation, and language interference (2014: 1), most of which seem to be features consistent with the Spanish varieties most commonly spoken in California (see 2.5). The court interpreter oral exam also includes very technical terminology from civil and criminal procedure, street slang, medicine, forensic pathology, working tools, law enforcement jargon, automotive terminology, criminalistics, regionalisms, drugs, financial and banking language, fingerprinting, sex offenses, weapons and ballistics, DNA, drug and alcohol testing, business, gang slang, etc. in both languages, as well as colloquial and idiomatic expressions from a number of English and Spanish varieties spoken in the United States. This may partially explain the low passing rate: although California has such a huge "bilingual" population, the proficiency level required to pass this exam often exceeds the candidates' varying degrees of literacy and training. People attempting this exam may have some degree of bilingualism from childhood, but in many cases Spanish was learned at home with no specific formal education, or English was learned only by scarce contact with the language. The result is a mostly oral language that may not be enough to pass the exam; indeed, passing the exam requires that candidates either have some formal education both in English and Spanish or have invested many hours and funds in study and practice. Dueñas González et al. state that:

> Many of the candidates who have attempted the FCICE are those who have been raised in bilingual homes, but who have never had an opportunity to receive formal education or training in Spanish. Therefore, they possess a "home" variety of Spanish that is not expanded or developed to include other registers and semantic domains, and they have not developed a professional-level vocabulary or formal understanding of the written and grammatical complexities of the language. (2012: 1177)

The last few years have seen the demand for Spanish interpreter services increase by 11 percent (ISR 2010: xvi). While the Judicial Council estimated an increase of 11 percent in interpreter use between 2004 and 2008, EDD estimates a 38.1 increase in the job market for interpreters and translators for 2012-2022 (2015: unpaginated), and the Occupational Outlook Handbook of the United States Department of Labor's Bureau of

Labor estimates an increase of 46 percent for the same period (OOH 2014: unpaginated).

3.3. Once certified

Candidates who have passed the state certification exam and become certified court interpreters must attend a mandatory one-time-only six-hour ethics workshop provided by the California Judicial Council, and complete a five-hour online course entitled "Interpreter Orientation: Working in the California Courts." This course includes five areas: overview of the California courts, court proceedings, court environment (protocol, glossaries), the role of the interpreter (which only links to the code of ethics), and a summary of renewal and compliance requirements (CAJC 2015a: unpaginated). After that, interpreters must pay an annual fee and provide proof of continuing education and professional experience every two years to renew the certification. There is no other mandatory training. In the ethics workshop, the certified interpreter is introduced to the *Professional Standards and Ethics for California Court Interpreters*, which contain the *guidelines* interpreters must follow at work as well as several rules and standards of conduct (CAJC 2013a). Candidates who pass the federal certification exam are not required to attend any ethics seminar, and are ready to begin working in federal court.

In accordance with the law, the state provides interpreters to defendants in criminal courts and, since 2014, in civil courts as well (CAJC 2014b: unpaginated). Interpreters may be either employees or independent contractors of the courts, and also be retained by interpreting services providers, law firms, insurance companies, and private parties for proceedings taking place in or out of court. Out-of-court proceedings may take place in law firms, arbitration centers, jail, and even private homes, and may include depositions, arbitrations, mediations, medicolegal appointments, interviews, settlement conferences, and the like.

3.4. Judicial proceedings

Legal proceedings are defined in Black's Law Dictionary as "all proceedings authorized or sanctioned by law, and brought or instituted in a court or legal tribunal, for the

acquiring of a right or the enforcement of a remedy," and *proceedings* is defined as "any action, hearing, investigation, inquest, or inquiry ... in which, pursuant to law, testimony can be compelled to be given" (1995). *Legal interpreting* is defined in Dueñas González et al. as "interpretation that takes place in a legal setting such as a courtroom or attorney's office, wherein some proceeding or activity related to law is conducted." The authors divide the field into *quasi-judicial interpreting* to refer to proceedings that take place out of court, and *judicial interpreting* to refer to proceedings that take place in court, commonly called *court interpreting*. Court interpreting also includes depositions because even though they are not conducted in court, testimony is given under oath and receives the same treatment as testimony provided in court (2012: 95-96).

There are a broad variety of proceedings that may fall under the judicial umbrella, from arrest to sentencing in criminal law, and from the filing of a complaint to the settlement or judgment in civil law. These proceedings may take place in different courts such as state, federal, municipal or juvenile courts, or in law offices, jails, detention centers, and even private residences. Some of the most common proceedings where court interpreters work are civil and criminal trials, including pre and post trial hearings, such as "initial appearances, bail applications, pretrial conferences, pleas, evidentiary hearings, trials, sentencings, or post-sentencing hearings" (NAJIT n.d.).

Trials may or may not have a jury. In court trials, the judge hears the case, decides the issues of fact, and applies the law. In jury trials, issues of fact are decided by a jury of peers, and issues of law are decided by the judge. Jury trials begin with jury selection, when attorneys pose a number of questions to potential jurors to determine if they qualify to serve as such. Once the jurors are selected, attorneys for each side make an opening statement about the main issues of the case and the evidence they expect to submit during the trial. Each side then proceeds to present all the evidence, which usually includes testimony from lay and expert witnesses. After all evidence has been submitted, attorneys present their closing arguments, which are summaries intended to persuade the jury to lean in one way or the other. Following the closing arguments, the judge instructs the jury on the law that applies to the case at hand. The jury then deliberates until they reach a verdict, and the judge sentences the defendant.

In criminal trials, the defendant may not be compelled to testify. This means that if the defendant decides not to do so, interpreters may well interpret the whole trial simultaneously only for the defendant, usually in a whispering mode or through electronic devices. This is what Hewitt calls *proceedings* interpretation (1995: 34). If

the defendant does testify, the interpreter will most likely work in the consecutive mode (both from Spanish into English and English into Spanish) only during questioning, as required by law (LIIa n.d.), and this is what Hewitt calls *witness* interpretation (1995: 34). For the rest of the trial, the interpreter will work again in the simultaneous mode, from English into Spanish only and, once again, only for the defendant. Civil trials work mostly in the same way, although parties can be compelled to testify (CAJC 2015b: unpaginated).

Other common proceedings where interpreters usually work are depositions. A deposition is a question and answer session that takes place out of court, in which the deponent takes an oath to tell the truth and proceeds to answer questions posed by attorneys. There is no judge present, and all questions and answers are transcribed by a court reporter to become an official and permanent record. Since this proceeding is part of the discovery process and attorneys use it to gather information they can use to benefit their case, attorneys prepare their clients and teach them the strategies they should use when answering questions (Black's Law Dictionary).

3.4.1. The language of the law

Judicial proceedings call for a hypercorrect and highly formal register commonly referred to as legal English or *legalese*. While the terms "legal language" and "language of the law" are used in the literature with equal and different meanings, in this thesis they are used interchangeably to refer to any language that pertains to the field of law, whether written or oral, that may occur in legal proceedings. The language of the law has been qualified and described by many authors and scholars. Among them, Melinkoff (1963: 11-23) enumerates the features usually found in this variety: familiar words with special meanings, such as *prayer* (pleading), *save* (except), and *serve* (deliver); words from Old and Middle English, such as *thereof* and *herein*; words from Latin, such as *prima facie* and *ex parte*; words from French, such as *misdemeanor* and *easement*; terms of art, such as *negotiable instrument* and *eminent domain*; argot, such as *at issue* and *due care*; formal expressions, such as *your honor* and *may it please the court*; words and expressions with flexible meanings, such as *reasonable* and *adequate*; and "attempts at extreme precision" through words such as *uniform* and *irrevocable* (1963: 11). Other common features are often ascribed to this type of language: euphemisms, calques, false cognates, polysemy, ambiguity, redundancy, mutilated

language, lack of connectors, pervasive gerund, passive constructions, word repetition, constructions avoided in Spanish, overabundance of modifying clauses, irregular punctuation, impersonality, unusual word order, long sentences, and high abstraction (Berk-Seligson 1990: 15ff, Alcaraz Varó 1994: 74ff., Dueñas González et al. 2012: 749ff., and Borja Albi 2000: 23ff.). Melinkoff adds that legal language is wordy, unclear, pompous, and dull (1963: 24-28), and that lack of clarity is "one of the oldest causes of litigation" (1982: 61); and Crystal concludes, "There is no other variety where the users place such store on the nuances of meaning conveyed by language..." (1997: 390). Berk-Seligson (1990: 17) refers to a lack of cohesion in that legal language is a "list of sentences strung together." Another feature common to this discourse is ambiguity, which in most cases is intentional and can be used as a deliberate strategy to prevent the listener from understanding the actual meaning of the utterance (Shuy 2005: 13). Interpreters are warned and instructed in this regard, "Ambiguities may be intentional, however, and you should strive to retain them if the target language allows" (CAJC 2013a: 12). For example, a frequent question heard in depositions is "Where did you have the surgery?" Given that this question can be interpreted as "In which hospital/city did you have surgery?" and also as "Where on your body did you have surgery?," its ambiguity can be easily appreciated, and the interpreter's duty is to convey the same ambiguity in order not to disrupt attorneys' strategies. There are also many words and phrases that can produce ambiguous sentences because they have more than one sense, such as *discharge, committal, issue, provide, sanction, order,* and *consideration,* to name just a few.

Other elements found in courtroom language include doublets and triplets, such as *null and void* or *leave, bequeath, and bequest,* and the citation of laws, codes, authorities, and precedents, which have referents only for the judicial officers. The reasons behind the use of the language of the law are stated in Melinkoff (1963: 286), who devotes over 150 pages to refute the claim that it is more precise, shorter, more intelligible, and more durable (1963: 291-454). Other authors contend that this variety may involve a manipulation of language by attorneys to confuse the opponent (Mikkelson 2000: 2), and that it is a way to exercise power and social discrimination, which, coupled with a complex legal system, puts groups at a legal disadvantage (Borja Albi 2000: 12ff.). According to Melinkoff (1982: xi), "Most law can be expressed in ordinary English," and Charrow states that legal language carries sociolinguistic

separating functions as well, as it is used to establish "solidarity among its users, and to keep out outsiders" (1981: 95).

This variety has been described as "a profession-specific, relatively antiquated, and anomalous category of English" (Dueñas González et al. 2012: 749). According to Hale (2003: unpaginated), "The adversarial courtroom has been compared to a battle, where language becomes the main weapon." Other authors agree on the role of language in legal proceedings: White (1990: xii) describes the law as "a culture of argument" or "a language," and Melinkoff (1963: vii) indicates "the law is a profession of words." Beyond facilitating communication, the interpreter may very well be in charge of directing the brandishing of said weapon on the premise of carrying out justice. In interpreted proceedings then, the administration of justice is very much contingent on the interpreter's decisions.

3.4.2. The interpreter's role in judicial proceedings

In a report submitted to the legislature, the Judicial Council offers this definition: "A court interpreter is a person who interprets a civil or criminal court proceeding for a defendant or witness who speaks or understands little or no English." "The role of the interpreter," it continues, "is to allow a non-English-speaking defendant or witness to participate in judicial proceedings" (CAJC 2006: 5). The Judicial Council also defines the court interpreter as follows: "Spoken language court interpreters interpret in civil or criminal court proceedings (e.g., arraignments, motions, pretrial conferences, preliminary hearings, depositions, trials) for witnesses or defendants who speak or understand little or no English" (CAJC 2015c). These definitions only state that an interpreter is, in fact, an interpreter.

Several codes and standards guide the conduct of court interpreters in legal proceedings. In California, as stated above, state court interpreters follow mainly the *Professional Standards and Ethics for California Court Interpreters*, now in its fifth edition (2013), which includes several other applicable rules and regulations. Also included in this edition of the Professional Standards are Rule 2.890 of California Rules of Court, California Evidence Code Sections 750–755.5, and California Standards of Judicial Administration 2.10 and 2.11. The 2013 edition of the Professional Standards also included the Standards for Performance and Professional Responsibility for Contract Court Interpreters in the Federal Courts, and the 2008 edition included the

Code of Professional Responsibility of the Official Interpreters of the United States Courts, these last two applicable to federal court interpreters. Since California joined the NCSC, the Model Code of Professional Responsibility for Interpreters in the Judiciary (1995), on which this handbook is partly based, is applicable as well.

Although the authors of the *Professional Standards and Ethics for California Court Interpreters* refer to it as a *manual*, they also refer to it as a *code of ethics* by citing Solow (2002) indicating that "In the context of court interpreting, a *code of ethics* 'protects the interpreter and lessens the arbitrariness of his or her decisions by providing guidelines and standards to follow'" (emphasis added) (2013a: v). Also, the California Judicial Council (2015c: unpaginated) and Prometric (2011: 4-5), the agency in charge of administering the certification exam in California, refer to the mandatory ethics workshop where this *manual* is introduced to newly certified interpreters as the "Judicial Council *Code of Ethics* Workshop" (emphasis added). The Merriam-Webster Dictionary defines *code* as "a set of laws or regulations" and "a set of ideas or rules about how to behave," and *manual* as "a small book that gives useful information about something." Since this handbook informs interpreters "of their professional and ethical responsibilities" and indicates "In addition to the *regulations* and recommendations provided here ... different courts have their own *rules* ... It is the interpreter's *duty* to learn and *follow these rules as well*" (emphasis added), it would not seem to fit the description of a manual but of a code, as it has always been known in the interpreting community. Dueñas González et al. make another distinction:

> One characteristic that distinguishes professionals from mere employees is that they are able to apply independent judgment and the benefit of experience to resolve difficult conflicts. Blind adherence to a rigid set of rules serves no one.... In short, interpreters must uphold the spirit of the canon of ethics and must not become entangled in following the letter of the rules. (2012: 1094)

The authors refer to the National Standards of Practice for Interpreters in Health Care, as provided by the National Council for Interpretation in Health Care (NCIHC), to describe a "difference between a code of ethics and standards of practice," whereby "standards of practice are a set of guidelines that define what an interpreter does in the performance of his or her role," equal to the "best practice," and a code, on the other hand, provides "a set of principles or values that govern the conduct of members of a profession while they are engaged in the enactment of that profession" (2012: 1095).

According to these authors, standards are concerned with the "how" while codes are concerned with the "should." However, the language in the canons, codes, standards, and laws, includes terms such as what interpreters *shall* or *must* do, are *required* to do, and even that sanctions will be applied to interpreters who do not comply. Thus, in this research I will refer to this *Professional Standards and Ethics for California Court Interpreters* as the *code of ethics* or simply *the code*.

According to the latest edition of the code of ethics, a court interpreter is provided primarily:

> To place non-English-speaking participants in legal proceedings on an equal footing with those who understand English to the extent reasonably possible.
> To ensure that the official record of the proceedings in English reflects precisely what was stated in another language by non-English-speaking witnesses, defendants, or other parties authorized to participate in the matter. (CAJC 2013a: 3)

In general, the code of ethics includes standards and recommendations for providing a complete and accurate interpretation, and deals with issues of impartiality, confidentiality, giving legal advice, professional relationships, continuing education, impediments to performance, and reporting ethical violations. The code of ethics also warns interpreters against making "any party sound more articulate or logical in the target language ... than they did in the source language" (p. 3); "stepping out of the role of interpreter ... as one can inadvertently take on the role of language or cultural expert" (p. 4); usurping the attorney's role "to clarify misunderstandings by posing follow-up questions" (p. 16); "advocating for non-English speakers ... teaching them how to behave" (p. 20); and visibility: "... to assist professionally, neutrally, and unobtrusively so that the proceedings can take place as if no language barrier existed ... strive to attract as little attention to your presence in the courtroom as possible" (p. 12). Furthermore, the code of ethics defines the role(s) of the interpreter in some of the following terms: "An interpreter's sole responsibility is to serve as a medium of communication" (p. 26); "not that of an expert on the culture of the non-English speaking defendant or witnesses or on cultural practices referred to in testimony" (p. 37); and "No matter for whom you are interpreting, you are an officer of the court" (p. 28). In previous editions of the code (2001), other roles were ascribed to interpreters:

> Section 752(b) further defines this kind of interpreter as an expert witness through reference to Section 730 et seq. of the Evidence Code ... In this sense, his obligations surpass the normal function of the expert witness, and they approximate the services of the court clerk or other attachés..." (CAJC 2001: 55)

Furthermore, 29 CFR 18.604 (LIIb n.d.) and Rule 604 of the Federal Rules of Evidence (LIIc n.d.) state that "An interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation to make a true translation."

The Standards for Performance and Professional Responsibility for Contract Court Interpreters in the Federal Courts (CAJC 2013a: 79) state that "All contract court interpreters, regardless of certification, are appointed to serve the court pursuant to 28 U.S.C. §1827." Finally, the Code of Professional Responsibility of the Official Interpreters of the United States Courts states that certified court interpreters "fulfill an essential role in the administration of justice and in the protection of 4th and 6th Amendment rights for non-English speaking defendants," and that "as officers of the court, court interpreters are bound to a professional code of ethics to ensure due process of law." Canon 1 states that "Official court interpreters act strictly in the interest of the court they serve;" and Canon 14 states that "Official court interpreters of the United States courts willingly accept and agree to be bound by this Code, and understand that appropriate *sanctions may be imposed* by the court for willful violations" (emphasis added) (in Dueñas González et al. 2012: 1303).

The code of ethics includes a long list of constraints and prohibitions but, as pointed out by Roy, it rarely "explain[s] what interpreters *can* do" (emphasis added), which may account for the uncertainty interpreters have in their role (1993: 346). The standards impose impartiality, but claim the interpreter is a court officer who acts "in the interest of the court they serve" (above). The interpreter is an expert but should not behave as one; but more fundamentally, the interpreter is there "to place non-English-speaking participants in legal proceedings on an equal footing with those who understand English" (above). This view is also found in Dueñas González et al. (1991: 17), who state that the court interpreter's role is "to enable the judge and jury to react in the same manner to a non-English-speaking witness as they do with one who speaks English," and Mikkelson (2000: 1), who states that the court interpreter is "an equalizer, someone who will put litigants who do not speak the language of the proceedings on an equal footing with those who do." Hale adds that the interpreter's role is "to place the

non-English speaker in a position as similar as possible to that of the speaker of English" (2004: 10), and Mikkelson also offers that "The interpreter is not there to make sure the client understands, but merely to give him the same chance anyone else in his place would have if he spoke the language of the court" (2000: 2). Other references to the role and purpose of the court interpreter are also found in Dueñas González et al.:

> In cases involving LEP persons, the court interpreter is the key legal actor upon whom the fair administration of justice rests ... As the human bridge ... certified interpreters create the opportunity for meaningful communication that allows LEP persons to exercise their inalienable constitutional rights ... It is only when the interpreter is able to consistently produce a legally equivalent interpretation that LEP individuals are afforded equal treatment on par with English speakers in the judicial system. (2012: 12-14)

Another important implication of placing "the non-English-speaking participants in legal proceedings on an equal footing with those who understand English" (above) is the idea that providing a language interpreter will grant the non-English speaker the same access to due process and opportunity as an English speaker. In other words, it presumes that the provision of an interpreter is enough to equalize English and non-English speakers, and that the only difference between the non-English speaker and the English speaker is, in fact, their respective (national) languages. However, Angelelli points out that "The potential [for misunderstanding] becomes even greater when people assume that they can understand each other because of either a shared language or the presence of an interpreter" (2004: 47).

Equally evident is the standard regarding interpreters' invisibility (above), which is instilled in interpreters' minds from the first day of training and the ethics workshop and, as will be shown, remains one of the main goals interpreters aim to achieve. The notion that the interpreter is invisible has been widely defeated: Roy refers to an "active, third participant with potential to influence both the direction and the outcome of the event..." (1993: 352); Berk Seligson refers to interpreters feeling that judges "are listening to them as persons in their own right, and not merely as mechanical vehicles for converting speech from one language into another," and that, despite the rules, non-English speakers' eye contact and politeness forms are often directed to the interpreter, and not the attorneys (1988: 280). Wadensjö also showed interpreters as "co-ordinating the conversation," becoming a party when requesting clarification or providing explanations (1993: 364). Angelelli showed the interpreter as "an individual who

orchestrates language, culture, and social factors in a communicative event" (2004: 24), as "a powerful, visible individual who has agency in the interaction" (p. 89), and as "participatory agents between cultures and languages" (p. 98). In more informal settings such as depositions, attorneys preparing clients to testify usually instruct them to look only at the interpreter, communicate only with the interpreter, and completely ignore attorneys. Furthermore, attorneys often leave the preparation for depositions in the hands of interpreters, only to return at the end to review the facts of the case. Several other factors should be considered as well. Both non-English speakers and attorneys often use the third person in statements such as "Ask him... " or "Tell the interpreter... " and exchange documents through the interpreter. Regardless of the effort put forward by the interpreter to render an extremely close or equivalent utterance, this utterance is not identical and is not the same. This, in itself, denotes a presence. Furthermore, judges and attorneys begin proceedings by warning and instructing the parties regarding the fact and implications of the interpreter's *presence*. It might be interesting to explore why it is so important that the interpreter be invisible or unnoticed, as if it were necessary to conceal the fact that parties speak different languages.

Other reasons for the use of this model may be related to an issue of trust, whereby the language that is used as a tool to achieve certain goals is now in the hands of someone who is a stranger and non-professional, and who may well be closer to the culture of the defendant than that of the legal authorities. As Clifford states, not following the conduit model, in this case not being *accurate*, would be seen as a lack of impartiality, or as being an advocate for the defendant. In this situation, the most practical way to keep control of the situation is to constrain any possible relationship that may ensue between the interpreter and the defendant, and thus be reassured that the interpreter's words will be exactly those of the system. Clifford also enumerates some shortcomings of this model. Among them, he claims, is the fact that the model represents early ideas of translation and interpreting that relate to linguistic forms and disregards other more advanced, current, scientific knowledge on the discipline. He claims that extralinguistic features are necessary for true communication, which would not be achieved if interpreters only "repeat exactly what is said" (2004: unpaginated). Other shortcomings include the fact that this model fails to address what interpreting is really about and the way interpreters actually behave. The standard of unobtrusiveness and invisibility as prescribed by the client are unfeasible, as has been shown above. Angelelli (2000: 582) showed how codes and standards of conference interpreting "get

transferred to other types of interpreting" and how some of these standards may prove inappropriate as "different communicative events require different performances on the part of the interpreter," and Laster and Taylor suggest that the power interpreters have over language has led lawyers to purposefully regulate and limit their role to "neutral machines, or 'conduits'" (1994: 111).

An example should illustrate how this standard of invisibility prevents interpreters from stepping out of their role. A very common issue in legal settings is that some Spanish speakers may utter the term *pie* (foot) to refer to the whole leg, or the term *mano* (hand) to refer to the whole arm. When the line of questioning ends in "What parts of your body did you injure?" and the answer is "la mano" (the hand) with no further clarification by the attorneys, there are several paths the interpreter could follow: (1) translate the word literally as *hand*; (2) risk changing the term in the translation by assuming that the witness means *arm*; (3) request permission to query the witness; or (4) warn the questioner that there may be a cultural issue at play. What should the interpreter do? Technically, if there were no interpreter, the record would reflect *foot* or *hand.* But if there were no interpreter, the witness would be an English speaker who would not use the word *hand* to refer to the whole arm or the word *foot* to refer to the whole leg, because this is a lexical designation found only in certain Hispanic cultures. This research has failed to find sound bibliographical references that would help explain this variation, but the sources consulted claim that it may be due to the fact that in Nahuatl, a group of indigenous languages also known as Aztec, the word to denote the hand and the arm is the same. Nahuatl is spoken by around 1.5 million people throughout Mexico, around 95% of whom are bilingual in Spanish (INEGI 2005). A dictionary search revealed that, indeed, the term *māitl* means both *hand* and *arm* (WHP 2000: unpaginated, Bierhorst 1985: unpaginated), which may help explain why some Spanish speakers consider it the same body part. Also, the term *māitl* is phonetically closer to *mano* than to *brazo,* which may help explain the choice for *mano* to denote both, the arm and the hand.

The interpreter may be the only person in the courtroom who is aware that the record may be reflecting an error. If the record is not corrected, an injured party may be denied treatment for the whole leg or arm, or may receive less compensation because, put bluntly, a foot is worth less than a leg, and a hand is worth less than an arm. This decision is in the hands of the interpreter, and there are many choices to be made. But the most dangerous play is, ultimately, any kind of intervention, because a record that

reflects a foot instead of a leg may be convenient to the attorney who is defending the interests of an insurance company, and the interpreter's intervention may mean a larger monetary loss. It may be safer for the interpreter not to speak up than to face the resentment of the court or suffer the consequences of stepping out of the role. The code of ethics includes the following in this regard:

> There are times, though, when because of your linguistic knowledge you are the only one who knows something is amiss. For instance, in some countries, certain segments of the population may use the word "foot" to refer to the entire leg. If this results in confusion not resolved through ensuing testimony, you may momentarily step out of your role and say: "Your Honor, may the interpreter clarify a matter regarding the use of the word 'foot' in the source language?" The judge may then direct you to do so, call a side-bar to hear your explanation with the attorneys out of earshot of the jury, or use other means to ascertain the witness's intended meaning. If the term in question is an essential part of an answer that others could not possibly understand without an explanation, and if communication begins to break down and you feel you can easily resolve the issue, then intervention by you may be warranted. But if it appears that the attorney will be able to clarify the situation through follow-up questions, you should not take any action. (CAJC 2013a: 4)

Based on this standard, interpreters may "step out" of their role only in case of a "confusion not resolved through ensuing testimony" or if communication breaks down. Thus, the interpreter may only intervene to clarify meaning if there is an unresolved confusion, and even then the interpreter's intervention is considered outside his or her role. However, the code also states "On the other hand, if a single word can have more than one meaning in the context in question, indicate so to the court. The judge will typically direct you or the examining attorney to clarify the intended meaning by asking the witness" (p. 4), which would seem to give interpreters license to interrupt the proceeding and ask permission to clarify. Dueñas González et al. also mention this common issue:

> For example, if it is clear to the interpreter that the witness uses the Spanish term *pie* (foot) to mean the entire leg, as is common among rural Latin Americans, and if the questioning attorney is misled or confused by the usage of the term, the interpreter may step out of the interpreting role and say: "Your Honor, the interpreter believes there is a misunderstanding based on the usage of a term. Would the court entertain a suggestion as to how it might be resolved?" Only if the judge agrees should the interpreter proceed to clarify that it is common among rural Latin Americans to use the word for "foot" to designate the entire leg. (2012: 1108)

Even though this issue is so common that it appears in codes and manuals, interpreters are warned against stepping out of their role and clarifying the term except when the attorney is confused or misled. This is a frequent topic of discussion among interpreters in court, in interpreter training classrooms, and even in private media forums, and there is rarely agreement as to the proper course of action. A similar issue arises with the word *cintura*, which literally means *waist*, or *waistline*, but that many if not most Spanish speakers use to refer to the low back area. This creates another difficult situation for interpreters, who are usually inclined to translate *cintura* as *waist*, although in English "waist pain" is not a common occurrence and when it is used, it may refer to the abdomen, the hips, or even a hernia. A simple online search reveals the following:

- A Mexican medical website: "Dolor de cintura (espalda baja)" (Martínez 2013: unpaginated) *("Pain in the waist (low back)")*

- An Argentinean medical website: "El dolor persistente o recurrente de cintura o de espalda baja, que en medicina se conoce como dolor lumbar, lumbago o lumbalgia (son todos sinónimos)" (Koval 2012: unpaginated) *(Persistent or recurring pain in the waist or low back, which in medicine is known as lumbar pain, or lumbago (they are all synonyms)"*

- A Chilean medical webiste: "El dolor lumbar se conoce como aquel malestar que se localiza en la parte baja de la espalda o cintura" (Clínica Santa María 2010: unpaginated) *("Lumbar pain is known as the discomfort localized in the lower back or waist")*

- A Colombian medical website: "El dolor de cintura (lumbalgia, lumbago) es un motivo de consulta común. Consiste en la presencia de dolor en la parte inferior de la espalda" (Díaz Murillo 2015: unpaginated) *("Waist pain (lumbago) is a common reason to see the doctor. It consists of pain in the low back")*

- A website from El Salvador: "Lumbago o lumbalgia es un dolor en la espalda baja o los músculos a los lados. En El Salvador se le conoce como dolor de la rabadilla o dolor de cintura" (La Prensa Gráfica: unpaginated) *("Lumbago or lumbalgia is a pain the low back or the muscles at the sides. In El Salvador it is known as pain in the tailbone or pain at the waist").*

As can be seen, the term *cintura* is used throughout Latin America as a synonym of *low back*. The interpreter's decision to translate this term literally as required may

have dire consequences as well. For example, a worker's compensation case was dismissed because an interpreter from El Salvador translated *cintura* as *waist*, which conflicted with a Mexican employee's statement that only his low back was injured. The judge who examined this employee found inconsistencies and evasiveness in his statements and dismissed the case (Hovland 1993: 473). In this case as in many others, the narrowness in the interpreter's role affects only the Spanish speakers, which would not happen if the witness were an English speaker. This also shows that this standard of invisibility might not be conducive to the equal footing purpose.

Morris (1995: 26) acknowledges a conflict between contemporary communication research findings and the law's attitude toward interpreters, who are precluded from mediating in the proceedings based on their own judgment. Several authors refer to important issues concerning distrust of the interpreter who, according to most codes of conduct, is not allowed to interpret for opposing parties, for co-defendants, or for defendants if they have served in the pretrial preparation of criminal cases. This presumes that there will be issues of confidentiality and a perceived or potential bias or conflict of interest. It is not uncommon for attorneys to hire their own interpreter to prepare their clients for depositions, because the interpreter for the actual deposition will be hired by opposing counsel. This immediately creates distrust in the Spanish speaker's mind, whose first utterance is often "Which side are you on?" or "Who hired you?" Another interesting new development in the private sector is the *check interpreter*. This is a second interpreter who is hired by opposing counsel, and who has the duty of precisely monitoring the original interpreter's performance. Check interpreters sit in silence until they disagree with an interpretation, and when they do, they communicate it to counsel. Involving a check interpreter also results in complications; for example, regarding the reconciliation of both translations on the record when consensus is not required, or creating "a risk of waiver by the defending party" when the check interpreter is silent, among others (Stern et al. 2013). This distrust is preemptive: from the first day of work, interpreters already know that the system does not trust them. Crooker (1996) goes on to say,

> Imagine yourself the non-English speaking victim of a sex crime who tells the police all the sordid details through an interpreter. You walk into the courtroom and see the same interpreter seated next to the defendant, whispering in his ear! Imagine your sense of betrayal. (1996)

On the other hand, in the eyes of the law the interpreter is considered an expert witness and an officer of the court. There is no suspicion or distrust in the figure of the court reporter, another officer of the court bound by the same impartiality and confidentiality rules, who records the proceeding for all parties involved. This contradictory, dual-role perception creates conflicting perspectives in third parties' expectations of the interpreter (Morris 1999: 14, 26). In addition, the presupposition that the interpreter would be the defendant's ally may be unfounded: besides there being different reasons to side with either party, the interpreter "might be pulled in neither [direction]" (Anderson 1976: 212).

The court interpreter is also, apparently, the only court officer and expert witness who needs to be supervised for accuracy and performance. Benmaman, however, comments that interpreters' renditions are seldom monitored for accuracy and completeness (2000: 83); Wadensjö indicates that when there are misunderstandings, suspicion is first directed at the interpreter (1998: 19, also see Dunnigan et al. 1995: 106ff), and Hale indicates that interpreters have

> ... the need to always prove themselves amidst constant suspicions of infidelity to the original text, the extremely high demands placed on them, the inherent complexities of the interpreting process, the inadequacies of the system they are to work in, the misunderstanding of their role by lawyers and witnesses alike, the poor working conditions and the low remuneration. (2004: 1)

It is not uncommon for judges to welcome opinions and objections from (often monolingual) lay persons, jury members, attorneys, and other third parties regarding how a word was interpreted, and to act on it. These are actual examples of exchanges between attorneys and interpreters:

Attorney: How did you get injured?
Deponent: *Estaba poniendo cajas una arriba de la otra y sentí un jalón en la espalda*.
Interpreter: I was stacking up boxes one on top of the other and I felt a pull in my back.
Attorney: Miss Interpreter, I don't speak much Spanish but I heard *arriba*, and I know that *arriba* means *upstairs*. Didn't he say in fact that he was going upstairs and he fell?

Attorney: Do you usually go out?
Deponent: *Casi no*

Interpreter: Hardly at all

Attorney: Did he say *casi no*? *Casino*? Didn't he just say he goes to the casino?

Many studies and volumes document endless cases of interpreters' errors, unqualified interpreters, and the necessary supervision that everyone in the courtroom must exercise, even jurors and monolingual parties. The examples above show that these interventions are not always on point, and many times contribute to an adverse perception of the interpreter by the community. Also, although it is true that interpreters make mistakes, this should not be entirely unexpected, provided the fact that training (or education) is not required, and many times the training available is not sufficient. Court interpreters may go from passing an exam with little or no instruction to becoming "the key legal actor upon whom the fair administration of justice rests" (above), while working in an exam-like setting under constant scrutiny, having to instantly translate highly technical vocabulary from any semantic field, many different language varieties and a wide range of registers, reconciling the grammar and syntax from two languages, measuring each rendition to comply with several ethics standards, and managing (and blocking) personal reactions to sensitive issues. This is a difficult task, which would seemingly require a sound education and intensive practice before assuming responsibility for someone's freedom or recovery. As stated above, these standards and rules make reference to issues of accuracy of interpreting, specifically to the duty of the interpreter to be unobtrusive and faithful to the original register of the language, the conservation of which "is the most essential element in the preservation of the 'voice' of the speaker in combination with precise word choice and the maintenance of paralinguistic elements" (Dueñas González et al. 1991: 249). Since language register is central to this study, the next section will present an overview of the register-related provisions in the codes, before the concept of language register is discussed in more detail in Chapter 4.

3.4.3. Register-related provisions in interpreter codes and relevant literature

The Judicial Council (CAJC 2014c: 1) states that "Court interpreters must accurately interpret for persons with very limited language skills as well as for individuals that possess extensive vocabularies and linguistic abilities." Furthermore, interpreters "must interpret without altering the language register of the speaker." The code of ethics

provided to newly certified interpreters by the Judicial Council contains very specific rules about the register of courtroom language. Expressly:

> When rendering the source-language message into the target language, you must never alter the register, or level of language, to make it easier to understand or more socially acceptable. For instance, if the attorney asks, "What did you observe the subject to do subsequently?" you should not say in the target language, "What did you see him do next?" if more formal synonyms exist. You should not try to bring the question down to the witness's level. You also should not intervene and say that you do not think the question is understandable to the witness. If the witness does not understand the question, it is his responsibility, or that of the attorney who has called him to the stand, to say so. It is not the interpreter's job to evaluate and give an opinion on the witness's ability to understand. (CAJC 2013a: 7)

Based on the above section, the only reason provided for maintaining the language register is that jurors' will evaluate witnesses based on interpreters' renditions, which only concerns interpreting from the foreign language into English. Regarding completeness and accuracy in interpreting, California Rules of Court, Rule 2.890(b) (previously Rule 984.4) states, "An interpreter must use his or her best skills and judgment to interpret accurately without embellishing, omitting, or editing" (CAJC 2013a: 3). The same code of ethics also states that interpreters

> ... must retain every single element of information that was contained in the original message, in as close to a verbatim form as natural English style, syntax, and grammar will allow. By the same token, the non-English-speaking witness should hear precisely the questions that are asked, without simplification, clarification, or omission. (CAJC 2013a: 3)

There is no explanation or mention of the reasons behind this rule. The interpretation of this canon by ALTA in their report elaborates,

> This means that even if a litigant with limited English proficiency does not understand the possibly high language level of a source message, the interpreter cannot, under any circumstances, lower the register so the litigant can better understand. (ALTA 2007: 19)

This standard, though, refers to "the questions that are asked" but makes no reference to the rest of the proceeding, when the non-English speaker is just listening to interpreted discussions among attorneys, judges, and expert witnesses. Mikkelson provides an example: "If I were to inquire of you as to who was your treating physician

at the point in time that you fell ill, what would your answer be?" cannot be changed to "who was your doctor when you got sick?" (1998: unpaginated). Crooker gives an example along similar lines. She argues that the sentence "When the officer exited the vehicle to effectuate your arrest, did he indicate to you in any manner that you enjoy certain constitutional rights to refrain from incriminating yourself?" could not be changed by the interpreter into "When the policeman got out of the car to arrest you, did he tell you that you didn't have to talk to him?" because it would be "an adaptation beyond the role of the interpreter" (1996) .

Canon 11 of the Code of Professional Responsibility of the Official Interpreters of the United States Courts specifically mandates that "[official court interpreters] preserve the level of language used, and the ambiguities and nuances of the speaker, without any editing." The *Los Angeles Superior Court Interpreters Manual* states "The interpreter must provide an accurate interpretation of what is said, without embellishments, omissions, or editing" and that "As close to a verbatim and literal interpretation as possible should be made" (Zolin 1981: 11).

It is clear from all these rules that interpreters are not allowed to adapt their rendition under any circumstance according to the language, education or comprehension level of the target-language listener, nor modify language level to facilitate non-English speakers' comprehension. This may conflict with California Evidence Code Section 751 (a), which states,

> An interpreter shall take an oath that he or she will make a true interpretation to the witness *in a language that the witness understands* and that he or she will make a true interpretation of the witness' answers to questions to counsel, court, or jury, in the English language, with his or her best skill and judgment (emphasis added). (CLIb n.d.)

The literature and the codes reveal few reasons for interpreters to conserve the register during interpreting in judicial proceedings. The main one seems to be related to the idea that the *form* of the message is as important as its *content*. The code of ethics states that

> It is important to remember that when interpreting a witness's testimony before a jury, the jury will draw certain conclusions about the witness's sophistication, intelligence, and credibility based on word choice, style, and tone, among other things. It is your job to faithfully convey all of these factors so jurors get the same

> impression they would if they could understand the witness directly. (CAJC 2013a: 7)

This applies to interpreting from the foreign language into English, for the benefit of the jurors. Another rationale for maintaining the register when interpreting proceedings from English into Spanish may be inferred from Dueñas González et al.:

> The conservation of the complete message as spoken by a witness, judge, or attorney is necessary for LEP defendants to make critical judgments about any factual aspects regarding their cases and be able to participate in their defense. This is the same opportunity offered to an English speaker: nothing more and nothing less. (2012: 16)

However, the *same opportunity* may not be realized if the target-language listener does not share the same linguistic code as the English speaker (Angelelli 2000: 581), as they belong to different cultures and speech communities. The term *speech community* is defined by Hymes as "a social, rather than a linguistic entity," and "a community sharing knowledge of rules for the conduct and interpretation of speech," where "sharing of grammatical knowledge of a form of speech is not sufficient" (1974: 47-51). No other rationale is offered for maintaining the register when interpreting from English into the foreign language.

From the first day of class in interpreting courses and later in codes, standards and rules, interpreters are charged with conserving the register of the original language. The only definition of *register* offered in the code, however, is that register is the "level of language." This concept will be explored in more detail in the next chapter.

Chapter 4. Language register

4.1. Register features

The term *register* was initially used by Reid in 1956 with reference to a language that varies according to the situation in which it is used (Ferguson 1982: 55). Since then, different definitions have been proposed by scholars who study register from different perspectives. Halliday et al., who based the concept of register on the situational context, define this term as "a variety of language distinguished according to use" (1964: 87). A register is a certain functional language variety corresponding to a certain activity in certain context; for example, law is discussed and carried out through a special language variety, or register. Register is usually defined in terms of formal vs. informal, or high vs. low; however, these terms refer only to the degree of formality or politeness, what Trudgill calls *style* (1992:) and Halliday calls *tenor* (1964: 90). Biber and Finegan describe register as "a language variety viewed with respect to its context of use" (1994: 4); and finally, Crystal characterizes it as "a variety of language defined according to its use in social situations" (2003: 393). Most authors offer different classifications of registers, and different divisions in the formality scale. Joos finds that there are five styles in Spoken English: frozen, formal, consultative, casual, and intimate (1967). Halliday et al., however, believe language has many kinds of registers that lack clearly defined boundaries, and only describe two kinds of registers: open and closed (or restricted) (1989: 39-40). The term *register* evidently does not have the same meaning or application for all authors, and the different terms used to define a language variety according to its use or situation sometimes overlap: genre, style, attitude, etc. In this research, the term *register* was chosen because it is the term used in the code of ethics (CAJC 2013a).

According to Halliday et al., while the main difference between dialects is substance, the main difference between registers is form: "its grammar and its lexis" (1964: 88), and Biber and Finegan agree that registers differ in linguistic features and not in semantic features (1994: 6). This means that the way things are said may change according to situations and contexts, while the *meaning* remains constant. Hymes (1984: 44) states that everyone uses different registers and styles to communicate, because "no human being talks the same way all the time." Although speakers may normally vary

the way they speak in different situations, certain registers are not routinely available to speakers who are not part of the speech communities where said registers are used, as defined above.

Halliday et al. distinguish registers according to three variable and unidirectional dimensions: the *field* of discourse, which refers to the subject matter; the *mode* of discourse, which refers to the channels used to communicate; and the *style* of discourse, later called *tenor*, which refers to the participants and the relationships among them (1964: 90). Ventola (1995: 7) adds another dimension to the context: the social purposes of interlocutors. Biber describes three types of bidirectional features: situational, linguistic, and functional, and speaks of the usual associations among them (1994: 33-35). He explains that registers are differentiated by the patterns of relative distribution, co-occurrence, and alternation of markers, such as choices of lexical items or grammatical features, as they are evidence of diverse purposes and situations in the communicative event. He also offers a situational framework to analyze registers, which includes (1) non-hierarchical parameters such as communicative characteristics of participants; (2) relations between addressor and addressee; (3) setting; (4) channel; (5) relation of participants to the text; (6) purposes, intents, and goals; and (7) topic or subject (1994: 40-42). The term "text" is understood here and in this thesis in its broadest sense, encompassing spoken as well as written utterances, as used by de Beaugrande and Drexler (1981: 12ff), Halliday and Hassan (1976: 1), Halliday (1994: 311), Stubbs (1996: 4), and as defined in the *Longman Dictionary of Language Teaching and Applied Linguistics* (Richards et al. 2010: 594) and the *Cambridge Grammar of English* (Carter et al. 2006). In a later description of situational context and linguistic features, Biber and Conrad explain that the situational context includes all the elements in the situation: the participants, their relationship, roles, level of interaction and shared knowledge, the channels, the main purposes of communication, the physical context, and the topic. The linguistic features are the lexical and grammatical characteristics that tend to occur pervasively and frequently because they correspond to the situational context, and therefore, are always functional (2009: 6). It is important to note that the type of relationship, shared knowledge, and interaction amongst participants are factors that correspond to the structure of a register.

One of the features that differentiate registers is the lexicon, that is, the vocabulary that may be relevant to certain social situations. However, lexicons are not universal, but individual and communal. As Clark (1997: 580) points out, the

differences across lexicons are systematic, and everyone has access to different "communal lexicons" pertaining to the different cultural communities people may belong to. Bruthiaux states that registers "do not conveniently fit into tidy notions of linguistic competence," but that they "are undeniably central to every speaker's competence" (1994: 136-137). Schleppegrell explains that the requirements for learning a new register are similar to those of learning a second language: the input must be appropriate, and there must be opportunities to meaningfully interact and negotiate meaning in settings where said register is used (2004: 153). Cazden et al. explain that "thousand hours per year of compulsory education and post-secondary education" are required to acquire "vocabulary richness" (1981: 446), and Ure also states that the system of registers used in different language communities corresponds to the activities carried out by its members (1982: 5). This entails the idea that belonging to a speech community is prerequisite to sharing certain registers.

4.2. The registers of the Spanish language in California

Mexican-American bilingual communities in California, as well as other immigrant groups, are diglossic: English has become the high-register language of power and business, while Spanish has become the low-register, casual language of everyday interactions (Valdés 2000: 99ff, Roca 2000, Giambruno 2007: 70, Mendoza-Denton 1999: 380ff, Otheguy et al. 2010: 86). Due to the lack of access to high-register contexts, the language of Mexican immigrants in the United States usually consists of "mid to low registers of Spanish" (Valdés et al. 1998). Silva-Corvalán also states that as a consequence of the intensive and long-term contact with the English language, the Spanish language shows "simplification, transfer, and consequent convergence with English" (1991: 152).

Valdés and Geoffrion-Vinci compared the oral language production of Chicano bilingual students in a western U.S. university and Mexican monolingual students in a Mexican university. The findings showed that, in general, Chicano students used a much more limited vocabulary than the Mexican students, and, additionally, appeared to be "unsophisticated, and sometimes even inarticulate" in comparison to their Mexican counterparts. Even after years of academic study, bilingual Chicano college students' language production still showed serious flaws, as the lack of higher register repertoires

is a consequence of the low language variety acquired from their families and communities. Moreover, the Mexican students, despite being native speakers, "had not developed the ability to use consistently the high varieties of the language" (Valdés et al. 1998: 494). Although many heritage learners may speak fluent English and/or Spanish, their education proves challenging mainly due to the different skills exhibited by different groups "of newly arrived Spanish speakers who have had some formal education in Spanish at one extreme, as well as U.S. Spanish speakers with a low-level academic register at the other" (Said-Mohand 2011: 97). This disparity in language proficiency levels is also evident in interpreting training classrooms, which usually include students with a wide range of written and oral proficiency levels in both languages (see chapter 3).

Another relevant study on Spanish language register was undertaken in 2007 by Sánchez Muñoz, aimed at determining if there was register variation according to use among heritage Spanish speakers in California. She compared the Spanish language register of two groups of students of Spanish within the same college class: Heritage Spanish speakers and native English speakers. The language produced by these two groups of participants was examined in three situations: conversation, interviews, and class presentations. Focusing on different linguistic features such as discourse particles, contractions, lexical choices and lexical transfer, she found that although there was register variation in both groups, the academic register used by Heritage Spanish speakers was not as developed as the register they use for everyday interactions. On the other hand, while learners of Spanish as a second language used less informal vocabulary, idioms, colloquialisms, and more technical and formal terms, the language of heritage speakers contained more informal words, borrowings, colloquialisms, and linguistic transfer phenomena. This difference was due mainly to the diversity of input and exposure received by the groups (monolingual formal academic vs. oral informal interactions). While heritage speakers learn Spanish mostly in informal settings such as family interactions, students of Spanish as a second language receive their input in a formal academic setting. Sánchez Muñoz explains that a more restricted register range can be expected when the language input comes from casual family interactions and limited domains (2007: 2).

In conclusion, there seems to be a gap between the Spanish language registers available to many Spanish speakers in California and the high register of legal language used in judicial proceedings. This gap is also reflected in the intensive training future

interpreters must undergo in order to pass the exam, the low passing rates for certification exams, and the difficulties that Spanish-speaking defendants or witnesses themselves may have when appearing in court.

4.3. The register of legal language

Judicial proceedings make use of several language registers, and each variety is selected according to the attorney's discretion (Melinkoff 1963). O'Barr describes four varieties of courtroom language: (1) formal spoken legal language, which lawyers and judges use when addressing each other and judges use for addressing the jury, discussing motions, passing judgment, and "speaking to the record"; (2) standard English, which includes a formal lexicon and is used mainly by attorneys and most witnesses; (3) colloquial English, similar to everyday talk and used by some attorneys and witnesses; and (4) subcultural varieties (1981: 396). As stated above, this research is concerned mainly with the comprehension of the high and formal register of the language of the law, which is also heard in expert testimony, objections, briefs, judgments, legislation, precedents, sentencing, and during jury instructions, all of which together may represent the entire proceeding for defendants who do not testify, or most of the proceeding for defendants who do. The register used during these stages is a variety that non-English speakers hear mostly while it is simultaneously interpreted to them. Furthermore, if there are issues related to comprehension, these can be articulated by the witness and more easily observed during testimony when there is a question pending; however, non-comprehension cannot be articulated during simultaneous interpreting when the defendant is not the addressee. These interpreted renditions into Spanish are not part of the record, and usually the only person who can hear the interpreter is the defendant. The lack of a record in the foreign language has several consequences. Among them, the English record will not show if there are errors in the translation (Pantoga 1999: 622), and not preserving a foreign-language record places limited English proficient persons "at a clear disadvantage compared to English speakers whose testimony is always documented and available for review on appeal" (Dueñas González et al. 2012: 79, see also Shepard 2007: 645). Furthermore, exchanges between the interpreter and the non-English speaker are not recorded, and if convicted, the defendant might argue that "he was denied the right to due process" (Salimbene 1997: 653). The lack of a record in the

foreign language also makes it very difficult for the defendant to prove "that his lack of comprehension of the proceeding was so complete that the trial was fundamentally unfair" (Messier 1999: unpaginated). Non-English speakers are not expected to speak using a high legal register, but they are expected to understand it. To echo the fundamental principle of fairness (ABA 2012: 20), it is essential that all parts of the proceeding be completely understood in order to grant non-English speakers the possibility to participate and be fully involved and present in their proceeding.

Halliday et al. explain that some registers are intentionally restricted, and therefore can "accommodate little idiolectal or even dialectal variety." They call these registers "restricted languages," among which he includes "various registers of legal and official documents and regulations." They go on to say that "Except in restricted languages, it is normally assumed that individuals will differ in their language performance," which inversely implies that there is little difference in language performance among individuals who communicate using restricted languages (1964: 96).

In an analysis of courtroom language register according to the dimensions in the model proposed by Halliday et al. (1964: 90), the different elements found in this context can be examined. The field, which refers to the subject matter and setting, involves the facts of the case at hand and the subject matter of the law, both of which are guided by each speaker's goal. According to Abril Martí, the communicative situation takes place "between a professional who has a deep knowledge of the field and a speaker whose knowledge is limited" (2004: 219, my translation). Mason also refers to this power imbalance and the distance between the parties involved (1999: 148). The field also sets the speakers in physically designed hierarchical places, which are also aligned with their roles.

The mode, which in Hallidayan terms refers to the medium, involves at least two languages that, in a given proceeding, are used in simultaneous, consecutive, or sight interpretation. It also includes written language in forms, documents, and reports. This language is normally regulatory, rigid, and highly regulated (van Dijk 1989: 39). Discourse and conversation styles are irregular and do not conform to styles used elsewhere. Participants may not speak out of turn unless they have permission from the judge, and non-English speakers may not ask or refuse to answer questions at the risk of being found in contempt of court. All speech must be relevant to the case at hand as it is "context-dependent" (Harris 1984: 6). In her 1984 study, Harris concluded that

questions in the courtroom serve primarily two overlapping functions: obtaining information and making accusations. The information obtained through questions is basically for the benefit of non-speaking parties: the judge and the jury, and these questions are linguistically manipulated as "a strategic instrument of domination in the legal context" (Rigney 1999: 83).

The tenor refers to the roles and relationships among participants. Abril Martí remarks that it "reflects the relationships of power and solidarity between speakers," a relationship that, based on "their social status, the degree of control of specialized knowledge, and the decision power over the service provided," places the user in a lower hierarchical status in relation to the professional (2004: 219, my translation). Mason (1999: 148) qualifies this interaction as "particularly sensitive and face-threatening." The participants in this interaction include the judge, who has the utmost power and control; at least two attorneys, who have defined and opposite roles; a non-English speaker, who has a lower status because of his lack of knowledge, language, decision power, and control; an interpreter, who has an independent or ascribed role; and, in some cases, a jury, which is mostly silent but may comment on interpreters' performance and will ultimately decide the outcome of the case. All participants keep a maximum social distance; however, the interpreter is sometimes perceived by the judicial officers as siding with the non-English speaker, and conversely perceived by the non-English speaker as siding with the judicial officers. The roles specifically assigned to each party are nonnegotiable and the language is "pre-determined by the law" (Moeketsi 1999: 2). The interaction is usually initiated by the stronger side, who aims to assign blame, challenge and undermine the weaker side who is usually not there by choice, and who is usually on the defensive because he or she violated the law (1999: 26). Furthermore, Harris points out that in courtroom testimony, speakers usually start from two separate and often contradictory "paradigms of reality" with regards to the case at hand (1984: 19).

In a study of courtroom behavior, Erickson et al. distinguished between a powerful and a powerless speech style. Each has its own linguistic and discourse features, and each corresponds to a different role and status in the courtroom. The powerful style was perceived to possess more credibility, intelligence, and power than the powerless style (1978: 266ff). There have also been several important studies of interpreted courtroom interaction that relate to the issue of register or style. Hale (2004) and Berk-Seligson (1990) focused on perceptions of interpreted witnesses' testimony.

Both authors found that changes made by interpreters influenced the way witnesses were perceived in terms of credibility, intelligence, competence, and politeness. The speech markers and linguistic features that denote credibility, intelligence, competence, and politeness, however, are culture and language specific. Therefore, the evaluation of Spanish-speaking witnesses' speech styles by English speakers—not a jury of *peers*—does not account for any sociocultural variation.

This chapter has examined two significantly different language registers: one used by most Spanish speakers in California, and the other used by judicial authorities in legal proceedings. Since access to registers requires belonging to particular speech communities, Spanish speakers might not have access to the high and formal register of legal language, which, in turn, might affect their comprehension. This will be discussed in the next chapter.

Chapter 5. Communication and comprehension

5.1. Communication

The code of ethics (CAJC 2013a) makes clear statements about the interpreter's role regarding the communication between speakers: "As an interpreter, you must be mindful at all times that communication is the primary objective of the interpretation process," (28) and "An interpreter's sole responsibility is to serve as a medium of communication" (26). What is meant by *communication* in this particular context, however, is not articulated in the code. In fact, defining communication at all might prove to be a difficult endeavor, mainly because the many existing definitions only reflect each author's point of view, and everyone has a different definition. There are countless definitions of communication and what it should entail. Dance, for example, did a study in which he analyzed the main themes in 95 published definitions of communication from several fields, and found 15 conceptual components: symbols, verbal, speech; understanding; interaction, relationship, social process; reduction of uncertainty; process; transfer, transmission, interchange; linking, binding; commonality; channel, carrier, means, route; replicating memories; discriminative response, behavior modifying, response, change; stimuli; intentional; time, situation; and power. He then outlined three dimensions of differentiation: level of observation field (broad or narrow), presence or absence of sender's intentionality, and judgment (good-bad, successful-unsuccessful) (1970; see also Dainton et al. 2014: 2ff, Samovar et al. 2012: 8ff). Dance found that none of these definitions includes every possible behavior studied by communication scholars or offers a precise concept of communication, and in consequence they lead in different directions: "the current concept is overburdened and exhibits strain within itself." He suggests the development of a "family of concepts" that would help the systematic study of communication, one of them possibly being "effective communication" (1970: 210).

From Aristotle's first linear communication model of speaker-message-audience-effect and occasion, several other models were proposed, each adding new elements to the exchange: channels (Lasswell 1948: 219), channel noise (interference, distraction or distortion of message), semantic noise (misunderstanding) (Shannon and

Weaver 1949: 379ff), interaction and context (Johnson 1951), the role of communication in the social context (Newcomb 1953), reciprocal effect between speakers and speaker's experience (Schramm 1954), communicative and receptive/perceptual dimensions (Gerbner 1956: 175), linear feedback (Westley and MacLean 1957: 37ff), speaker's attitudes, knowledge, social system and culture as well as channel features (Berlo 1960: 47ff), two-way feedback (DeFleur 1966: 31), and so on. The legacy these models have left is the gradual awareness of other dimensions of communication that go beyond Shannon and Weaver's basic linear transmission model. "Widely accepted as one of the main seeds out of which Communication Studies has grown" (Fiske 2011: 5), Shannon and Weaver proposed five constituent elements for what was originally a mathematical model developed for telephone communication: source (producing the message), transmitter (encoding message into signals), channel, receiver (decoding message from signals), and destination (1949: 33-34). It also included the element of noise to denote any type of interference that might distort the message, such as static (p. 18). Shannon and Weaver described three kinds of communication problems: technical (accuracy in transference), semantic (accuracy in interpretation of intended meaning by receiver), and effectiveness (effect of received meaning on behavior). Scholars from different disciplines soon started finding problems with this model, problems which are well described by Chandler: although messages are sent and received simultaneously, the sender and receiver are independent roles; the sender determines meaning while the receiver absorbs information passively in a secondary role; it does not account for feedback; the meaning is fixed and contained in message; decoding is a mirror image of encoding not accounting for receiver acceptance; it does not account for unintentional communication; it does not account for context relevance in construction of meaning (situational, social, institutional, cultural, etc.); sender and receiver are isolated from a shared social system; the model does not allow for differing purposes, relationships between speakers, power differentials; and it is indifferent to the type of channel used. According to Chandler, "The transmission model is not merely a gross over-simplification but a dangerously misleading misrepresentation of the nature of human communication," and "... this model's endurance in popular discussion is a liability and underestimates the creativity of the act of interpretation" (1994: unpaginated).

Reddy proposed a framework to show the way speakers describe communicative acts by consistently using a "conduit metaphor." According to this framework, speakers

insert (*"capture/put into words," "a loaded sentence"*) thoughts, feelings, ideas and meanings inside words (*"a sentence filled with emotion" or "empty of meaning"*), which physically carry them (*"get an idea across," "give an idea"*) to the listener, who extracts these thoughts, feelings, ideas, or meanings from the words (*"an impenetrable remark"*). Whether communication is successful depends on the speaker's success or failure at the insertion process, or the listener's success or failure at finding and extracting meaning from words. The metaphor framework draws from four categories of expressions:

- Language functions like a conduit, transferring thoughts bodily from one person to another;
- In writing and speaking, people insert their thoughts or feelings into the words;
- Words accomplish the transfer by containing the thoughts or feelings and conveying them to others;
- In listening or reading, people extract the thoughts and feelings once again from the words. (Reddy 1979: 286-290)

Reddy claimed that the language English speakers use to refer to human communication is evidence of the narrow framework used to perceive and refer to meanings and thoughts, which are objectified as external to the human brain. Furthermore, in this conduit metaphor communication requires no effort, but it should; otherwise, once all ideas have been store and recorded, human beings would no longer be necessary (1979: 309ff).

Craig explains that there is yet no coherent field of study that can be identified as *communication theory*, and calls for a dialogue in which to find differences and similarities to arrive at a *metamodel* of communication and an agreement on the way theory is defined, although he acknowledges that "the transmission model continues to dominate lay and much academic thought" (1999: 125). Scholars from different fields continued arguing that the linear transmission model was lacking and that a new model should account for communication as a process of producing and reproducing shared meaning. Carey, for example, describes a constitutive model that responds to cultural diversity, among other current social issues, and does not explain communication but implies its symbolic constitution (1989: 25ff).

In general terms, the initial communication model was understood as the sending and receiving of messages, regardless of the message actually being received as sent and regardless of effective communication actually taking place. Pfeiffer explains

that communication is *effective* when the messages (including attitudes, beliefs, feelings) flow freely between speakers, when the receiver accepts and clarifies meaning and intent of the message, when there is feedback, when speakers are not concerned about whether they are communicating, and when messages are clear and not mixed or contradictory. Two meanings are inferred from messages: the literal meaning and the relationship meaning, and the effectiveness of communication depends on these two meanings not confusing or distracting each other. The sender encodes a message that is decoded by the receiver, and in this encoding process speakers translate intended meanings into symbols that can be understood by listeners. This message is transmitted via several different channels, such as telephone, media, writing, verbally, but also through gestures, eye contact, distance, and contextualization cues. The receiver then must decode the message to process and understand the information transmitted, but in order to effectively interpret the symbols encoded in the message as sent, the receiver must be familiar with the code (1998: 15ff).

Philipsen explains that some of the main concerns, when studying communication, include the way speakers arrive at common understandings, use symbols to function cooperatively in society, use symbolic resources (including language) to create a sense of shared identity, and understand communicative activity. He proposed a speech code theory, explaining that speech codes are "socially constructed systems of symbols and meanings, premises and rules, pertaining to communicative conduct" (1992: 124-139). Communication is created and interpreted by speakers based on their speech codes: they contain terms, scenarios and premises used to produce communicative acts and resources to interpret them, so they have a "constitutive function in the production of interpersonal meanings." Philipsen et al. later offered a revised version of Philipsen's original propositions regarding speech codes, in which, summarizing, they proposed that cultures have distinctive and multiple speech codes that reflect what people are: their nature, constitution, and potential social relations; they are symbolic resources for coordinating social life, providing the base for constructing meaning among speakers, and can be observed in communicative conduct. The construction of meaning, therefore, depends on a shared code (2005: 58ff).

5.1.1. Intercultural communication

Communication can be described in terms of the number of speakers involved, their background, and the medium. Since the particular communication that concerns this research takes place in a verbal intercultural exchange among several speakers, this context involves intercultural as well as interpersonal communication. The notion of "intercultural communication," as used first by Hall (1959: 81), refers to the communicative interaction between members of different cultures. As with communication per se, there are many theories of intercultural communication, and as many definitions of "culture." The field started by exploring interactions between people of different nationalities, ethnicities, or languages, and when the field seemed too restrictive, "intercultural" gradually began to include also factors of gender, class, sexual orientation, religion, politics, and the like. Some scholars, such as Piller (2007: 211) and Pratt (2013: 437ff), draw on Anderson's concept of "imagined communities" to argue that studies on intercultural communication usually identify a culture with a nation or a language, and explain understanding and misunderstanding from a priori assumptions about homogeneous and idealized cultures with shared social norms or languages with shared repertoires, instead of explaining them from linguistic dimensions (interactional sociolinguistics and bilingualism) or inequality and injustice (critical sociolinguistic ethnography and discourse analysis) dimensions. For example, approaches that match a certain speech style with a certain culture, or whether we "see the world differently depending on the position of the verb in our main language or languages" (Piller 2007: 216), do not account for individual and social differences. Culture is used to explain differences between speakers from different speech communities, and people are defined as belonging to or having the characteristics of said imagined culture. To avoid this, they propose to account for context when studying language, culture, and communication: "The key question of Intercultural Communication must shift from reified and inescapable notions of cultural difference to a focus on discourses where 'culture' is actually made relevant and used as a communicative resource" (Piller 2007: 221). From a simple transfer of a message through a conduit to accounting for cultural differences, scholars began to consider other contextual elements that contribute to the construction of meaning in communication. Accounting for the interaction of language and contextual factors, studies from different disciplines such as international studies, anthropology, sociology,

linguistics, political science, communication, and others have contributed to developing a field that is currently considered as interdisciplinary. Some of these contributions are highly relevant to the communicative event this research aims to explore, and this chapter will review a few of them.

5.1.2. Interdisciplinary contributions

The way meaning is communicated can be examined through the pragmatic elements factored into intercultural communication, which are learned in the speech community. Tannen explains that since all speakers have different communicative backgrounds, all communication is intercultural. She describes several communicative aspects that can vary among speakers in intercultural communication: what is said and how it is said, when to say it, perceptions of silence, jokes, irony, sarcasm and the way to signal them, offering and accepting advice, information or compliments, conversational control mechanisms such as speed, pacing, pausing, ways to signal listenership (gaze), intonation (pitch, loudness, rhythm), prosody, formulaicity (figures of speech), indirectness, cohesion, and coherence. The assessment of individual features in intercultural communication is difficult because they are "always measured against cultural standards" (1984: 191). This is relevant because, as described in chapter 2, participants in the communicative event this research aims to study show several of these differences. For example, Tannen explains that Americans do not favor indirectness, which is common among Hispanics. Furthermore, people from Latin America usually speak faster and use a more roundabout style (JCNSW 2015: 3321). Montaño-Harmon (1991: 418) conducted a study in which she compared the discourse features of students from four different groups: Mexican students in Mexico, ESL Mexican students in the United States, English-dominant Chicano students, and Anglo-American students. The average number of sentences was 5.38 for Spanish speakers and 9.90 for English speakers, while the average sentence length was 41.10 words for Spanish speakers, and 17.10 for English speakers. Results also showed that Spanish speakers do not start paragraphs abruptly: they follow an introductory or anticipatory stage before arriving at the topic, using elaborate language, numerous synonyms, and run-on sentences with or without conjunctions or punctuation marks. English speakers, on the contrary, used simpler and shorter sentences. For Spanish speakers, the "basic strategy was to state an idea, place a comma, and then repeat the same idea using a

synonym, the same word, or a semantically related word (collocation) to create a build-up effect," while English speakers connected ideas by repeating the same word. Another interesting finding was that while all English speakers organized ideas by enumerating them in chronological or spatial order, none of the Spanish speakers did; instead, they showed "many more conscious deviations" between ideas, while English speakers' deviations tended to be unconscious. Relevant to this point is also the fact that English into Spanish translators usually factor about twenty percent increase in the word count of the target text, a difference not strictly due to language structure.

The relevance of context in communication has gradually become a common element in most studies of intercultural discourse. One of the most important contributions in this regard came from Gumperz, who showed that talk must be contextualized in order to be interpretable (1995: 105). Speakers make use of *contextualization cues* to indicate "how they mean what they say." These cues are features at different speech production levels: prosody (speed, intonation, stress, pitch), paralinguistic signs (pauses, hesitations), and the choice of code, lexical forms, or formulaic expressions. They are perceived and interpreted automatically by speakers based on their "culture-shaped background knowledge" in the understanding and construction of meaning. The correct interpretation of these cues is not noticed by participants, but when they are not shared they may lead to misunderstandings. To interpret the messages, participants must draw on cultural knowledge acquired through sharing experiences while participating in "institutionalized networks of relationships where individuals cooperate in the pursuit of common goals" (Gumperz 1995: 105). A common cultural knowledge is implied here as a prerequisite to interpreting what is being said, as different cultural backgrounds and contexts might lead to different interpretations of the same message. As Tannen's description, this is relevant because Spanish speakers and English speakers interacting in judicial settings do not generally share many contextualization cues, and therefore might not be able to accurately make sense of each other's communicative acts. This will be discussed further in chapter 10.

Also highly relevant to this particular intercultural communicative event are the contributions of Paul Grice, mainly regarding the distinction between linguistic meaning and speaker meaning: the way things are said as opposed to what is actually said. He found that speakers usually show cooperation in conversation, and articulated it in a cooperative principle: "Make your conversational contribution such as is required, at the stage at which it occurs, by the accepted purpose or direction of the talk exchange in

which you are engaged." This cooperation follows some rules, which are translated into four maxims: 1) maxim of quantity: contributions should provide no more information than required; 2) maxim of quality: contributions should not be intentionally false or lack evidence; 3) maxim of manner: contributions should not be obscure or ambiguous, but brief and orderly; and 4) maxim of relation: contributions should be relevant (1991: 26-27). The relevance of this contribution to this study lies in the profound conversational differences between English speakers and Spanish speakers in their approach to these maxims, which will be analyzed in detail in chapter 10.

Perhaps one of the most relevant contributions to this field and this research is Hymes's concept of *communicative competence*. He points out that "What counts as a language boundary cannot be defined by any purely linguistic measure" because attitudes and social meanings should also be taken into account (1974: 123). He expanded on Chomsky's linguistic competence and performance model to define this communicative competence, which takes into account the use of language according to the situation to enable a speaker to communicate with society. This competence to communicate in a language according to the situation is entirely consistent with the definition of register, as discussed in the previous chapter. Bachman also expanded on the definition of communicative competence to include "the knowledge of how language is used to achieve particular communication goals, and the recognition of language as a dynamic process" (1990: 83). Hymes also proposed the SPEAKING model to identify and describe all the elements of linguistic interactions in a social situation: the scene (setting), the participants, the end: purposes and outcomes of the speech, the act sequence, the key or tone, the instrumentalities: form and style of the speech (which include registers)**,** socially accepted norms of interaction and interpretation, and the genre or type of speech (1974: 54-62). Hymes's scheme for describing the categories that can be used to analyze communicative events is also closely consistent with the dimensions of field, mode, and tenor proposed by Halliday et al. and discussed in the previous chapter. Although they do so from different perspectives, most authors seem to target the same constitutive elements that provide so much more to the speech event than the mere linguistic component.

All these contributions to the field of (intercultural) communication show, from different perspectives, the essential role of context in the construction of meaning between speakers in an interaction. It is not exactly the context itself, but the "subjective interpretation of the context by discourse participants that constrains discourse

production, structuration, and understanding" (van Dijk 1999: 110). Language use is thus considered a social activity where meaning is co-constructed by speakers, and this construction is based on their understanding of the propositional and interactional meaning of talk and their understanding of cues from the participation framework (Wadensjö 1995: 113ff). Also, all of them describe a code, or a competence, that is necessary for speakers to make sense of what they hear and be able to construct meaning. This means that without a common code, decoding-interpreting-constructing meaning would be difficult, as different decoding systems will produce different meanings. In order to construct a common meaning, the decoded message should match the original message, which is only possible when speakers share a speech code. Members of speech communities share a knowledge of "the linguistic code as well as of the socio-cultural rules, norms and values which guide the conduct and interpretation of speech and other channels of communication in a community" (Farah 1998: 125). In summary, (intercultural) communication requires an understanding of concurrent and integrated components such as perception, patterns of cognition (reasoning and problem solving), verbal and nonverbal behavior, and the influence of context. Perception depends on individual and shared cultural beliefs and values (morality, ethics), which lead to holding an attitude system of learned tendencies, social norms, and a worldview operating subconsciously (Samovar et al. 2012: 13ff).

5.2. Comprehension

As described in the beginning of this chapter, communication per se does not have to be successful or effective to be regarded as communication; in other words, it does not require that the message is received as sent or that it is understood as intended. In the context this research aims to study, however, it certainly does, as is stated in the code and relevant literature (emphasis added):

- "The interpreter's only function is to help the court, the principal parties in interest, and attorneys communicate *effectively* with one another" (Hewitt 1995: 130)
- "There is consensus about the fact that the interpreter must be sensitive to cultural dimensions and linguistic differences that might cause *misunderstanding* and *ineffective* communication" (Lee 2009: 381)

- "There are two basic reasons for having an interpreter present in a court case: (1) to enable the defendant to *understand* the proceedings and (2) to enable the court to *understand* all non-English speakers who address the court" (CAJC 2013a: 28)
- "Sometimes, however, it becomes necessary to intervene in the proceedings in order to ensure *proper communication* and an accurate record of the testimony" (CAJC 2013a: 4)

As explained above, effective communication requires that the receiver accept and clarify the meaning and intent of message, that this message is clear and not mixed or contradictory, and that the receiver effectively interpret the message as sent, for which a familiarity with the code is required (Pfeiffer 1998: 15ff). Based on the above statements from the code, in this context "proper" or "effective" communication is regarded as including a component of comprehension: meanings must be understood. Understanding language in context implies that the meanings cannot be derived solely from literal semantic denotations but are constructed in a way that accounts for the intersection of linguistic and contextual meaning. Understanding these meanings involves different types of knowledge: linguistic (semantics, discourse structure, etc.) and non-linguistic (about the topic, context, etc.). Consequently, besides understanding the terminology, non-English speakers would need to be familiar with the subject matter in order to understand what they hear, and this comprehension would be based on assumptions made on literal meaning combined with information from their own knowledge (Buck 2001: 1-25). Isaacs and Clark also refer to a shared knowledge as a prerequisite for understanding between participants, and to a common ground of "mutual knowledge, beliefs, and assumptions" (1987: 26). This common ground must be updated through a basic communication process Clark and Brennan later call *grounding*, which is shaped by the communication purpose and medium. They define grounding as the mutual belief that participants understand what they mean in order to achieve the purpose (1991: 128).

Several models and theories have also been proposed from cognitive psycholinguistics, a field concerned with the psychological processes underlying language production and comprehension in interaction with the cultural environment (Harley 2005: 4ff, Hatzidaki 2007: 13ff). Theorists agree that comprehension is a dynamic and highly complex act that involves several stages or process levels that start operating as soon as the speech (acoustic) signal is perceived and end when new

knowledge is integrated with prior knowledge by assigning meaning to the input. Each of these stages has distinct and specific functions at different processing structural levels. The models proposed to explain the comprehension process differ mainly in the degree of autonomy or interaction assigned to each processing level and the system as a whole, the degree and timing of contextual influence, the degree of combination of bottom-up and top-down processes, and the degree of background knowledge involvement. The two main hypotheses proposed to explain the functional architecture of language comprehension are the modular and the interactive views (Molinari Marotto 2008).

The modular hypothesis claims that there is a modular, unidirectional, and serial bottom-up input system that feeds into a central process. Each different module (processor) is autonomous and can only access its own information and the information from the immediately lower module, but not from the higher modules. The process operates in a sequence, where the output of each level becomes the input for the next. There are four hierarchically organized and contextually independent tiers in the system: phonological, lexical, syntactic, and semantic modules. The central process can access any information necessary to contrast the input with the listener's world knowledge and the content of the discourse (Fodor 1983: 11, Forster 1979, Garrett 1978: 612ff, Marslen-Wilson et al. 1987: 37ff, Swinney 1982: 152ff, Molinari Marotto 2008). The interactive model, on the contrary, is bidirectional: modules interact and can exchange information, so that lower processors can receive feedback from higher representation levels (Dahan et al. 2006: 260, Molinari Marottto 2008). Theorists in favor of the interactive model claim that the system must be top-down to account for ambiguity resolution at the sensory level (Swinney 1982: 153); that the input can be mapped onto the discourse level before the linguistic level is complete (Marslen-Wilson et al. 1987: 59); and that higher levels can influence word recognition, which implies the existence of a bottom-up and top-down integration (Dahan et al. 2006: 260). Regardless of level of autonomy or interaction, several stages can be differentiated in the process: the comparison of acoustic input with information stored in long-term memory, the assignment of meaning by contrasting the input with the word representation in the lexicon, the semantic and syntactic identification to integrate words into a meaningful sentence, and the integration of said sentence into a discourse that must be meaningful when compared to information stored in the long-term memory (Molinari Marotto 2008).

The first step in word recognition is identifying the phonemes, which leads to word identification, and then to word interpretation. In brief, the word is recognized after the acoustic information is mapped onto the phonological, morphological, syntactic, and semantic information in the lexicon, and a semantic field is activated. Once the word has been recognized and its information is found to be consistent with the semantic information from the lexicon, the word can be interpreted. When the word interpretation fits in its context, the word is understood (Tabossi 1991: 1ff). Several models explain the way speech is perceived, mainly the cohort model and the trace model.

Experimental research has been undertaken to determine the influence of context on speech perception. Research methods included measuring reaction times (the time it takes a listener to recognize the stimulus), priming (the potential influence of previous semantic and syntactic information), and lexical decision (listener determines whether items are words or non-words). Priming was introduced by Meyer and Schvaneveldt (1971: 227) and is commonly used in research. In priming methods, word recognition improves when the previous word (primer) is semantically or associatively related (teacher/student), or when the context is predictive (apples grow on...) (Moss et al. 1995: 878, Tabossi 1991: 5). In all these cases, the reaction time is measured, and the first item is modified by researchers to determine variation in reaction times. In general, research results showed that the context does affect the input. For example, Gordon et al. showed that default pronominal interpretations are made based on contextual structure, with knowledge-based processes then corroborating or overriding said interpretation (1995: 313). Lukatela et al. found that pronouns and verbs facilitate each other but through different mechanisms (1982: 298). Other evidence of influence of sentential context on word recognition was found by Marslen-Wilson et al. (1980: 6), Tabossi (1991: 1), and Swinney et al. (1976: 155), among others. When this influence occurs is still under debate. Swinney et al., for example, hold that the influence occurs after initial lexical access (2002: 6). *Lexical access* is an autonomous, automatic, and exhaustive subsystem of sentence comprehension constrained only by acoustic and phonetic features that provides temporary access to all the meanings of the word, regardless of context or frequency. These meanings are then evaluated in terms of frequency and contextual information, until a single unambiguous interpretation of the word is selected (Onifer et al. 1981: 232).

It is generally agreed that high-frequency words are recognized faster than low-frequency words (Dahan et al. 2006: 264, Tabossi 1991: 8, MacLeod et al. 1996: 132ff, Balota et al. 1984: 243, Forster et al. 1973: 627ff), even in noise, when the effect is determined by frequency of occurrence and semantic context (Johns et al. 2012: unpaginated). It has also been shown that common words are better identified and understood than uncommon words (Danet 1980: 484, Charrow et al. 1979: 1307), and that words are recognized faster than non-words (Molinari Marotto 2008). Lexical decisions will be delayed in cases of syntactic disagreement, which shows that the syntactic context intervenes after lexical processing. Likewise, disagreements between the word identified and the semantic field activated will significantly increase word recognition time, even when there is no syntactic disagreement (Molinari Marotto 2008). Contextual effect was also shown by experimenting with neighbor words. An orthographic neighbor is "any same-length word that differs from the target by a single letter" (Pugh et al. 1994: 639), and a phonological neighbor is word that differs from the target word by a single phoneme (Grainger et al. 2005: 984). Results showed that recognition and lexical access are facilitated when the two words have a semantic relationship because the words activated will belong in the primer semantic field. At the same time, each identified item will help establish the meaning of the words that follow. Word recognition time is longer when the words have many neighbors, and when the input is brief, for example, words are frequently mistaken for their frequent neighbors. This influence occurs because the input activates several alternatives simultaneously, and decisions are maximized by the system. High frequency words with many neighbors were also easier to recognize than low frequency words (Luce et al. 1998: unpaginated, Chan et al. 2009: unpaginated, Metsala 1997: 47, Molinari Marotto 2008). Once a word is recognized, it must be integrated into a sentence by establishing associations among words and phrases and interpreting contextually dependent expressions. This process requires linguistic, world, and specific contextual knowledge. Comprehension involves the construction of a mental model that will include each word recognized and syntactically and semantically organized based on listener's parsing, which would lead to the determination of the propositional context or message. Each new input will help update this model, which will incorporate inferences triggered by sentential, contextual, and general knowledge (Tanenhaus et al. 1995: 218). Once the sentence is accurately represented, it is contrasted and integrated with the rest of the

sentences to arrive at a meaningful discourse, which would not be possible without successful resolution of ambiguities and inferential processes, including anaphora.

Inference resolution is one of the most important processes that occur during comprehension. To make sense of discourse, the listener must connect new and old propositions that are stored in the short and the long-term memory. If the process fails, an inference must be made (Kintsch and van Dijk 1978: 367). The listener attempts first to arrive at a coherent meaning by using logical (literal) meaning, and if this fails, the listener will resort to contextual or background knowledge (Searle 1979: 89, Harley 2005: 313), experience and memories (Rumelhart et al. 1977: 110), and sentence meaning (Tabossi 1991: 1). Inferences include the resolution of anaphoric references to discern antecedents to pronouns, for example, and some theorists believe that this resolution is based only on culturally-acquired pragmatic world knowledge (Dwivedi et al. 2005: 112). Resolution of inferences, ambiguities, and anaphora is fundamental for establishing cohesion and coherence: while cohesion allows for linking information within discourse, coherence allows for linking discourse with the listener's knowledge of the world. Discourse coherence depends greatly on co-referencing patterns (Halliday & Hassan, 1976; Johnson-Laird, 1983; Gordon et al. 1995: 313, Kintsch & van Dijk, 1978: 365).

The problem of coherence and inferential process has benefitted from schema theory, which helps make predictions about future input by partially matching the new situation with a subschemata (Rumelhart et al. 1977: 106). Carrel and Eisterhold, who work in reading comprehension, explain that words do not carry meaning by themselves, they only tell listeners how the meaning should be retrieved or constructed from their own background knowledge, and organized in structures called *schemata*. Results of research on schema theory have shown the relevance of background knowledge, since "emphasis has been almost exclusively on the language to be comprehended and not on the comprehender" (1983: 73). First proposed by Bartlett in 1932, schema theory holds that individual world knowledge is the basis for comprehension because it helps interpret new information by providing a contextual framework from schemata, which store all the knowledge a person has developed and acquired. A schema is "a representation of members of a category based on the type of objects that they are, the parts that they tend to have, and their typical properties" (Anderson 2009: 428), powerful "data structures for representing the generic concepts stored in memory" (Rumelhart et al. 1977: 101), and "basic building blocks of human

information-processing system ... key units of the comprehension process" (p. 111). Rumelhart et al. explain that the knowledge stored in schemata is not linguistic but abstract, symbolic, conceptual, encyclopedic, and hierarchically organized in interrelated networks. Comprehension begins with the ongoing instantiation of schema by variable assignment. During comprehension, corresponding schemata are selected, and this correspondence is then verified. This process involves finding and selecting schemata that would account for the situation, and then verifying or rejecting said accounting. The operation is a combination of bottom-up and top-down processes that allow for the convergence of input information and the activation of potential candidate schemata. It is possible that schemata give only partial evidence for certain situations, and in that case the comprehender would achieve only partial comprehension; "The problem, then, is only that we cannot find a single schema which satisfactorily accounts for the entire situation" (1977: 113). Finally, since the information to instantiate the schemata comes from individual experience, the schemata cannot hold information that has not been experienced, learned, or acquired: "One of the most obvious reasons why a particular content schema may fail to exist for a reader is that the schema is culturally specific and is not part of a particular reader's cultural background" (Carrell and Eisterhold 1983: 80).

Some of the most influential work on language comprehension has been done by Kintsch and van Dijk, who jointly and separately have published extensively on the mental operations taking place during this process. The first step in the initial models contemplated the identification of coherently referenced propositions from a text to arrive at a representation of meaning. A proposition is "the smallest unit of knowledge that can stand as a separate assertion" (Anderson 2009: 123). When propositions are repeated, their common elements help the comprehender to arrive at the gist of the text. Richgels explains that this model of comprehension involved four processing stages: syntactic analysis (via grammar), semantic analysis (via semantic memory and world knowledge), pragmatic analysis (via schema), and functional analysis (via one's goals) (1982: 59). In 1978, Kintsch and van Dijk combined their previous work to update the model of language comprehension, which now had three steps: the organization of propositions in a coherent text base, the transformation of propositions in the text base into macropropositions while retaining the gist of the text, and memory recall. The transformation of propositions into macropropositions involves the deletion of irrelevant propositions and the construction of new propositions that would fill gaps in the text

base by global inferential processes, which involve the participation of schemas to determine propositional relevance. This process takes place in cycles due to the low capacity of short-term memory, which acts as a buffer by temporarily storing information that will be integrated with future propositions and deleting information that has already been processed. When the listener recalls or summarizes a text, a new text base is generated.

In 1988, Kintsch introduced the construction-integration model of discourse comprehension. It had been established that word context did not affect initial semantic field activation and that the selection of the appropriate word occurred after filtering out inappropriate ones. In consequence, the model was revised to show a strictly data-driven and bottom-up initial process. The new process has two steps. The first step is a bottom-up process that involves the activation of the semantic field to form propositions with no contextual influence, that will produce an output lacking full coherence and stable associations. The second step is top-down and involves the selection of elements that would be appropriate according to discourse context with information from long-term memory, and the transformation of construction output into a coherent text base. The process still takes place in cycles, and each new sentence updates the representation of the whole text and the reorganization of propositions in the text base. The model now consists of the combination of a propositional text base construction from linguistic information and listener's linguistic and world knowledge, and the integration of this text base into a coherent structure (Gernsbacher et al. 1999: 286, Richgels 1982: 60, Kintsch 1988, 1994, Kintsch and van Dijk 1978: 367ff). In summary, this theory also establishes that successful comprehension requires accurate word recognition, accurate anaphoric and referential resolution, and prior knowledge.

Every account of understanding discussed so far has shown that achieving comprehension during communication requires 1) knowledge of the world and specific domains to make sense of discourse, 2) knowledge of language use in context, or communicative competence, and 3) that this knowledge be shared by participants. Shared knowledge is a requirement called for by many other scholars from different fields. For example, Seleskovitch holds that "comprehension is what occurs when new information ties in with related knowledge. If such knowledge is absent the new information is ignored" (1989: 49), and Cameron states that shared and inferred cultural and linguistic knowledge are both critical for "even the most seemingly straightforward interaction" (2002: 111). When a person hears discourse that is consistent with his or

her expectations and needs, there are more possibilities of understanding than if the message is "unexpected, irrelevant or unhelpful." This implies that information about content, situation, and speaker(s) should be provided (Ur 1984: 4). Most authors also seem to agree that meaning is arrived at (a) by drawing inferences from the language used and (b) from one's own knowledge of the world, which includes expectations of behavior in similar situations, relationships and identities, institutional procedures, and the topic discussed (Scollon 1995: 17). Scollon also differentiates between sentence meaning, which is based on grammatical features, and speaker meaning, which is based on the context. White agrees, stating that communication is a consequence of sharing the concepts, not the language (1990: 31). Finally, Gumperz holds that "we cannot assume that speakers of the same language share communicative conventions at the level of discourse" (1995: 106). Identifying the words heard without being able to connect them to some type of context can be defined as *non-understanding*, which is one of the types of misunderstandings described by Grimshaw (1980). Misunderstandings (and non-understanding) can be a consequence of different types of barriers, which can be internal (fatigue, poor listening skills, lack of interest, fear, mistrust, past experiences, attitude, lack of shared experience, emotions) or external (noise, distractions, technical vocabulary, environment) (Pfeiffer 1998: 2ff). When communication has a common purpose, speakers use strategies to attempt to achieve it by using repair mechanisms to eliminate or mitigate said barriers.

One of the theories that address the mutual influence between culture and communication is communication accommodation theory, which explains and predicts the strategies speakers might use to establish or modify social distance in an interaction. The basic principles of this theory hold that communication is influenced by other factors besides contextual and individual orientations, such as the socio-historical context of the interaction. Furthermore, social category membership is the product of negotiation, speakers expect the most optimal levels of accommodation, and speakers' attitudes toward other speakers are conveyed by precise communication strategies. Accommodation is then the integration of these strategies into a "constant movement toward and away from others." One of these strategies is convergence, whereby one speaker adopts another's linguistic, paralinguistic, and nonverbal features in order to gain approval and similarity with the other speaker, which will foster respect among speakers and enhance communication and cooperation. On the other end, divergence heightens the linguistic differences between the speakers in order to highlight

individuality and "differing group identities through contrast" (Giles 2005: 10-13). The restricted language characterization assigned by Halliday et al. (in chapter 4) to high legal registers seems to be consistent with this strategy of divergence (Giles 2005: 10), which may be used by judicial officers to "keep out outsiders" (Charrow 1982: 95). A third strategy is maintenance, where the communicative style of the speakers does not influence others' personal styles (Giles 2005: 10-12).

Another strategy used by speakers involves a simplification of linguistic features, whereby speakers adjust language *form* in a way aimed at achieving "optimal functional effectiveness" by accounting for speakers' encoding and decoding abilities. These simplified registers facilitate perception and comprehension by simplifying the input, and can be defined as "varieties of speech typically aimed at listeners believed not to be fully competent in the language – young children, foreigners, or the hard-of-hearing" (Bruthiaux 1994: 136). These concepts also relate to Ferguson's idea of simplified registers to define a variety used when inadequate language proficiency is suspected. Simplification of register in this case may be used for purposes of cognitive load reduction, economy of time and effort, and accommodation of others in the conversation (1982: 49-59).

In the translation field, Jakobson describes three types of translation: interlingual translation or translation *proper* (into another language), intersemiotic translation (into a nonverbal system of symbols), and a special case of *intralingual* translation that includes rewording, paraphrasing, and simplification of sentence structure (1959/2000: 114). Drawing on Kirkness' view that the difference between two speech communities in the same language may be the same as the difference between two national languages, Zethsen proposed that intralingual translation also involves two codes, not of different languages but "of different genres or target groups." Her analysis revealed that this type of translation is generally motivated by parameters such as knowledge, time, culture, and space, and usually involves some form of simplification (2009). Improving comprehension is also a goal of the plain language movement, which will be described later in this chapter.

5.2.1. Comprehension of legal language

Following an assessment of current services for LEP persons and court needs at a national summit where the states identified the main areas of concern, "A national call

to action," a report containing the action steps necessary to meet said needs is the third step of an initiative launched by the National Center for State Courts to provide effective LEP services in the court system. The introduction reads,

> In order to achieve equal access to justice for all, every litigant, victim and witness must have *a complete understanding* of what is happening in the courtroom. However, if language barriers intrude into the process of justice and prevent essential communication and understanding, some of the basic strengths and values of our justice system are negated (emphasis added). (NCSC 2013: iv)

The same report cites from the *White Paper on Court Interpretation: Fundamental to Access to Justice,* "Not only are court interactions at a significantly higher level of difficulty than conversational language, but they also require a familiarity with legal terminology and procedure and with the cultural context impacting the parties in both proceedings" (Griffin et al. 2007: 5).

When a litigant, victim, or witness is a non-English speaker, comprehension is contingent on the interpreter's decisions, skills, and role constraints. As stated above, the code of ethics contains several provisions for interpreters regarding comprehension (CAJC 2013a): "You, as the official interpreter, bear a very important responsibility, as other people are depending on you to understand what is being said. This is a relationship of trust that must be preserved at all costs" (p. 18), "There are two basic reasons for having an interpreter present in a court case: (1) to enable the defendant to understand the proceedings and (2) to enable the court to understand all non-English speakers who address the court" (p. 28), "As an interpreter, you must be mindful at all times that communication is the primary objective of the interpretation process" (p. 28). And finally,

> Lengthy evidentiary proceedings, such as preliminary examinations and trials, require considerable preparation on the part of the interpreter. Because it is difficult to know and remember the tremendous scope of technical terms that might arise during testimony, it is advisable to work with case attorneys and other court personnel to anticipate the subjects that may be covered ... No interpreter can be expected to have mastered all areas of specialized terminology. (CAJC 2013a: 30)

Legal language has been characterized as a technical language (Galdia 2003: 1, Cao 2007: 23), a language for special purpose (Pommer 2008: 18, Sandrini 2009: 44), a subtype of specialized language carrying legal force (Bednarova-Gibov 2014: 116), a

sub-language (Gemar 2006: 69), and "the expression of legal identities that vary according to systems and countries matching and weighing legal terms across languages" (Peruginelli 2009: 280). The legal discourse shares the features of a professional discourse: it is expert discourse related to a specific domain, it is goal oriented and situated, it has a conventionalized form, it takes place in a socially ordered group, it depends on a societal framework, and it changes dynamically (Gunnarsson 2009: 1). Furthermore, the "text is often written in a legal register that nonlawyers are not likely to comprehend, one that may have led to the dispute in the first place" (Shuy 2007: 106).

The complexity of legal language has been extensively studied from many fields, and volumes have been written to describe the reasons for its impenetrability and lack of comprehensibility and translatability. Some of these reasons refer to the linguistic differences between the legal register and the everyday language lay people use to communicate, which were described in previous chapters. The other type of reasons refer to its nature as a *system-bound* language (Peruginelli 2009: 280, de Groot 1987: 796, Jopek-Boslacka 2011: 16, Pommer 2008: 18, Šarčević 1997: 233, Cao 2007: 23). What this means is that it is mandatorily bound to a specific legal system because it is self-referential (Šarčević 1997: 230) and lacks a "common knowledge base or universal operative referents" (Harvey 2002: 179, Peruginelli 2009: 286). Legal concepts vary across legal systems and may denote divergent realities (Peruginelli 2009: 286), as "there is, for the most part, no international jargon in jurisprudence" (de Groot 1987: 796).

Although court interpreting and legal translation differ in their mode of practice, they have in common the conveyance of content between cultural and legal systems. The main challenges of legal translation, "translation" being understood and used here and in this thesis in the broadest sense of the term, involve lack of semantic correspondence across legal systems (de Groot et al. 2006: unpaginated, de Groot 1987: 799, Šarčević 1997: 233, Mattila 2006: 105), structural asymmetry between common law and civil law systems (de Groot 1987: 798, Pommer 2008: 18, Kocbek 2008: unpaginated, Galdia 2003: 4, Blomquist 2006: 305), the presence of dangerous ambiguities (Peruginelli 2009: 280, Blomquist 2006: 305ff), abstractions (Peruginelli 2009: 285, Heylen et al. 2014: unpaginated), false cognates (de Groot 1987: 808), the poor quality of many legal dictionaries (de Groot et al. 2006, 2008: unpaginated), conceptual incongruence between legal systems (Šarčević 1997: 229, Bednarova-Gibov

2014: 117), lack of correspondence between culture-bound terms (concepts, procedures, institutions) (Harvey 2002: 180, Peruginelli 2009: 286) that may be untranslatable or non-existent in other cultures (Messier 1999: 1403, Šarčević 1997: 233), varying degrees of relevance and meaningfulness across cultures (Goddard 2009: 173), implicit or explicit intertextuality (Sandrini 2009: 37), and specialized non-defined terminology unknown to the target-language receiver (Gibbons 1999). Communicating in legal language is difficult not only for members of other cultures, but also for future interpreters who must learn it in order to practice. Learning an expert language and discourse, that is, a gradual socialization into a specific professional community, is achieved through a specialized education and career (Gunnarsson 2009: 6). Besides learning the language, translators also need to acquire skills and interdisciplinary knowledge to be able to compare legal terminology across legal systems (Kocbek 2008: unpaginated). The fidelity translators must seek has shifted from the source text to the "uniform intent" of the legislator's intended meaning (Šarčević 1997: 112).

Given the lack of structural and conceptual correspondence between the two legal systems, the feasibility of achieving full legal equivalence between source and target legal terms from different legal systems is also called into question, and it is generally believed to be a serious problem (Perguginelli 2010: 285), rare (de Groot et al. 2006, 2008: unpaginated), severely challenged (Pommer 2008: 20), incomplete (Heylen et al. 2014: unpaginated), or not possible (Sandrini 1999: 102, 1996: 1, 2014: 147, Kocbek 2008: unpaginated, Galdia 2003: 1ff): "Since the meaning of legal text is determined primarily by legal context, lawyers now admit that the presumption of the equal meaning of parallel texts is an illusion that cannot be achieved in practice" (Šarčević 1997: 70, citing Didier 1990). The type of equivalence sought for terms belonging to different legal systems should be functional (de Groot et al. 2006: unpaginated, Simonnæs 2013: 154ff), conceptual correspondence through a flexible comparative approach that would establish stages of comparability (Sandrini 1996: 3), or even tiered: near, partial, or non-equivalence (Šarčević 1997: 238-239). The slim chances of achieving a full equivalence between legal terms across legal systems has prompted scholars to propose new techniques to apply in these cases. For example, de Groot et al. propose either preserving the source non-translated term (with a comment such as "comparable to... "), paraphrasing (what Šarčević calls descriptive translation 1997: 252), or creating a neologism (a term not belonging in the target legal system) (2006: unpaginated). Sandrini, on the other hand, believes that creating new terms,

borrowing, or providing literal translations is very dangerous unless they are accompanied by a description of the difference between the terms in their legal context, which would prevent the target-language receiver from believing that the neologism or literal translation belongs in their language (1996: 7). Target-language receivers' expectations and needs and the intended function and status of the target text will determine the translator's decision to use a functionally equivalent term, a word-for-word translation, a reproduction or transliteration of the source term, or a descriptive or self explanatory translation (Harvey 2000).

The translation of legal language, accordingly, involves translating between different legal systems (Cao 2007, Šarčević 1997: 229, Bednarova-Gibov 2014: 117) by comparing and contrasting them, which requires translating the entire context (de Groot 1987: 795). Sandrini calls for a systematic approach that will allow the "functional analysis of concepts within their legal environment" (1996: 5). This type of translation for specific purpose (Simonnæs 2013: 150), which aims to arrive at a clear and conceptually comprehensible target (Pommer 2008: 18), requires working with far more than words because language, thought, and culture are reciprocally related and interconnected (Martin et al. 2012: 4). This comparison to find differences and similarities between legal systems in context, or *comparative law*, could be seen as "a middle step in a three-step translation process" (Bocquet 1994:7, in Šarčević 1997: 114), and is the starting point for legal translation, which has been deemed "an act of comparative law" (de Groot 1987: 800, de Groot et al. 2006: unpaginated, 1998:2, Simonnæs 2013: 154).

Besides being system-bound, legal language is also *culture-bound* (Simonnæs 2013: 153, Peruginelli 2009: 282, Cao 2007: 23, Šarčević 1997: 12, de Groot 1987: 795, Harvey 2000: 1). The knowledge gap created by the lack of equivalent legal terms across legal systems can lead to asymmetries between experts and lay people, causing comprehension problems (Gunnarsson 2009: 7, James 2007, Shuy 2007), and the same is true for asymmetries across cultures for people who have no experience with the other legal system (Kuykendall et al. 2008, James 2007, Goddard 2009, Martin et al. 2012, Roy J. 1990, Goldflam 1995, Powell and Bartholomew 2003). Cultural misunderstandings in this context are also due to the fact that the cultural background determines the way the justice system is perceived (Messier 1999), including beliefs about due process and what constitutes criminal behavior (Martin et al. 2012, James 2007). The way people relate to the court system and define the fundamental legal

concepts is greatly influenced by their culture. The differences between cultures, languages, and literacy levels added to the disassociation of language, culture, and immigration status can hinder mutual comprehension between courts and non-English speakers, mainly in terms of situational expectations and legal consequences (Martin et al. 2012). The comprehension of legal language and the justice system in general is hindered by the limited exposure to written language, to legal language, to the legal system, and insufficient education and resources (Martin et al. 2012, Messier 1999). Among non-English speakers, the U.S. language of the law can be considered an *artificial construct*, because the words they hear are either unknown or used with different meanings, connected in awkward ways to describe a foreign reality, so much so that interpreters continue to argue over which words best express a given terminology (Edwards 1995: 97). In legal translation, the information provided about the source content should be explicit, extensive, and precise, and the translator should complement it with facts that would make target receivers from different cultures understand this information fully (Chromá 2004: 49).

An area of the law that has received a great deal of attention, for example, is the comprehension of the Miranda warning (or right) (Pavlenko 2008, Russell 2000, Shuy 1997, Berk-Seligson 2002, Gibbons 2001, Nakane 2007, Cotterill 2000, Vernon et al. 1978, Rogers et al. 2011, 2007, Powell et al. 2003). Basically, this is a warning given by police to criminal suspects (sometimes in writing) who are informed that they have the right to remain silent, that everything they say can be used against them, that they have the right to an attorney during questioning, and that one will be provided if they cannot afford one. The aim of this warning is to afford suspects protection against self-incrimination. The right to remain silent will probably be misunderstood by people who are not familiar with the U.S. legal system, particularly when they are willing to cooperate but authorities, despite having assured them of their right to remain silent, keep asking them questions (Powell et al. 2003, Roy 1990). But the bottom line is that according to the law, non-English speakers in legal settings must understand the proceedings. When people do not understand the law, they may not be aware that they are breaking it, or that their own rights may be violated. Therefore, it is essential to break any language barriers to justice so that all can understand the law equally and communicate effectively (Johnson 1993: 56).

Some of the most influential research on the comprehension of English legal language was undertaken by Charrow and Charrow, who focused on the

comprehensibility of jury instructions by prospective jurors. First, they asked jurors to paraphrase fourteen jury instructions, and later analyzed the results and identified the constructions and terminology that caused comprehension problems. These instructions were then redrafted by eliminating these problematic items and the researchers repeated the paraphrasing task with new jurors. They obtained positive results that showed an improvement in comprehension, and were also able to identify specific features of legal language and jury instructions that might be misunderstood by lay people (1979: 1311). They also developed an "empirical psycholinguistic methodology" that would allow the legal and the private sector to ascertain the comprehensibility of documents for target audiences and help understand what linguistic features hinder comprehension (1979: 1308). They found that only 59 percent of the instructions were understood by jurors in this experiment, and concluded that jurors' lack of comprehension was related to the difficulty of the language, and not of the ideas (DuBay 2004: 41-42). Another study by Charrow and Charrow showed that the comprehensibility of jury instructions increased considerably when they were simplified through "principles derived from linguistic theories of syntax and discourse structure, speech acts, and conversational rules" (Charrow et al. 1982: 86). In another study conducted by Benson (1984-85) with law students and lawyers, he administered cloze tests with three of Charrow and Charrow's simplified instructions. The results showed that law students and lawyers understood almost all of the written instructions and that sentence length might have contributed to the level of comprehensibility. Gunnarsson conducted another study involving the comprehensibility of legal language (1984). She developed a functional comprehensibility theory whereby the text perspective and orientation were guided by its function. Several legal texts were rewritten with two perspectives in mind: that of the court, and that of the citizen. The new version of the documents contained language that was simpler, clearer, void of references to other cases, and had more "normal" vocabulary. Results indicated that the rewritten texts were better understood by all groups. Dueñas González studied the register of courtroom language to "empirically devise indices of complexity that could be used as a set of constructs for testing functional English proficiency," and found that this language had an "average difficulty level of grade 14 ... comparable to second-year college texts and approximated the complexity of graduate record examinations" (Dueñas González 1977). Moore and Mamiya state that immigrants must have completed at least twelve years of education in both languages to be considered bilingual in a legal proceeding. They go on to state,

> In addition, to possess sufficient English skills to understand as much of the proceeding as an English speaker would, the immigrant party must possess the same *familiarity* with English legal terms as a native English speaker (for example, most U.S.-born people know the meaning of words like 'jury,' 'defendant,' 'judgment,' 'prosecutor,' and so forth) (emphasis added). (1999: 32)

This familiarity is not only related to highly technical terminology, but also to simple everyday terms used with different meanings. For example, when attorneys prepare their clients for a deposition, they explain that there will be a *court reporter* present who will take down the proceedings. Most English speakers are familiar with the term *court reporter* as they see them in movies and TV shows, but its meaning is also easy to infer for them because the terms *court* and *reporter* are extremely common in the English language and are not high register terms. In Spanish, however, this term is translated as *estenógrafa* or *taquígrafa*, which are very unusual terms generally not familiar to lay Spanish speakers unless they are learned in context.

In the opinion of some authors and authorities, defendants will speak up if they do not understand, prompting attorneys to rephrase the questions (Dueñas González et al. 2012: 1097, Trabing 2002: 30, Mikkelson 2000: 60), but this may prove rather difficult for many reasons. First, many aspects of the proceeding cannot be rephrased, as they are elements of the system that would require long and frequent explanations. Second, when the high register is mostly used, the non-English speaker is not part of a conversation and discourse is not addressed to him: he is listening to simultaneously interpreted language and cannot interrupt the judge, the attorneys, or the interpreter. Third, for sociocultural reasons and out of acquiescence, they may fail to disagree or interrupt the proceedings to ask for clarification. As Bauer explains, immigrants from some non-U.S. cultures who come from repressive countries commonly show respect by agreeing with the facts presented by government authorities, even when they know the facts are not true (1999: 9-18). The way people relate to the court system and define the fundamental legal concepts is greatly influenced by their culture. The NSW Bench Book explains that cultural differences influence the way people "present themselves and behave in court," the way they address others, the way they perceive and treat family members, their relationship to authority figures, their appearance, body language, and the "different understanding and experiences of how legal and court systems work and what they are capable of." Cultural differences may also lead people to remain

silent or avoid answering certain questions because they do not understand what is happening or what they are required to do, because the question is too personal or private, or because the answer should not be heard by authorities, family members, or people from of the opposite sex (JCNSW 2015). The differences between cultures, languages, and literacy levels, added to the disassociation of language, culture, and immigration status, can hinder mutual comprehension between courts and non-English speakers, mainly in terms of situational expectations and legal consequences (Martin et al. 2012).

In a survey of judges, attorneys, and interpreters that Moore conducted in several states regarding the participation of immigrants in court hearings, interpreters reported that immigrants' comprehension is often poor, but that they always say they understand (1999: 172). Schauber indicates that "They listen attentively and nod their heads, as if, you think, they understand. A few minutes later, you see them doing something entirely opposite of what you had just told them to do." The reasons cited are related to respect, an unwillingness to interrupt the speaker or look stupid, to hide the lack of understanding, and to please the boss (2001; see also Cooke 1998, Powell et al. 2003, James 2007). This tendency to agree and say "yes" in agreement, even when there is no comprehension, is known as "gratuitous acquiescence" or "gratuitous concurrence." Moreover, it is frequent among U.S. Hispanics and Mexicans to agree and answer affirmatively, no matter the question (Berk Seligson 2009: 104, Dueñas González et al. 2012: 195, Buys et al. 2010: 471, James 2007, Powell et al. 2003); they "avoid openly admitting misunderstandings and have considerable difficulty directly confronting issues in the face of authority" (Dueñas González et al. 2012: 605).

There are also different cultural values at stake, as reviewed in chapter 2. In Mexico, for example, contradicting authorities is considered an act of extreme impoliteness. It is recommended that authorities "avoid asking questions in forms that imply the answer, such as 'Is it not true that... ?" (Palerm et al. 1999: 92). The code of ethics also states that

> For instance, expert testimony as to whether a non-English speaker has clearly understood a police officer's questions as uttered in the foreign language is beyond an interpreter's expertise. A psychologist might be better suited to provide this kind of testimony. Even if an attorney seeks to consult you on similar issues, or you feel you have valuable opinions and experience to offer, it is wise to refrain from commenting, even in an informal setting. (2013a: 37)

Interpreters, in fact, might be able to infer when an interlocutor is not understanding, just as any other person may infer that the other in an everyday conversation is not understanding what they say. According to Clark (2004), speakers use voices, faces, workspaces, bodies, and shared scenes to monitor not only themselves, but also their addressees in bilateral situations. Furthermore, speakers may infer each other's global understanding, non-comprehension and misunderstandings (Foppa 1995: 152). When someone observes two people speaking in a language that is unfamiliar to the observer, it would be highly unlikely that this observer will see or notice signs of non-comprehension because of the unfamiliarity with the language, gestures, or facial expressions that denote non-comprehension. The same situation can be applied to the court setting: authorities may not notice misunderstandings or non-comprehension that interpreters do because English speakers do not share the linguistic or sociocultural context of the non-English speaker. The California Commission on Access to Justice published a report on the language barriers to justice. In reference to the adversarial judicial system, the report stated that just results are "unachievable if one party lacks the ability to understand or communicate at any stage of the proceedings," which becomes a "babble of voices." The report goes on to say that "Allowing proceedings to continue when one party is incapable of participating fully significantly impairs the quality of the process and its results" (CCAJ 2005: 32).

Melinkoff (1963: 420) states "the lawyer is primarily a *communicating* man. His words are more and more overheard by non-lawyers ... He runs the constant risk of misjudging or forgetting his audience" (emphasis in original). The language of the law is a variety that is difficult to understand, even for English speakers and for law students, who experience it as a foreign language (Alcaraz Varó 1994: 72), and people with little or no education may not understand it at all (Mikkelson 2000: 60). Even native English speakers who want to become interpreters or attorneys must undergo years of training before they can understand and communicate what happens in court, as it is a language that "has to be taught" (Melinkoff 1982: 109). This is supported also by Charrow et al., who indicate that it is controlled by a fraction of the population, and its acquisition requires a specialized education (1982: 82), and Dueñas González et al.:

> The ability to understand the more complex, less frequently used vocabulary and syntactic styles representative of formal registers, for example, of legal and medical settings ... is typically learned as a result of many years of formal education and cultural experience. (2012: 709)

Hatim and Munday state that "Language varieties distinguished on occupational grounds tend to attract labels such as 'legalese' or 'journalese,' which reflect the status of these registers as 'languages' in their own right" (2004: 77). Other authors call this variety a sublanguage (Danet 1985, Ferguson 1994), and a separate language or a dialect (Charrow and Crandall 1978). O'Barr states that

> Without minimizing in any way the significant and serious difficulties which non-English speakers have in American courts, greater attention should be paid to those who must go to court, but who, because of their own linguistic abilities and of the peculiar forms of language used in court, do not comprehend the language in which the court operates. (1981: 388)

The communicative event between an English speaker and a non-English speaker involves different languages, different cultures, different speech communities, different contexts, and different knowledge of the world and judicial systems. Furthermore, interpreters are charged with performing a verbatim language switching exclusively, and must disregard other contextualization cues that might be evidenced by gestures, facial expressions, hand movements, and the like. In addition, legal discourse makes constant reference to precedents, laws, and concepts that are not accessible or known to the non-English speaker, and interrogations are filled with linguistic control devices, such as interruptions, coercive and leading questions, and lexical presuppositions (Berk-Seligson 1990:17). The non-English speaker can rarely connect the concepts heard with any other familiar concept to make sense of the discourse. Because Hispanics are new to the U.S. legal system and may not have had any kind of interaction within it, they will likely be much less prepared than English speakers—who have at least had exposure through the media and education—to access and communicate in a register that they may have never heard and that relies on concepts and contexts unfamiliar to them. In other words, the mandate to conserve the original register takes for granted a register participation that is not realized. As described in the previous chapter and as stated by Dueñas González et al.,

> An LEP person has a narrow vocabulary, usually restricted to the language domains of work, family, and daily encounters, with little to no comprehension of terms used in formal contexts like the courtroom ... cultural knowledge concerning the U.S. justice system provides a context for English speakers to interpret the meaning of discourse in the courtroom. Without such knowledge,

> LEP litigants or witnesses are unable to comprehend the language used by legal actors and expert witnesses in court. (2012: 545)

The authors also state that "for LEP individuals, the legal system is largely incomprehensible" (2012: 599). The Commission on the Future of the California Courts suggests the use of community volunteers to act as *cultural interpreters*, who can *explain* the basic concepts of of the U.S. legal system to people from other cultures. The goal is achieving comprehension and clarity of legal language, which is frequently misunderstood by non-white Californians (Johnson 1993: 57-96). An interpreter might not be enough when the target legal term lacks the conceptual meaning for target receivers (Roy 1990, Powell et al. 2003), because non-English speakers in judicial proceedings need "more than interpreters; they need intermediaries to serve as a bridge to the justice system ... to take an assertive role, as mediator, counselor, educator, translator, spokesperson and guide" (Martin et al. 2012). A complication that arises for interpreters is that even if they attempted to become true experts on sociocultural aspects of non-English speakers, in this case Spanish speakers, these come from so many different countries and cultures that acquiring this knowledge would be an extremely ambitious task. It could be achieved through sound education, but there are no educational requirements for interpreters, who only need to pass an exam in order to practice. The report by the Commission on the Future of California Courts recommends that

> The public justice system of the future must be "culturally competent": both judicial and nonjudicial personnel must be aware of and sensitive to cultural differences in society and among disputants who use the courts. Cultural competence training should be routine throughout the system. (Johnson 1993: 12)

This commission calls for establishing cultural awareness, sensitivity, appreciation, and training throughout the legal system, and for the accommodation of different cultures in the dispute resolution processes by selecting a process that would help parties with conflict resolution (Johnson 1993: 78).

The preamble of the Model Code of Professional Responsibility for Interpreters in the Judiciary by the National Center for State Courts in the United States states that "A non-English speaker should be able to understand just as much as an English speaker with the same level of education and intelligence" (NCSC 1995: 199). However, no education or intelligence tests are administered to Spanish speakers or

English speakers in order to determine the discourse level that would be required if the interpreter were allowed to adjust the translation according to said levels of education and intelligence. As the interpreter is charged with maintaining the register, and as studies have shown (above) that the high legal register corresponds to 12-14 years of education, interpreters are translating into the same high register in Spanish, so no education level is assessed or considered. Other laws and guidelines agree with the above and also recommend that target-language equivalents be found that elicit similar reactions from both target-language listeners and source-language listeners. However, as the literature reviewed and the census data indicate, the same level of education is neither an easily attainable goal nor a realistic measure. The code states that interpreters are not mind readers who divine the level of education that non-English speakers may have, but this information can be easily obtained, as it is reported by the U.S. Census Bureau and the literature.

5.2.2. Plain language

In recent decades, the United States has seen a movement toward using plain language in legal documents and settings. The first attempts to simplify language began as an effort to provide consumer contracts in a language that would be comprehensible to the general population. Plain language is defined as "communication your audience can understand the first time they read or hear it" (PLAIN 2015), "the simplest, most straightforward way of expressing an idea" (Garner 2001: xiv), and "communication designed to meet the needs of the intended audience, so people can understand information that is important to their lives" (Stephens 2000).

The first law to provide for plain English was enacted in New York in 1978. It stated that contracts had to be "written in a clear and coherent manner using words with common and everyday meanings" (Bowen 1991: 22). President Carter then signed Executive Order 12044 in 1978 providing for the clarification of federal regulations. This order stated that "Government regulations are usually written by experts, for experts. Your clear mandate will be to translate regulations into language a small businessman—who must be his own expert—can understand" (Bowen 1991: 21). Other states began to enact plain language laws, and now "they have become an important new kind of regulatory legislation" (1991: 19). An executive memo issued by President Clinton in 1998 and the Plan Writing Act signed by President Obama in 2010 reinforced

the plain language requirement for federal agencies (PLAIN 2015). The objective of the Plain Writing Act is "to improve the effectiveness and accountability of Federal agencies to the public by promoting clear Government communication that the public can understand and use" (USGPO 2010). Federal agencies that adopted these guidelines now include, among many others, the U.S. Citizenship and Immigration Service, Environmental Protection Agency, Department of Agriculture, Department of Defense, Department of Commerce, Department of Education, Department of Health and Human Services, Department of Labor, Social Security Administration, Securities and Exchange Commission, and the Department of Justice. The guidelines require agencies to use plain language in any document necessary to obtain federal benefits, file taxes, learn about federal benefits or services, or the way to comply with federal requirements (PLAIN 2015).

At the State level, California Government Code Section 6215(a)(b), originally signed by Governor Jerry Brown in 1982, requires government agencies to use plain language in all state documents, forms, contracts, announcements, regulations, manuals and "any other written communication that is necessary to carry out the agency's responsibilities under the law" (CPR 2007). Specifically, California Government Code Section 11342.580 states, "Plain English means language that satisfies the standard of clarity provided in Section 11349;" and Section 11349(c) states, "'Clarity' means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them" (California Law n.d.). All these laws and regulations requiring plain language use were, of course, targeted to English speakers.

5.2.3. The case of jury instructions

Jury instructions are a big part of courtroom proceedings, and one that has earned great attention from researchers. As described in chapter 3, in jury trials the judge decides the issues of law, and jurors decide the issues of fact. After all evidence has been submitted and parties have presented their closing statements, it is time for jurors to deliberate according to instructions they receive from the judge. The jury instructions are usually read by the judge to the jury at the end of the trial in order to *instruct* jurors on the law they should apply when deciding the facts of the case. Some instructions are common to all cases, and others are particular to each type of case. Regarding the language in the jury instructions, the code of ethics states,

> Jury instructions present highly technical and complex legal concepts, often expressed in archaic or obscure wording. Moreover, since jury instructions are read from prepared text, the pace is faster, there are fewer pauses, and intonation is less natural than in normal speech. All of these factors combine to make the process of jury instruction one of the most difficult types of court proceedings to interpret. (CAJC 2013: 30)

Melinkoff states that "Jurors will not learn in an hour what lawyers take years to learn" and that "the whole thing is an efficient piece of dramatic fiction. It disposes of cases, even though it has very little to do with jurors understanding the law" (1982: 89). Hager offers that this language may be chosen for jury instructions to earn the approval of eventual appellate courts, not to facilitate the jury's understanding (in O'Barr 1981: 392). One of the strategies proposed by the Commission on the Future of California Courts indicates that "Jury instructions should be written and available to jurors during deliberation" and that "Attorneys have argued that 'it violates constitutional due process and fundamental fairness to have factual issues resolved by [juries] who do not understand such issues'" (Thomas Barr, in Johnson 1993: 143). After finding that "jury instructions as presently given in California and elsewhere are, on occasion, simply impenetrable to the ordinary juror," the Blue Ribbon Commission on Jury System Improvement recommended a revision of jury instructions into "a more understandable language." In 1997, a Task Force on Jury Instructions was created and directed to draft "comprehensive, legally accurate jury instructions that are readily understood by the average juror" and charged with "accurately stating existing law in a way that is understandable to the average juror" (CAJC 2015d). It is relevant to mention that in California jurors are required to "understand English enough to understand and discuss the case," so, in effect, all jurors are English speakers (CAJC 2015g). The following are a few examples of such revisions as stated by the Judicial Council (CAJC 2015e).

<u>Instruction 107 (previously BAJI 2.21)</u>:

> Original version: *"Failure of recollection is common. Innocent misrecollection is not uncommon"* (with a triple negative)
>
> Revised version: *"People often forget things or make mistakes in what they remember."*

CAJC comment: "This is an example of the use of basic English language principles to make instructions simpler."

Instruction 202 (previously BAJI 2.00)

Original version: *"Circumstantial evidence is evidence that, if found to be true, proves a fact from which an inference of the existence of another fact may be drawn. A factual inference is a deduction that may logically and reasonably be drawn from one or more facts established by the evidence."*

Revised version: *"Some evidence proves a fact directly, such as testimony of a witness who saw a jet plane flying across the sky. Some evidence proves a fact indirectly, such as testimony of a witness who saw only the white trail that jet planes often leave. This indirect evidence is sometimes referred to as 'circumstantial evidence.' In either instance, the witness's testimony is evidence that a jet plane flew across the sky."*

Instruction 200 (previously BAJI 2.60)

Original version: *"'Preponderance of the evidence' means evidence that has more convincing force than that opposed to it. If the evidence is so evenly balanced that you are unable to say that the evidence on either side of an issue preponderates, your finding on that issue must be against the party who had the burden of proving it."*

Revised version: *"A party must persuade you, by the evidence presented in court, that what he or she is required to prove is more likely to be true than not true. This is referred to as 'the burden of proof.'"*

CAJC comment: "These are familiar words to lawyers. But the task force had to ask whether the average juror ever used the noun 'preponderance' and, more pointedly, the verb 'preponderates.'"

Instruction 403 (previously BAJI 3.36)

Original version: *"The amount of caution required of a person whose physical faculties are impaired is the care which a person of ordinary prudence with similarly impaired faculties would use under circumstances similar to those shown by the evidence."*

> Revised version: *"A person with a physical disability is required to use the amount of care that a reasonably careful person who has the same physical disability would use in the same situation."*

CAJC comment: "Most judges and attorneys understand that sentence. But the phrase 'person of ordinary prudence' is not normally in the vocabulary of a *tenth grader*. Nor does the same tenth grader speak of people whose 'physical faculties are impaired'" (emphasis added).

The new revised version of jury instructions brings them closer to a standard or even colloquial register (in O'Barr's terms) and is proof that, in their own terms, language simplification to improve comprehension can be done without affecting the articulation of the law. No thorough linguistic analysis is necessary to appreciate the magnitude of the syntactic and semantic changes effected in this redrafting, which go far beyond register simplification to include explanations and examples. It is clear that the Task Force went to great lengths to assure English-speaking jurors would be able to understand the jury instructions. Unfortunately, in the courtroom this language simplification involves only the jury instructions, and not all courts have adopted them yet. It clearly follows that if English speakers need this kind of clarification and register adjustment, so might Spanish speakers, who may not have the same level of education, knowledge of context, or exposure to the legal system. Lastly, the revision of the jury instructions by the Judicial Council implies an acknowledgment that meaning can be preserved despite changes in grammar, structure, or register. There is also a different standard applied for English-speaking jurors and for Spanish-speaking defendants and witnesses in terms of facilitating comprehension: whereas the register of jury instructions has been simplified for English-speaking jurors, interpreters are prevented from doing the same for Spanish speakers in any stage of the proceedings. There have been, however, some efforts to provide language assistance for non-English speakers.

In 2000, President Clinton issued Executive Order 13166 called "Improving Access to Services for Persons with Limited English Proficiency" (USDJ 2004), which "requires Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them" (LEP 2015). In this context, the *meaningful access* standard includes an assessment of four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
2. the frequency with which LEP individuals come in contact with the program;
3. the nature and importance of the program, activity, or service provided by the program to people's lives; and
4. the resources available to the grantee/recipient or agency, and costs. As indicated above, the intent of this guidance is to find a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small business, or small nonprofits. (LEP 2015)

This Executive Order directs federal agencies to assess the services they provide, identify the services needed by LEPs, develop a language plan, and provide language services accordingly. In response, the United States Department of Justice developed the "Enforcement of Title VI of the Civil Rights Act of 1964 - National Origin Discrimination Against Persons with Limited English Proficiency" or "2002 LEP Guidance," a document to aid in the enforcement of this order. This document provides standards for compliance by recipients of federal financial assistance, to facilitate LEP access without discrimination (LEP 2015). Among other things, the guidance document for the Department of Justice states that

> In addition, because there may be languages which do not have an appropriate direct interpretation of some courtroom or legal terms and the interpreter should be so aware and be able to *provide the most appropriate interpretation*. The interpreter should likely make the recipient aware of the issue and the interpreter and recipient can then work to develop a consistent and appropriate *set of descriptions of these terms* in that language that can be used again, when appropriate (emphasis added). (USDJ 2015b)

This new legislation has important implications for court interpreters, whose role must now be revisited.

5.3. The interpreter's role in judicial proceedings - Revisited

Fundamentals of Court Interpretation, by Dueñas González et al., is a comprehensive volume that has guided the practice of court interpreting in the United States for over two decades. The first edition, from 1991, stated that "the goal of court interpreting is to produce a **legal equivalent**, a linguistically true and legally appropriate interpretation of statements spoken or read in court, from the second language into English or vice versa" (emphasis in original) (p. 16). According to the second edition, from 2012, achieving

this legal equivalence "requires the interpreter to capture not only the content of the speaker's message but also the register, style, tone, and intent of the speaker, including all pauses, hesitations, false starts, and other speech performance characteristics" (p. 590). This second edition also presents an interesting development:

> Since the reinvigoration of Title VI, the goal of the court interpreter has been refined to embrace **meaningful legal equivalence**. It is important to note that this goal is not a replacement of legal equivalence but simply a refinement that takes into consideration the comprehension of the listener. Title VI requires interpreters to produce a message that abides by all accuracy standards, but also assists the LEP listener to achieve meaningful comprehension. This standard requires the interpreter to utilize terminology, paraphrasing, and definition in order to make the legal equivalent more meaningful to the listener. The ability to construct a meaningful legal equivalent in no way changes the basic performance standard requiring the attainment of legal equivalence. Rather, it is the most proficient interpreters and those with the most profound knowledge of legal processes, procedure, and terminology who are best suited to communicate legal concepts in words that are comprehensible to an LEP person who may have limited understanding of the U.S. justice process (emphasis in original). (2012: 14-15)

These authors acknowledge that strict legal equivalence is sometimes not enough to assure litigants' comprehension, and that judges often ask interpreters to provide clarification to non-English speakers. These, however, are "unacceptable, unethical practices [that] can be eliminated by allowing the court interpreter to use terminology that the client understands and to allow more definitions to be used when it is clear that the legal equivalent is not being understood" (2012: 15). What is not clear, though, is how all this could be achieved, starting with differentiating *defining* from *adding*. Standards still warn interpreters against adding language and require interpreters to maintain formal equivalents and not bring questions "down to the witness's level" (see 3.4.3. above), and many if not most of the legal terms heard in U.S. courts would require more than a definition to achieve comprehension by LEP persons. The authors also suggest that interpreters provide "no explanations and no elaborations aside from choosing a more accessible linguistic equivalent for an unsophisticated listener or, with the court's permission, providing a definition if it is clear the listener does not understand" (p. 16). Although this could be useful to help improve comprehension, it would not be acceptable (or feasible) for interpreters to request this permission each time a system-bound term appears, or interrupt motions, objections, or expert witnesses' testimony to do so. In addition, these authors hold that "Constructing legal equivalence

requires attention to preserving every conceptual unit of meaning and at the same time conserving the register and formal elements that contribute to speaker style" (p. 17), which might seem difficult to achieve if interpreters were to use terminology that LEP persons would understand. The authors make a further distinction between adaptation and conservation: while adapting a text would involve alterations, additions or omissions in order to simplify the message, these would be unacceptable in court interpreting because this practice "violates meaningful legal equivalence" and "risks misrepresenting legal concepts, and can insert egregious error with harmful legal consequences" (p. 17). Although some courts allow it and some interpreters consider it appropriate "to make up for the language barrier and the total ignorance of the individual," other judges and attorneys oppose it. And although this practice would disagree with the norms described in the code, the authors state that Title VI "calls not only for *monitoring subject comprehension*, but also may mean providing the most accessible term, the *paraphrasing* of a legal concept, or a brief comprehensible *explanation*. However, this elaboration does not constitute the adding, deletion, or distortion of the speaker message" (p. 17) (emphasis added). Codes and standards, however, still warn against paraphrasing, explaining, and monitoring comprehension, and it is not clear how an *explanation* would not be interpreted as *adding*. The authors go on to say that "only in the interest of subject comprehension should there be an adjustment made to ensure comprehension," but no adjustments are allowed by the codes, and comprehension by LEP persons should not be the interpreter's concern (above). Although the authors agree that "special training is required to detect cognitive and linguistic factors that pertain to comprehension" (p. 419), they also state that "while legal equivalence continues to be the standard, interpreters are required to monitor comprehension to determine when it is necessary to intervene" (p. 571). It is the *thoughtful conservation of meaning and register,* as described by the authors, that provides the most insightful challenge:

> Conservation requires the preservation of meaning, register, style, and intention of the SL message in the TL rendition. However, the interpreter must exercise good judgment and avoid using conservation as a platform for exclusionary interpreting. Disregarding the LEP person's comprehension violates the principle of the interpreter as a facilitator of communication and interferes with the goal of meaningful comprehension and thus meaningful access. Capable interpreters understand that interpretation is a communicative act that requires interaction with the client and continuous monitoring of feedback. (2012: 18)

Again, the codes and the literature warn against interpreters concerning themselves with listeners' comprehension, which should not be a factor when selecting terminology (above). Codes, standards and the literature repeatedly state that interpreters should conserve the level of language regardless of whether the LEP person understands or not, and that opinions about listeners' comprehension are beyond the interpreter's role, as "A psychologist might be better suited to provide this kind of testimony" (CAJC 2013a: 37). Dueñas González et al. state, though, that

> Within the parameters of legal equivalence, thoughtful conservation of meaning and register in the construction of the interpretation considers audience factors, such as language ability and use, educational background, and experience. Thoughtful conservation means that within the range of possible linguistically and legally equivalent choices, the interpreter selects the terminology and syntactic arrangement that not only conserve the register, meaning, and style, but are also most likely to be understood by the audience. This practice does not in any way suggest the alteration of the original message or register, but simply means that the interpreter must be mindful of the unique qualities of the client and create a target message that may be better understood within the limits of legal equivalence ... This is a goal to which all great court interpreters aspire, one that requires exceptional linguistic and interpreting abilities to achieve. (2012: 18)

How all this can be achieved, however, is not at all clear or explicit while codes and standards warn interpreters against acknowledging non-comprehension, paraphrasing, or choosing simpler terms that would be better understood by the listener. Legal terminology and legal concepts are extremely precise, they vary considerably across legal systems, and do not offer many options to convert objections and motions into readily comprehensible language for listeners who have never had contact with the United States legal system, and who might not even have in their world knowledge the concept of objections or motions. This is probably the most revealing statement:

> Under Title VI, which applies to all state courts via the Fourteenth Amendment due process clause, it is the legal obligation of court interpreters to provide a "meaningful" interpretation that the user of interpreter services can comprehend. For many decades arguments have raged over the use of "nonwords" in the TL, such as *probación (the asterisk denoting nonstandard usage) for "probation." In order to produce a meaningful interpretation, interpreters are now free, under the LEP Guidance on Title VI ... to use the words and terms best understood by LEP litigants. (Dueñas González et al. 2012: 571)

This new freedom, however, has not yet reached the code of ethics. After considering the requirements of Title VI, a more target-oriented perspective on the interpreter's performance in compliance with said requirements, the authors offer this definition of the interpreter's role: "The proper role of the interpreter is to place the LEP individual, as closely as linguistically possible *using the terminology most accessible to the defendant*, in the same situation as an English speaker in a legal setting" (emphasis added) (2012: 411). Although the practices suggested by the authors could assist in improving listener's comprehension, they seem to lie far from the narrow role currently ascribed to the court interpreter in the codes, standards and laws.

UNIVERSITAT ROVIRA I VIRGILI
COMPREHENSION OF LEGAL DISCOURSE IN INTERPRETER-MEDIATED JUDICIAL PROCEEDINGS
Julia Lambertini Andreotti

Chapter 6. Translation theoretical framework

This research is concerned with the comprehension of legal language in judicial proceedings. This comprehension is studied in the context of interpreter-mediated encounters, that is, as a byproduct and consequence of the interpreter's decisions. In skopos theory, translation is a goal-oriented action in which a purpose determines the strategies translators use to reach said goal. In the context that is the object of this research, however, these decisions and strategies are constrained and guided by institutional norms and purposes. Thus, the interplay between purposes and norms forms the base of the translation theoretical framework selected for this research. Borrowing terms and concepts from these two conceptual frameworks, I will attempt to determine whether the practices established by the skopos-determining and norm-setting authorities are effective in meeting the *equal footing* purpose defined within the system. These two conceptual frameworks will be described as follows.

6.1. Skopos theory

6.1.1. Overview

In functionalist theories, the communicative function or *skopos* of the target text guides the strategies and methods in the translation process (Nord 1997: 27, Vermeer 1989: 227). The word *skopos* comes from the Greek and means *aim* or *purpose*. It refers to the concept that the strategies and methods in the translation process should be guided by the intended communicative function of the target text. Generally speaking, in skopos theory the source text is an offer of information from which the translator takes whatever elements are relevant or adequate for the intended purpose, based on the needs of the target culture, in order to construct another offer of information that will become the target text (Nord 1997: 26). Thus, the main rule is that the skopos is the functional aspect that predominates and governs all translation decisions, which rest with the translator as the expert in the communicative situation.

Two other rules are presented in this theory: intratextual and intertextual coherence (Vermeer 1989: 229, Nord 1997: 31-33). In terms of intratextual coherence, Pöchhacker (1992: 213) explains that the discourse "must make sense within its

language and culture," and that intertextual coherence refers to the relationship of fidelity between source and target texts. These rules have a hierarchical sequence: the skopos rule takes precedence over intertextual and intratextual coherence, and intratextual coherence takes precedence over intertextual coherence (Nord 1997: 32-33).

The translation process involves several agents with sometimes overlapping roles. The process begins when a client commissions a translation for a specific purpose and a specific audience. This client takes the role of initiator, the agent who needs a target text, and determines "its course by defining the purpose for which the target text is needed" (Nord 1997: 20). The commissioner is the person who contacts the translator with the assignment; however, the initiator and the commissioner may be the same person. The commissioner gives the translator a brief, which is a set of instructions regarding the purpose, the participants, and the intended text function that is the product of a negotiation between client and translator. It does *not,* however, contain instructions as to how translators should perform their job (Nord 1997: 30). The source-text producer is the person who actually constructs the source text. This role must be distinguished from the role of sender, who only transmits the source text, although it is possible for these two roles to be played by the same person (Nord 1998: 6). The translator is a source-text receiver, who as an expert makes strategic translation decisions based on the sociocultural constraints of the target-text receiver to produce a target text. In this sense, the translator is the source-text receiver and the target-text producer who "has the competence to decide whether the translation which the initiator asks for can actually be produced on the basis of the given source text and, if so, how, i.e. by which procedures and techniques, this should be best done" (Nord 1998: 10). The text receiver or addressee is the person who receives the target text, whereby the communicative situation is completed (p. 18). Nord also makes reference to a chance receiver who may read or hear the text as a secondary addressee, although he or she is not the primary intended addressee (p. 58).

The propositions offered by this theory are highly relevant for the case at hand: the strategies and methods in the translation process are guided by the intended communicative function; these strategies and methods are decided by the translator based on the comprehension and cooperation capabilities of the audience (Nord 2006); and the target-culture constraints condition the communicative event (Nord 1997). This theory departs from previous source-oriented approaches concerned with a formal linguistic equivalence between source and target texts and takes a communicative and

target-oriented approach. These concepts will now be applied to the communicative situation in judicial settings.

6.1.2. The brief

In judicial proceedings, interpreters who work full time in criminal law do not receive case-specific instructions, and more often than not, they do not have access to specific information concerning the target-language receivers either. Although some sociocultural and educational traits may vary across target-language receivers, in general terms Spanish interpreters work with the same population: Hispanics in California. Interpreters who work as independent contractors may receive information such as the place and time of the assignment, the name of the client and the type of proceeding. Since court interpreters are provided for the primary purpose of enabling communication with a non-English speaker, this purpose is not identified in any brief because it is understood as common for all judicial proceedings. Thus, for the most part judicial interpreters work without a brief such as the one proposed by this theory and, also contrary to this theory, rarely receive case-specific instructions. The purpose of the interpretation is established in the code of ethics, as stated above, as placing "non-English-speaking participants in legal proceedings on an equal footing with those who understand English to the extent reasonably possible" and ensuring that "the official record of the proceedings in English reflects precisely what was stated in another language by non-English-speaking witnesses, defendants, or other parties authorized to participate in the matter" (CAJC 2013a: 12). Thus, the purpose of the text is uniform and ongoing for all interpreting events. The code, however, also contains instructions as to the way interpreters must do their job, and affords no room for refusal to accept responsibility for the target-text function, a possibility suggested by Nord (1997), because interpreters can be called to give testimony about anything related to language in legal proceedings. In terms of skopos theory, this would imply that there is an a priori and nonnegotiable purpose defined by the commissioner, and that there is no room for the interpreter to assess the sociocultural constraints of the receiver and define a more appropriate skopos specifically for each case. As Vermeer points out, "A statement of skopos implies that it is not necessarily identical with the skopos attributed to the source text: there are cases where such identity is not possible" (1989: 234). In the case at hand, the code overtly states that register should be maintained. However, Vermeer also points

out that

> The source text does not determine the variety of the target text, nor does the text variety determine *ipso facto* the form of the target text (the text variety does not determine the skopos, either); rather, it is the skopos of the translation that also determines the appropriate text variety. A "text variety", in the sense of a classificatory sign of a *translatum*, is thus a consequence of the skopos, and thereby secondary to it. In a given culture it is the skopos that determines which text variety a *translatum* should conform to. (1989: 238)

The code overtly states that the purpose of the target text should be to communicate with non-English speakers so as to afford them the same right to due process and to carry out justice. The precise intention implied here is to communicate. However, as Vermeer points out, "'intentionality' does not refer to an action really *being* intentional, but to its being seen or *interpreted as intentional* by other participants or any observer" (emphasis in original) (in Nord 1997: 19). In this regard, the standard to conserve the legal register could indicate yet another covert intention that would be consistent with the ultimate aim of court discourse in action: to either free or convict defendants, depending on the text producers, be they the defense attorney or the prosecutor. This contradiction should not be ignored because this standard deprives the interpreter of any power to define or rework the strategy according to the sociocultural constraints of the receiver. This code also imposes an enduring or fixed skopos for every current and future translational action in all judicial proceedings as communicative events that do not allow a case-specific attribution of skopos according to each situation (Vermeer 1989: 230).

6.1.3. The initiator – The commissioner

The roles of initiator and commissioner may belong to different persons or institutions, or they may overlap. Given the diversity of judicial proceedings and situations in California, it would be difficult to examine every possible role assignment, so some of the most frequent cases will be reviewed. In compliance with the law, the Judicial Council is in charge of the interpreting program in California. It is thus the state that prescribes interpreting services in criminal courts with the aim of facilitating communication with non-English speakers; the state would be the initiator. However, each county court has an assignment office within an Interpreters' Services Division that assigns interpreters daily to specific courtrooms in the county. In these cases, the

commissioner would be the main county court, although interpreters may receive specific assignment instructions from the court where they are ultimately assigned for the day. After a few years, interpreters may request or be assigned permanent positions in specific courts, in which case the assigned court will share the role of commissioner. In criminal cases, interpreters are employees or independent contractors of the state, which may also be the case in civil cases. Interpreters can also work as independent contractors of law firms, insurance companies, or individuals, all of whom would then share the roles of initiator and commissioner concurrently. In all cases, however, the state dictates the standards for interpreter performance and the underlying skopos that take the place of the brief. The purpose of the target text is defined by the initiator in terms of furthering the interest of justice by allowing non-English speakers the same opportunities afforded to English speakers by placing them on an equal footing (CAJC 2013a).

6.1.4. The source-text producer

Since this research does not involve interpretation from Spanish into English, the non-English speaker will not assume the role of source-text producer. The judge, an attorney or a witness may play this role. The text producer may determine a secondary purpose according to the exchange. For example, the prosecutor may try to lead the questioning with the intention of finding fault and convicting the target-language receiver, the defense attorney may try to lead the questioning with the intention of setting the target-language receiver free, and the judge may decide on issues of law and subsequently instruct the target-language receiver, the attorneys, and the jury. The text producer may even be absent when attorneys and judges read or quote from documents, laws, precedents, and jury instructions. Both the defense and the prosecution also communicate with each other, with the judge, and with the jury, and all these exchanges may have different purposes. In all cases, however, the instructions provided by the commissioner in the code remain in force. Except during questioning, the language used by the source-text producer is the formal register of legal language, which the interpreter must reproduce in the target language. This may operate as a contradictory message when the instructions are not designed to facilitate the purpose of the translation. This contradiction may reflect the commissioner's lack of awareness of the interpreter's role and of the target culture (Vermeer 1989: 228); of "linguistic theory

and interlingual message transfer"; (Mikkelson 2008: 82) and, finally, of "the linguistic expertise and the necessary empirical tools to make sound determinations concerning clarity or comprehensibility" (Charrow et al. 1979: 1307).

6.1.5. The target-text receiver

Although the role of the target-text receiver may be assumed by all present, this research focuses on the text received by the Spanish speaker. The target-language receiver's knowledge of the legal system, of the source culture, and of legal language, as discussed previous chapters, might not be sufficient to provide for an understanding of the language that interpreters must use in the target discourse, as established in the code. This insufficiency of prior knowledge is intensified by the lack of power assigned to the non-English speaker in the courtroom. Furthermore, the interpreter is usually not allowed to assess the linguistic and sociocultural background of the receiver before the proceeding. The particular sociocultural background of Hispanic immigrants is discussed above in chapter 2.

6.1.6. The source-text receiver – The interpreter

The interpreter, who according to skopos theory is the expert in charge of making all decisions regarding the translation process based on the demands of the translation brief and the target culture (Nord 1997: 21, Vermeer 1989: 228), is limited to a "mechanical, non-participatory role" (Morris 1993: 21). These two types of demands are in conflict for an interpreter whose role and defined purpose are both to facilitate communication and preserve a fair and faithful record. Wadensjö states that the interpreter "is often confronted with the practical dilemma of being simultaneously seen as the lay person's advocate and as the official helping hand" (1998: 50). In this particular setting, although interpreters are considered experts (chapter 3), established norms do not allow them much room for making *all* expert decisions as this theory proposes. These limitations have been detailed in chapter 3 above.

6.1.7. Intratextual and intertextual coherence

The precedence of intratextual over intertextual coherence could be useful to understand the case at hand. In order to meet the overt purpose stated in the code, which calls for communication between the parties, the interpreter would have to be able to create a target text that would conform to the intratextual coherence standard. The rule of intratextual coherence states that the target-language receiver must receive a text that is meaningful within his or her situation, in other words, that it is coherent. In order to make sense of the message, the target-text receiver must be able to understand it.

Intertextuality refers to the dependence of the text on knowledge of prior texts. Intercultural intertextuality in this context is relevant as many of the terms used in court are in Latin, such as "You have the right to *habeas corpus*" or "You will be appointed *guardian ad litem.*" No translation is offered by the system, and no rule indicates that the interpreter must offer a translation of foreign terms, which in many cases may be unknown even to the interpreter, who may find a safety net in reproducing these foreign terms in the same foreign language. Intratextuality and intertextuality are also expressed continually through references to different laws or "implicit shared knowledge of the meanings of legal principles, concepts, and proceedings" (Frade 2008: 282).

6.1.8. Issues of ethics and loyalty

The interpreter is admonished to maintain accuracy by rendering verbatim translations. Why is being *accurate* equated with being *ethical* in the code? The first possible answer may be found in Nord (2006: 6), who finds a common meaning in the words *loyalty* and *fidelity*. She finds that being loyal is an "interpersonal category referring to a social relationship between people who expect not to be cheated in the process" and that *fidelity* usually refers to the rule of intertextual coherence or correspondence between source and target texts. Nord states that if clients, authors, and receivers did not have doubts about the loyalty of the translator, the translator would have more freedom to adapt the target text as necessary. Thus, it may be implied that the accuracy requirement is related to a lack of trust or a concern that the interpreter will not be loyal, and that the simplest way to guarantee the interpreter's loyalty is to require his or her loyalty to the text.

Clifford (2004) posed the same question with regards to community interpreting in healthcare settings, and followed Chesterman's approaches to translation ethics (2001): representation, service, communication, and norms. In the representation model, the translator behaves ethically by providing a faithful representation of the other and of the source text without additions, omissions, or any other type of change. In the service model, the translator behaves ethically by being loyal to the client's requirements. In the communication model, the translator behaves ethically by facilitating communication and understanding between the parties. In the norms model, the translator behaves ethically by following situational and conventional norms. Clifford concludes that the representation model is best suited for the conduit model, which focuses on accuracy and faithfulness to the source text, and which is restricted only to language forms (2004).

In judicial proceedings, ethical conduct would fit: (1) the representation model, in that accuracy is paramount; (2) the service model, in that the client mandates such accuracy and loyalty demands precise compliance with such requirements; and (3) the norms model, in that the accepted and prescribed practice for judicial proceedings dictates what interpreters should do. In fact, these three models complement one another in that being ethical means being loyal to the client (service) by following the prescribed norms (norms) of accuracy (representation). The only model that could not be applied is the communication model, as the interpreter is precluded from taking into account the communicative needs of the other. In this case, being ethical from the standpoint of the communication model would imply behaving unethically according to the code, thus overpowering any other personal and professional ethical principle the interpreter might have. Communication is, however, part of Chesterman's proposed oath: "I will use my expertise to maximize communication and minimize misunderstanding across language barriers," as "understanding is the defining limit of a translator's professional ethics, also of his *professional* responsibility, the responsibility of his practice" (2001) (emphasis in original). To not facilitate understanding may therefore be considered unethical from the interpreter's perspective, as well as a violation of the code.

If there were no such constraints on the interpreter's role in judicial proceedings—that is, if the commissioner offered a code consistent with the sociocultural reality of the setting and the interpreter were allowed to use his or her own knowledge and training to achieve the established purpose—the interpreter could be loyal to the client (service) by offering a functional translation that both conveys a true

original meaning (representation) and promotes understanding (communication) in accordance with revised, adequate and accepted practice (norms). Regarding the communication model, Chesterman (2001) questions a situation where communication is adequate but in which a translation would promote unethical ends, for example, translating instructions for building a bomb. One could also argue that in judicial proceedings, interpreters who are not aware of theory and issues of role, and who are trained to perform according to the conduit model are, in fact, unknowingly siding with a system that uses language to apply the law to individuals who may not understand the proceeding and who may or may not be guilty. It is ultimately up to the interpreter or translator to refuse to perform in such circumstances. After all, translators aim to reduce the "communicative suffering" that actually affects all parties involved: from judicial authorities who cannot get their message across, to witnesses who do not understand what they need to understand, and to the interpreters themselves for not performing effectively (Chesterman 1997: 184-6, 2001). Furthermore, as Pym notes, the aim of translation is to promote intercultural cooperation through communication that is "the mutual benefit" obtained; if the translator works to promote cooperation, he or she is primarily loyal to the translator's profession and to the system (in Chesterman, 1997: 170).

The interpreter is mandated to speak the court's language but is very often perceived by English speakers as an ally to Spanish speakers, primarily because they share a language that may be incomprehensible to the other participants. By speaking both languages, interpreters exclude participants who feel "stripped of control over the proceedings" and "power is felt to have been ceded to the interpreter ... disempowering the lawyer by mediating, interceding and intervening between the examiner and the examinee..." (Morris 1993: 10). The use of language to influence testimony and questioning has been widely described as "a means of control" (Harris 1984: 6). In this context, when the interpreter interrupts a proceeding, thereby becoming visible—when seeking a clarification, for example, that intimates loyalty to the receiver or to the profession—the interpreter may in effect interfere with counsel's strategy, change the line of questioning, break the rules of evidence (Hale 2001), or distort the legal process (Mikkelson 2000: 49). On the other side are the non-English speakers, who must swear to tell the truth, who are not allowed to ask questions, who must respond to every question, and who have everything they say potentially used against them (Harris 1984, Van Dijk 1989: 39).

Abril Martí also acknowledges the dilemma created for the interpreter. The interpreter must negotiate between speakers in different contextual situations: at one end is a non-English speaker who needs "a product or service that will resolve or mitigate some type of critical situation that affects him or her personally," who has "limited control over the service provided," and who is "in a state of need, isolated, in a foreign social and institutional system and surrounded by foreign language speakers." At the other end is an English speaker, who is the "professional in public service who seeks to obtain the necessary information to decide whether or not it is appropriate to provide the service," and who "speaks on behalf of an institution and not necessarily on his behalf and who enjoys [the] decision power" (my translation) (2004). It could be assumed, then, that the standard that requires conserving the register is consistent with a refusal to abandon the power relationship created by the tenor of this communicative context.

6.1.9. A conflict of skopoi

This ethical conflict elaborated in Chesterman (1997) is consistent with the interpreter's conflict that arises in judicial settings. According to skopos theory, the skopos is primarily determined by the commissioner, and it is what guides the interpreter's work. In other words, in this setting the only possibility is to be loyal and ethical to the client. However, as discussed above, the interpreter's first ethical duty is or must be to facilitate understanding. The term *skopos* is used to refer to the purpose of the target text as indicated by the commissioner; however, the aim defined in the courtroom setting by the commissioner of interpreting services relates not so much to the target text as to the source text. The source text also has a purpose, attributed to it by the commissioner and also by the receiver and the interpreter. This makes it difficult for the interpreter to act in accordance with a clearly defined *skopos*: if the interpreter follows the code, which gives priority to the source-text function, the purpose of the translation might not be achieved, and the target text might not be functional for the receiver.

Thus, the issue becomes how to make a translation functional in this context. By assuming that all participants have a specific purpose, it would seem possible to arrive at a functional translation when all these purposes converge. In other words, by assuming that the commissioner's and receiver's aim is to communicate with each other, that the source and target texts' purpose is to convey a comprehensible message, and that the interpreter's aim is to facilitate communication, a possible answer might be

that the interpreter, who is the only participant capable of satisfying all these purposes simultaneously, could be charged with doing so by facilitating clear and effective communication. In other words, the convergence of skopoi could be part of the assigned role of the interpreter, who would use his or her knowledge and expertise to make the translation functional, and even to contribute in determining what the skopos will be. This would be possible only when the interpreter is accepted as a professional and allowed to make decisions that enable participants to communicate with one another. But why should it be the interpreter who adapts the linguistic and discourse features of the utterance to facilitate listeners' comprehension? The answer could be that it is inherent in his or her role as a medium of communication, as required by the code (CAJC 2013a).

6.2. Translational norms

6.2.1. Overview

Although Toury credits the initial link between norms and translation to Levý (1969 [1963]) and Holmes (1988), the introduction of norms to Translation Studies and the development of translational norms theory was first proposed by Toury (1980), who called for a descriptive approach over prescriptive views based on strict equivalence. He proposed that the concept of norms might help resolve conflicts between prescriptive and descriptive approaches, in the sense that it could help explain why prescription might not be the best or the only solution in all cases where norms prevail. Norms could also be considered as paths to follow without resorting to prescription. He proposed to observe translational behavior regularities to account for the norms that guided translators' decisions, based not only on language but including the sociocultural components of the translation event (1998: 11). In his own words:

> Norms have long been regarded as the translation of general values or ideas shared by a group as to what is conventionally right and wrong, adequate and inadequate into performance instructions appropriate for and applicable to particular situations, specifying what is prescribed and forbidden, as well as what is tolerated and permitted in a certain behavioural dimension. (Toury 1998: 14)

Norms are standards that individuals receive from a culture, which they are to follow and adhere to in order to belong to that culture: "the acquisition of a set of norms for determining the suitability of that kind of behaviour, and for maneuvering between all the factors which may constrain it, is therefore a prerequisite for becoming a translator within a cultural environment" (Toury 1995: 53). For Hermans, norms begin as conventions or agreed behaviors between individuals, which materialize as effective and preferred courses of action and solutions to problems in certain situations. When conventions are successful, they become norms. Norms are also patterns of customary behavior that are shared, accepted, and expected among members of a community, but are stronger than conventions in the sense that they act as directives for people to know what is expected of them (Hermans 1999: 72ff.). Norms are also key factors for the preservation of social order, as they determine what is prescribed and forbidden, adequate and inadequate social behavior, and individuals can be positively or negatively sanctioned according to the way they comply with or deviate from them: "the notion of norms always implies *sanctions*; actual or at least potential, whether negative (to those who violate them) or positive (to those who abide by them)" (Toury 1998: 16). Toury describes norms as being in the center of a scale of constraints between rules (stronger norms) in one end, and idiosyncrasies (weaker norms) in the other. Norms are also specific and unstable: they do not necessarily apply to all cultures, and they tend to change with time (Toury 1995: 55).

Since norms cannot be observed directly, Toury proposed to observe the products of translational norm-governed behavior. The main sources can be textual (translations, as primary products) or extratextual (theories, comments, etc. as by-products). This discovery procedure entails beginning with isolated norms that can be clearly defined, and then attempting to integrate the results from different areas in order to establish relationships between compared norms from different domains. Norms are discovered by observing regularities in and deviations from behaviors in different situations, with the aim of comparing them and establishing a connection to account for them in each circumstance (1995: 65). Chesterman proposes finding evidence of norms from three sources: belief statements from translators, critics, consumers, etc., explicit criticism from reviews, consumers, even other translators, and official norm statements by norm authorities such as trainers, clients, or institutions. However, a link must be established between these sources and observed regularities in order to propose that a certain norm exists (2006).

One of the main contributions from target-oriented approaches is related to the controversial notion of equivalence, which may include different types of relationships between the source text and the target text. Applied to translation, for Toury the equivalence between the source and the original texts is determined by the norms that govern the choices made by the translator (1995: 55). He believes that the equivalence found between source and target texts is determined by translational norms that govern the translator's choices, and therefore their study is essential for getting closer to a better understanding of equivalence outside of historical prescriptive approaches (1995: 65).

Toury describes three different types of norms. The initial norm is a basic choice a translator has to make between adhering more to the culture or language norms of the source text, or to the culture or language norms of the target text. Subscribing to source norms will determine the adequacy of the translation, and subscribing to target norms will determine its acceptability. For Toury this is not a real either/or choice, as the translator may use a combination of these two or compromise between them. The two other sets of norms are the preliminary and the operational norms, which mutually influence and condition each other. Preliminary norms include decisions regarding the policy and directness of the translation, which are interrelated, and the general translation strategy. These norms refer to aspects considered while making decisions about types of texts to be translated, and the possibility of indirect or mediated translation. Preliminary norms precede operational norms, which include matricial (concerning segment manipulation, omissions, additions) and text-linguistic norms, and which refer to aspects considered while making decisions during the translation process. The non-specificity and instability properties of norms imply that there cannot be theoretical limits to them (1995: 56-60).

Chesterman proposed another classification of norms: *professional* norms, to which the translator adheres to adequately meet the *expectancy* norms. Professional norms are behavioral norms followed by professional translators; they resemble production norms and are formulated to include three types of norms: the accountability norm (ethical), the communication norm (social), and the relation norm (linguistic). The accountability norm, whereby a translator assumes responsibility for the translation, states, "a translator should act in such a way that the demands of loyalty are met with regard to the original writer, the commissioner, and the prospective readership." It relates to Nord's loyalty concept (1991) and Harris's true interpreter norm (1990). The

communication norm states that the translator should "optimize communication between the original writer and/or commissioner and the prospective readership" and specifies the social role of the translator "as a communication expert." The relation norm states that "a translator should act in such a way that an appropriate relation is established and maintained between target text and source text," taking into account the writer's intentions, the text skopos, and "the nature of the prospective readership." Expectancy norms resemble product norms and are determined by what the readership expects a translation should be, and what the text should look like in the target language (1993: 8-10).

Several scholars have applied the concept of translational norms to interpreting. Among them, Shlesinger discussed this possible application and identified methodological challenges to extrapolating interpreting norms. She found that eliciting said norms might prove difficult due to several obstacles that include the lack of corpora (as the record is only in English and proceedings are not recorded), the effect observation may have on interpreters, and the empirical shortcomings of simulated conditions (1989). In response, Harris (1990) argued that it is possible to identify norms in interpreting, and proposed some (mostly preliminary) normative formulations. Among them is the "true interpreter norm," or the norm of the "honest spokesperson." This norm states that interpreters "re-express the original speakers' ideas and the manner of expressing them as accurately as possible and without significant omissions, and not mix them up with their own ideas and expressions." Gile also believes that speech corpora are not inevitably necessary, as norms can be extrapolated by

> asking interpreters about norms, by reading didactic, descriptive and narrative texts about interpreting (what Toury, 1995: 65 calls 'extratextual' sources), by analysing user responses, and by asking interpreters and noninterpreters to assess target texts and to comment on their fidelity and other characteristics using small corpora. (1998: 100)

In another study, Shlesinger found that it would be difficult for researchers to discern whether strategic decisions made by interpreters during the process are due to cognitive constraints or norm-governed behavior (1999: 13, see also Schjoldager 2002). She formulated one of the first norms for simultaneous interpreting:

> Not every element of every proposition in the source text needs to be reproduced as such. It is appropriate for a simultaneous interpreter to produce the underlying

> meaning of the proposition. This is acceptable, and often even desirable, since a full rendering of each separate element in the proposition is liable to use up the cognitive resources of the interpreter and may also exceed the capacity of the listener to process the target-language input. (1999: 6-7)

Shlesinger later responded to Harris's "honest spokesperson" norm by showing that despite the oath, the standards of impartiality described in the literature and the codes of ethics, and the interpreters' desire to abide by the "true interpreter" norm, "even the most honest and true interpreters may find their 'own ideas' imposing themselves on the ideas of the original speakers" (2010). In her response to Harris, Shlesinger formulated a fundamental question: when there is more than one lexical choice to translate a source term, should the interpreter choose the one the source speaker would use if he spoke the target language, or the one that would be considered appropriate by the target-language listener? (2010: 8). She attempted to answer the question by proposing that if the strategic purpose of the question were to "elicit certain emotional and political reactions by linguistic means," the interpreter "would presumably be expected to opt for the closest 'equivalent.'" When the purpose of the question is to obtain information, however, "the interpreter would presumably be expected to select the 'equivalent' that would normally be used by the addressee" (2010: 12). In judicial interpreting, this dilemma might prove difficult to solve. On one hand, the purpose of the question may be both to elicit emotional reactions and obtain information; on the other hand, the interpreter is not privy to this purpose. Furthermore, although the translation may be correct based on the language system, this does not imply that it will be communicative in the target culture (Schäffner 1998: 3). This dilemma translates into the conflict consistently formulated by so many scholars who acknowledge that expectancy, preliminary and production norms are not always compatible (Pöllabauer 2006, Jakobson 1959/2000, Tate and Turner 1997/2002, Anderson 1976, Fowler 1997, Mikkelson 2000, Hale 2004, Mason 1999, Gentile et al. 1996, Morris 1995/1999, Garzone 2002), and that was clearly articulated by Shlesinger:

> there is no reason to doubt that, as in [the] case of written translation, so too in case of simultaneous interpreting target-oriented constraints of a cultural-semiotic nature indeed shape the cognitive processes involved in individual acts of translation. (Toury and Lambert 1989: 3) [Shlesinger 1995: 9].

Several scholars also found norms related to the simplification of target texts. Shlesinger found that despite the accuracy requirement, interpreters do include additions and shifts to facilitate comprehension or avoid the appearance of unprofessionalism, or to establish themselves as active participants (1991), and later proposed that court interpreters "have been shown to simplify institutional discourse when interpreting to the defendant, and to elevate the style of the defendant's responses when addressing the court" (Shlesinger 1999: 3). Other scholars who found similar phenomena include Jansen, who concluded that "the interpreter tends to simplify the institutional discourse when translating to the defendant, and renders the speech of the non-professional participant in a standardised manner" (1995: 11). This standardization relates to Toury's proposed laws, the law of growing standardization and the law of interference. The law of growing standardization states that source texts tend to be simplified in the target text, and that linguistic items chosen by the translator tend to conform to models and repertoires from the target culture. The law of interference states that target texts always show traces of the source text due to the transfer of linguistic phenomena. The first law also seems to focus more on the target text, and the second law on the source text. (1995: 279). For Marzocchi (2005), norms are significant because they evoke issues of ethics as related to the codes, and an example of this interaction between norms and ethics is illustrated in the verbatim requirement. He proposes that the verbatim requirement is an initial and operational norm that "seems to safeguard the different roles in the courtroom, protecting other actors from a potentially intrusive role of the interpreter as a would-be mediator or cross-cultural consultant." He cites a study by Siviero (2003), who found interpreters using plain language and "denying precisely the operational norm of completeness" because they were interpreting for uneducated defendants, and a study by Roncalli (2001), who found interpreters "extending their role into various forms of interactions with and advocacy for defendants" without objections from other participants.

6.2.2. Norms in California

As stated in chapter 3, there are several codes of ethics, standards, and rules for judicial interpreters in California, not only from official authorities but also from different professional associations such as NAJIT, CCIA, and others. These codes are very similar; they usually provide the same standards and rules in somewhat similar terms

and in more or less equal detail. Judicial interpreters in California, however, are mainly guided by the *Professional Standards and Ethics for California Court Interpreters* (CAJC 2013a), which also contain California Rules of Court, sections from the California Evidence Code, California Standards of Judicial Administration, compliance requirements for certified court interpreters, and Standards for Performance and Professional Responsibility for Contract Court.

The Professional Standards and Ethics for California Court Interpreters are provided by the Judicial Council of California, Administrative Office of the Courts. The beginning of the code contains a definition of *ethics*:

> The American Heritage Dictionary of the English Language, Fourth Edition (Boston: Houghton Mifflin Company, 2000) defines ethics as "the study of the general nature of morals and of the specific moral choices to be made by a person; moral philosophy" and "the rules or standards governing the conduct of a person or the members of a profession." (CAJC 2013a: 5)

Since norms are articulated in a code of ethics equated with moral choices governing the profession, abiding by these standards is considered tantamount to ethical behavior, and interpreters learn that being ethical means following these standards. As a result, behavior that contradicts these standards is considered unethical, even when interpreters feel an inclination to behave differently in situations where abiding by the norms might have an unfavorable effect. Thus, the certified interpreting community shares a common behavioral pattern, and this behavior comes to be expected by all legal actors, including the interpreter. As a result, interpreters' choices are motivated by the norms and constraints internalized during socialization into the interpreting community. By abiding by these performance instructions, they conform to norms and therefore "contribute themselves to the continuation and strengthening of the norms" (Chesterman 1998: 91).

The preface to the *Professional Standards and Ethics for California Court Interpreters* states: "The more prepared and informed you are about professional practices and the purpose of established norms and principles, the more you, together with all officers of the court, will be able to further the interests of justice" (2013a: vi). From the very beginning, interpreters learn that they will participate in furthering "the interests of justice" by adhering to established norms. Also in the preface, the code states that it is *largely* based on cited rules of court, standards of judicial administration,

standards of performance, and model guides for policy and practice in the state courts. Although authors call it a *manual*, "it is here that one finds a generous sprinkling of *'should'*s, *'must'*s and *'ought to'*s— representing what interpreters are expected to do under different circumstances" (Shlesinger 1999: 4). Besides this official articulation of norms, interpreters work in a legal setting where law is applied, in close proximity with a judge and a jury, and are constantly subject to being challenged by attorneys, judges, and even by jurors. As a result, judicial interpreting norms seem to be perceived by interpreters almost as legally binding, very close to rules in Toury's continuum (1998: 17). Although the code of ethics contains a number of norms court interpreters must follow in judicial proceedings, these norms seem to function altogether as one overarching norm when *the* norm is to comply with said code and everything contained in it.

In judicial interpreting, performance norms can be acquired and internalized through different channels, from training programs to observation of colleagues, and predominantly from the code of ethics that must be learned from the start to prepare for the certification exam. Once a candidate passes the exam and becomes an official court interpreter, the code of ethics becomes the explicit articulation of norms to abide by at the risk of being sanctioned. These sanctions may take different forms, such as criticism from colleagues, challenges by those present, or actual sanctions by an official body. Although according to Dueñas González et al. no interpreter has yet been sanctioned for violating the code (2012), Canon 14 of the Code of Professional Responsibility of the Official Interpreters of the United States Courts states "Official court interpreters of the United States courts willingly accept and agree to be bound by this Code, and understand that appropriate *sanctions may be imposed* by the court for willful violations" (emphasis added) (in Dueñas González et al. 2012: 1303). Therefore, although there might not have been official sanctions so far, they are a real possibility in view of this code, or at least that is what interpreters should believe and take into account before deviating from the norms. The first section of the code contains a detailed description of the standards, which are based on Rules of Court. A few of the most relevant standards will be reviewed.

6.2.2.1. Representation of qualifications

"An interpreter must accurately and completely represent his or her certifications, training, and relevant experience" (CAJC 2013a: 1). Besides describing the different

categories of interpreters, the articulation of the norm states: "Never misrepresent your qualifications and credentials in order to obtain work. Your reputation and the reputation of the entire profession are at stake." As stated in chapter 3, the law provides that non-English speakers be assisted by *certified* interpreters in judicial proceedings. The California Federation of Interpreters (CFI) and the Interpreters Guild of America (IGA) documented instances of fraud such as "non-interpreters stealing and using an interpreter's certification number to obtain work and non certified interpreters passing themselves off as certified and telling judges their oath 'is on file'" (IGA 2014). Certified interpreters who had to compete with non-interpreters for work perceived this as a threat. In order to help enforce the law regarding the use of certified interpreters, CFI and IGA sponsored a bill that mandates "an interpreter's certification be stated and verified on the record for court proceedings and depositions, and requiring an interpreter to show identification to prove their certification or registration status" (IGA 2014). The bill was signed by Governor Brown. The new law, AB 2370, amended the code to include on the record the interpreter's name, certification information, and a statement that the interpreter's oath was administered or is on file with the court, for example: "My name is *Jane Doe* and I am a state certified judicial interpreter for the *Klingon* language, my certification number is *123456*, I've been sworn in and all parties may examine my badge" (IGA 2014). When the original norm was threatened to be undermined, interpreters were able to establish a new norm to maintain and reinforce the original norm. As Toury explains, "some translators may then go on to take active part in the re-negotiations concerning translational conventions (paragraph 3.2) which will sometimes result in a change of norms" (1998: 28), and Chesterman states that "the norms are experienced by those who translate as being prescriptive, regulatory. To break these norms is to run the risk of criticism; but it may also, of course, lead to the establishment of new norms" (Chesterman 1998: 90). This development also responds to the norm articulation (above) in that misrepresentation of qualifications would place the reputation of the entire profession at stake.

6.2.2.2. Complete and accurate interpretation

> An interpreter must use his or her best skills and judgment to interpret accurately without embellishing, omitting, or editing. When interpreting for a party, the interpreter must interpret everything that is said during the entire proceedings.

> When interpreting for a witness, the interpreter must interpret everything that is said during the witness's testimony. (CAJC 2013a: 3)

This is the verbatim norm discussed throughout the literature as the underlying norm in court interpreting, as stated by Lee: "The norm in court interpreting is often construed as to be synonymous with the verbatim requirement in the legal sector" (2015: 195). The articulation of the norm in this code includes several fundamental elements. The main goals for providing an interpreter are stated in the beginning, to wit, placing the non-English speaker on an equal footing with the English speaker, and ensuring that the record in English reflects all that was said by all parties involved. To achieve these goals, many instructions are provided for interpreters who must first take or file an oath to "well and truly interpret" the proceeding (p. 3), although the oath generally taken by interpreters does include the phrase "to the best of my ability." In this sense, this is an oath to uphold and abide by the norms. What follows in the section is a list of detailed instructions to comply with this standard, some of which will be reviewed next.

<u>Regarding production and comprehension</u>

- Interpreters should not: make the speaker sound more articulate, logical or polite in the target language (p. 3), add or subtract any words for the sake of clarity or expediency (p. 5), omit "seemingly redundant verbs" (p. 6), alter the register, or level of language, to make it easier to understand or more socially acceptable (p. 7), clarify ambiguities or double negatives (p. 12).
- Interpreters must: "render into the target language all the filler words used by the speaker" (p. 6), do their best "to render a version as fragmentary as the original, without inserting any additional information ... to clarify the statement" (p. 9).
- Witnesses (or an attorney) are responsible for speaking up when a question is not understood (p. 7).
- Non-English speakers should hear exactly the question asked to assist counsel in their defense (p. 3).
- "You, as the official interpreter, bear a very important responsibility, as other people are depending on you to understand what is being said. This is a relationship of trust that must be preserved at all costs" (p. 18).

- "There are two basic reasons for having an interpreter present in a court case: (1) to enable the defendant to understand the proceedings and (2) to enable the court to understand all non-English speakers who address the court" (p. 28).
- "As an interpreter, you must be mindful at all times that communication is the primary objective of the interpretation process" (p. 28).

Basically, all matters of comprehension are charged to the interpreter, who at the same time is prevented from making language clear and comprehensible for the target-language receiver. The translation required during judicial interpreting is deemed a mere linguistic act: "the replacement of textual material in one language (SL) by equivalent material in another language (TL)" (Catford 1965: 20), and the translation is faithful and accurate as long as it replicates the exact meaning and form (and register) of the original. According to Lee, effective intercultural communication is not guaranteed by a strict verbatim requirement that often complicates achieving the prescribed accuracy purpose instead of facilitating it (2015: 195). The code also warns against intervening when suspecting non-comprehension (CAJC 2013a: 7, 37) and against being an advocate for the non-English speaker (p. 20) who, as described in chapters 1 and 5, will rarely articulate non-comprehension. This relates to the conflict of role described throughout the literature and above, a difficult position for the interpreter, who is expected to choose a translation that will be more adequate than acceptable, as target-language listeners' constraints must not be taken into account. Furthermore, cultural reasons preventing non-English speakers from speaking up in cases of non-comprehension may rule out compliance with Chesterman's expectancy norms (1993), as it minimizes the chance for non-English speakers to accept or reject the translation. It is also clear that there might be a conflict within each norm category proposed by Chesterman: the accountability norm, whereby interpreters must be loyal to the source speaker and the target listener; the communication norm, whereby the interpreter is an expert who must optimize communication between source and target speakers; and the relation norm, whereby the relation between source and target texts should take into account the skopos (articulated as communication and equal footing) and the nature of target-language listeners. In each of these three norm categories the interpreter is prevented from taking into account the non-English speaker's constraints.

Regarding the duty to third parties

- The judge, the jury and the attorneys will draw conclusions about witnesses' credibility, sophistication and intelligence based on the interpreted version of testimony (p. 3, 7).
- An interpreter has the sworn duty to interpret everything that is said in court during the proceedings (p. 4)

Regarding invisibility

- "As a general rule, the interpreter should remain unobtrusive during courtroom proceedings" (p. 4).
- "Interpreters are not actors and should not become the center of attention" (p. 10).
- "It is imperative that you remain emotionally neutral" (p. 10).
- "You must remember at all times that the role of the interpreter is to assist professionally, neutrally, and unobtrusively so that the proceedings can take place as if no language barrier existed. You must strive to attract as little attention to your presence in the courtroom as possible" (p. 12).
- "For the most part, stepping out of the role of interpreter should be undertaken with great caution, as one can inadvertently take on the role of language or cultural expert." (p. 4).

The first-person reference proposed by Harris (1990) is not explicitly articulated in the main code, which contains only a statement about third-person references:

> It is common for persons who use interpreters to preface their statements with phrases like "Tell him that . . ." and "Ask him if . . ." rather than addressing each other directly. If they do so, you must not edit out those phrases. If someone repeatedly makes third-person statements, the judge will usually instruct that person on the proper procedure. If not, respectfully ask the judge to assist you. (CAJC 2013a: 5),

and later: "In formal courtroom proceedings, it is common practice for interpreters to refer to themselves in the third person so it is clear in the written record that they are speaking in their own capacity and not interpreting the words of the witness" (p. 16). However, the first-person instruction is included in the Appendix section as part of California Standards of Judicial Administration, both for interpreters and for counsel, in Standard 2.11- Interpreted proceedings:

> (a) Instructions to interpreters. Use the first person when interpreting statements made in the first person. (For example, a statement or question should not be introduced with the words, "He says. . .") (p. 50)
> (b) Instructions to counsel. The court or the court's designee should give the following instructions to counsel, either orally or in writing: (1) When examining a non-English-speaking witness, direct all questions to the witness and not to the interpreter. (For example, do not say to the interpreter, "Ask him if. . . ." (p. 52)

The purpose of the first-person reference is to have a clear record and know who is saying what, and at the same time to fuse the interpreter and the source speaker into one voice. Although the use of the first person is standard in judicial proceedings, non-English speakers are usually not informed of this norm at the beginning of the proceeding. As a result, they may look both at the interpreter and the source speaker back and forth and often interrupt to ask, "who is my attorney?" This confusion could be avoided by simply providing instructions regarding interpreter use. The code does not mention the requirement to interpret in the consecutive mode during witness testimony either, although it is required by 28 U.S. Code § 1827 (LIIc).

The code provides not only the norms but also instructions as to how to comply with and defend the norm when challenged. For example,

> Standard interpreting practice requires that you interpret for the non-English-speaking defendant at all times during the proceedings. Any deviation from that may create a due process issue and constitute a violation of rule 2.890(b) (see California Rules of Court, rule 2.890(b); appendix A). Any time an attorney or a defendant requests or instructs you not to interpret, you should request counsel to inform the court so that the judge can make the decision and place it on the record, if he or she agrees with the omission. (CAJC 2013a: 35)

Regarding professional relationships, interpreters are instructed on the forms of address:

> You should maintain professional detachment. One way to convey this is to call people by their last name (Mr. Jones, Ms. Smith). If there is a formal form of address in the target language (for example, "usted" in Spanish for "you"), use it at all times, regardless of the age or status of the witness or defendant. Do, however, observe the cultural norms of the target language in maintaining this formal behavior. (CAJC 2013a: 28)

The use of the *usted* form of address in Spanish is a sign of respect and courtesy that establishes a personal and emotional distance. It is generally used with professionals, people of higher authority or older age. Its use varies not only across countries, but geographical areas as well. In some areas, the *usted* is even used within the family to address parents and siblings, such as Colombia (Hualde et al. 2012: 259, Ting-Toomey 1999: 97).

One of the norms proposed by Harris (1990) regarding team interpreting is also addressed in this code, in the section regarding impediments to performance:

> When circumstances allow, courts may provide "team interpreting" in extended court proceedings, such as trials and evidentiary hearings, to help prevent fatigue, ensure accuracy, and avoid interruptions to the flow of the proceedings. By alternating approximately every half hour, two or more interpreters can avoid fatigue—one potential cause of interpreter error—without needing to request a break in the proceedings. (CAJC 2013a: 33)

6.2.2.3. Cultural or linguistic expertise

> Even though you have language expertise, you should make every effort to avoid testifying as an expert witness in a case in which you are interpreting. Doing so might blur your function in the courtroom and prevent you from being able to continue interpreting in the case. Especially avoid testifying on issues that extend beyond your knowledge and authority. As a court interpreter, your function is not that of an expert on the culture of the non-English speaking defendant or witnesses or on cultural practices referred to in testimony. Authorities in the appropriate fields should be consulted in such matters. For instance, expert testimony as to whether a non-English speaker has clearly understood a police officer's questions as uttered in the foreign language is beyond an interpreter's expertise. A psychologist might be better suited to provide this kind of testimony. Even if an attorney seeks to consult you on similar issues, or you feel you have valuable opinions and experience to offer, it is wise to refrain from commenting, even in an informal setting. (CAJC 2013a: 36-37)

It is not clear what would constitute "testifying as an expert witness." In circumstances of communication breakdowns or confusion the interpreter may be the only one in the proceeding to have a way to clarify comprehension issues based on the same interpreter's culture or long-term contact with other Hispanic cultures.

Interpreters also have the duty to report ethical (norm) violations:

> If anyone tries to induce or encourage you to violate any statute, rule, regulation, or policy relating to court interpreting, you are obligated to report the situation to

> the proper authorities, such as the judge assigned to the case, the court interpreter coordinator, the supervising public defender or district attorney, or the presiding judge of the court. (CAJC 2013a: 38)

The interpreter must not only comply with the norms: violations and inducement to violations must be reported to authorities. This might contribute in part to interpreters' avoidance of discussing personal ethics concerns with colleagues, who are also put in the place of policing other interpreters' behavior.

Despite all of the *should's* and *must's*, the code also states "As is often the case in interpretation work, it comes down to using your best judgment (p. 5)," which seems to give interpreters certain freedom to make choices during production. This freedom is also implied in other sections, such as "interruptions require great tact and should be rare, limited to truly serious errors" (p. 14), and "in short, be very cautious about intervening in the process" (p. 16). Toury states that

> freedom of choice is exerted not only when one chooses to behave in a way which does not concur with the prevailing norms. It is also exercised when one seems simply to reaffirm one's previous commitment to these. After all, in principle, there is always an alternative, otherwise there would be no need for norms in the first place. (1998: 20)

For Hermans too, in principle, choices made by translators are motivated by norms on which translators base their decisions (1991: 165). Although abiding by the norms does not imply denying free choice, when norms are so strong and are internalized as such, free will seems to surrender to norm-governed behavior that *becomes* the free choice. It is of course true that choosing to abide by a norm is still a choice, however, in this context this might be a *constructive* choice when the alternative choice would carry such dire consequences. *Constructive* here is used in its legal sense:

> That which is established by the mind of the law in its act of *construing* facts, conduct, circumstances, or instruments. That which has not the character assigned to it in its own essential nature, but acquires such character in consequence of the way in which it is regarded by a rule or policy of law; hence, inferred, implied, made out by legal interpretation. (Black's Law Dictionary 1992: 312)

These constructive choices may be perceived or construed as choices, but when perceived as the only possible choice, in this context the choice becomes being or not being an ethical and professional interpreter, or being or not being an interpreter at all.

Since norms vary across groups and subgroups, the same person may adhere to different norms or show more flexibility in different social contexts (Toury 1998: 17). For example, the same interpreter may abide by different norms according to each interpreting situation, such as an attorney-client interview. The same might happen in an out-of-court legal proceeding, where norms can also be or appear to be more flexible, and the privacy of the meeting might lessen the possibility of receiving sanctions. This and several other issues were included in the interview guide to explore the way interpreters actually abide (or not) by these norms, and the reasons behind their compliance or non-compliance.

Chapter 7. Research design and pilot study

7.1. Research question

This research concerns a particular intercultural communicative event that is at the intersection of several constraining and facilitating angles, in this case, Spanish speakers assisted by an interpreter in judicial proceedings in California. More specifically, it focuses on the factors that may shape Spanish speakers' comprehension in a setting that has very particular characteristics. The previous chapters examined the interpreting scenario in California, where the law provides that non-English speakers be assisted by a language interpreter in order to afford them the same legal rights as English speakers. These guidelines seem to imply that the presence of the interpreter will guarantee them these same rights, an *equal footing*, assuming that the only difference between English speakers and Spanish speakers is the language, and that this difference can be overcome by use of an interpreter. The presence of an interpreter, however, may not be enough to overcome the multiple challenges faced by Hispanic immigrants who come into contact with the U.S. judicial system. These challenges involve cultural values that may prevent them from speaking up when they don't understand, a different and unknown legal system, an intricate legal jargon with referents outside their sociocultural context, and a significantly different level of education than their English-speaking counterparts. All of these factors may hinder communication and comprehension, a situation that is exacerbated by an official code that prevents interpreters from adjusting the language register or intervening to alert parties in cases of non-comprehension. Based on this code, interpreters are mainly faithful only to the source language and are not directed to account for sociocultural target constraints. In brief, the main conceptual framework of this research is concerned with Spanish speakers' comprehension of the language of the law.

The examination of language register and comprehension issues has shown that registers are learned and that they are specific to *speech communities*, defined by Hymes as "sharing knowledge of rules for the conduct and interpretation of speech," where "sharing of grammatical knowledge of a form of speech is not sufficient" (1974: 47-51). This difficulty to access the legal register was acknowledged by the government with

respect to (English-speaking) jurors' lack of comprehension of jury instructions, which triggered a full revision of all criminal and civil jury instructions in California.

This research seeks to bring the social, cultural, and educational constraints of the target-language receiver into the equation of modern-day judicial interpreting in California, which is still guided by principles of formal equivalence and source orientedness. In order to understand this intercultural communicative event it was necessary to account for sociocultural target constraints and, accordingly, the translation theoretical framework applied involved a target-oriented approach borrowing concepts from skopos theory and Toury's notion of norms. Functionalist translation theory (skopos theory) allows giving priority precisely to the sociocultural and situational constraints of the target-culture receiver, and since many of these constraints are intimately related to institutional and professional norms, this communicative event is examined here by investigating the norms at play and interpreters' attitudes toward them. In summary, this study attempts to determine whether the practices established by the skopos-determining and norm-setting authorities are effective in meeting the purpose defined within the system.

In skopos theory, the translator/interpreter is the expert in charge of making strategic decisions, taking into account the sociocultural constraints of the receiver. Adjusting the register in order to facilitate and attempt to achieve the purpose of communication and put the non-English speaker on an equal footing may be one such decision. The first question this research seeks to answer is whether English speakers and Spanish speakers show a similar comprehension level of legal register, as implied by the equal footing claim. The second question this research seeks to answer is whether by focusing on target audience comprehension—as allowed by skopos theory—and hypothetically giving interpreters license to adjust the register, Spanish speakers' comprehension would improve. This research thus seeks to test the following two hypotheses:

1. English speakers and Spanish speakers will not show the same level of comprehension when presented with a spoken text reflecting the same high register of legal language.

2. When the register is simplified, the comprehension level in Spanish speakers will increase.

7.2. Research design

Since court interpreting is examined in this study as a sociocultural event involving an interaction among (at least) three main interlocutors, I decided to triangulate data from all three sources: interpreters, attorneys, and non-English speakers. To gather this data, I developed a research design with quantitative and qualitative components to address different aspects of this intercultural communication event.

The main question in this study concerned an exploration of the equal footing claim in terms of comparing the comprehension achieved by English speakers and Spanish speakers, and exploring the possibility of enhancing Spanish speakers' comprehension by simplifying the language register. This question was addressed by the quantitative component of the research design, aimed at comparing three different comprehension levels: that of English speakers hearing original legal register, that of Spanish speakers hearing original legal register, and that of Spanish speakers hearing simplified legal register. In accordance with the premise in the code and literature that states that providing an interpreter means placing the non-English speaker on an equal footing with the English speaker, I designed a listening comprehension test to examine the implied claim of equal access to language in terms of comprehension.

The listening comprehension test basically consisted of having participants listen to sentences, each of which was followed by a question with a view to assessing comprehension. For this test, five sentences were selected from sample interpreter certification exams and California jury instructions. These five English sentences were then translated into Spanish with the same original register, and these Spanish translations—three sets in all—were then modified in a way to simplify the register. The Spanish translation of the five sentences for the main study was produced in a focus group with nine court certified interpreters, and the simplified-register version of the Spanish sentences for the main study was produced in a second focus group with six court certified interpreters. Each of these three sets of questions was used with a different group of ten participants each. The original English sentences were used with English speakers, the original-register Spanish sentences were used with one group of Spanish speakers, and the simplified-register Spanish sentences were used with a different group of Spanish speakers. All participants in this test met the required qualification criteria, which included an educational attainment level consistent with those indicated by the literature and the census, no court experience and, in the case of

Spanish-speaking participants, little or no English proficiency and foreign-born status. Based on the information obtained from the U.S. Census Bureau and the literature reviewed, the average educational attainment level for U.S. Whites alone in 2012 was 13.5 years (see 2.2 above), and the average educational attainment level for foreign-born Hispanics was between 6-8 years. In consequence, the educational attainment level required to participate was 13-14 years of schooling for English speakers and 6-8 years of schooling for Spanish speakers.

To complete the triangulation, the qualitative component of the design involved gathering data through interviews with interpreters and attorneys, and focus groups with interpreters and Spanish speakers. The interviews with interpreters focused on gathering information about their views and attitudes about register and the rationale behind the code requirement, register variation, differences in practice across settings, and issues of comprehension. Interpreters' views were also explored in the second part of the first focus group: after the translation task was completed, interpreters were introduced to some of the most relevant points of this study to invite a discussion and obtain their feedback. The interviews with attorneys focused on gathering information about their discourse practice while working with English-speaking and Spanish-speaking clients, issues of comprehension, and their views on interpreter interventions. Qualifying criteria for interpreters included a California certificate for court interpreting and at least five years of experience. Qualifying criteria for attorneys included at least five years of experience with the Hispanic population in California.

A third focus group was conducted with monolingual lay Spanish speakers convened for two purposes: obtaining feedback about the terminology found in the five original-register Spanish sentences, and attempting to collectively produce another set of simplified-register Spanish sentences in order to compare them with the simplified-register Spanish sentences produced by the interpreters in the second focus group, mainly in terms of vocabulary. The two sets of simplified-register sentences were then briefly compared to examine similarities and differences in criteria between interpreters and monolingual Spanish speakers on vocabulary comprehension.

In order to evaluate the feasibility of the procedure and the instruments, I conducted a small-scale pilot study that will be described in the next section.

7.3. Pilot Study

The pilot study was conducted in 2008 with the primary goals of testing the instruments that would be used later in the main study, identifying implementation problems, and making all necessary adjustments. Other goals were related to assessing the clarity of instructions, and determining whether the instruments as such would yield the information sought. A total of fourteen participants were invited to take part in three different studies: three attorneys, five court interpreters, two lay English speakers, and four lay Spanish speakers.

Attorneys and interpreters were selected for interviews with the goal of inviting a discussion surrounding the main issues examined in this research, and to identify other questions to include later in the main study. Lay English speakers and Spanish speakers participated in a listening comprehension exercise aimed at testing and comparing their comprehension of legal language, and determining if Spanish speakers' comprehension improved when the register was simplified. The term *simplified* here is used based on the definitions by the Oxford dictionary "Make (something) simpler or easier to do or understand," and the Cambridge dictionary: "To make something less complicated and therefore easier to do or understand." This simplification would entail using a more standard language based on O'Barr's classification of legal registers: "standard English, which includes a formal lexicon and is used mainly by attorneys and most witnesses" (1981: 396).

The research questions the pilot study chiefly sought to answer included:

1. Will English speakers and Spanish speakers show the same level of comprehension of a spoken text presented with the same high register of legal language?
2. When the register is simplified, will the comprehension level in Spanish speakers increase?
3. What are interpreters' views on register and register adjustment?
4. What are attorneys' views on interpreter intervention?

7.3.1. Methodology

7.3.1.1. Interviews with interpreters

Interpreters were interviewed in order to gather information regarding their awareness of, and views on, register, register training, and register adjustment. A second goal was to gather information that would help develop the final question guide that would be used in the main study.

The criteria for selecting interpreter participants included their having acquired a certificate issued by the state for court interpreting, and at least five years of experience in judicial interpreting in California. Five court interpreters participated in this study. Participants were selected from personal contacts and referrals.

This part of the study consisted of a semi-structured qualitative interview, and the list of questions used in these interviews involved mainly aspects of language register. Interpreters were asked to define in their own words the meaning of the term *register* as related to language, and also whether they were aware of any standard regarding how to handle the register during interpreting. Participants were then asked if they were familiar with the reasons for interpreters being expected not to adjust the register during interpreting, and if they had ever received any training in this regard. The next questions were related to participants' actual practice, the register of legal language and its comprehensibility for Spanish speakers in judicial proceedings. Interpreters were asked if at times they perceived instances of non-comprehension by Spanish speakers, and the signs that helped them make this determination. The next question was related to Spanish speakers' claim of comprehension when the opposite was found to be true. Interpreters were asked in this regard if they had witnessed this phenomenon during judicial proceedings. They were also invited to describe what they did in those circumstances, and if they ever felt comfortable enough to perhaps adjust the register to facilitate comprehension. Finally, interpreters were invited to add any comment they deemed relevant. Other materials included a digital recorder, and the same consent form used with all participants.

These interviews were conducted in Los Angeles, individually and privately. Interviews began with participants' confirming their consent to record the session. Participants were first informed of the nature and extent of the study, and received and signed a consent form describing the purpose and conditions of participation, which were explained as needed. All interviews were recorded and transcribed.

7.3.1.2. Interviews with attorneys

This part of the study involved semi-structured qualitative interviews with attorneys, with the goal of gathering information about their discourse practice while working with English-speaking and Spanish-speaking clients, issues of comprehension, and their views on interpreter interventions.

Three attorneys participated in this part of the study. The criteria for selecting attorney participants included that they had at least five years of practice with the Hispanic population in judicial proceedings in California. These participants were all monolingual English speakers. Participants were selected from personal contacts and referrals.

The materials for this section of the study consisted of a question guide and a consent form. The list of questions used in these interviews involved mainly the attorneys' communication with Spanish speakers and their views on interpreter interventions. Participants were asked about any difference they might find when communicating with English-speaking clients as opposed to Spanish-speaking clients, and any adjustments they might make to facilitate this communication, if needed. Attorneys were also asked to compare the general comprehension level of both groups of clients. They were also invited to describe their experiences regarding interpreter involvement or interruptions to alert them to potential issues of non-comprehension, and their views on such interventions. Attorneys were also asked if they believed they could communicate with clients through an interpreter the same way they could communicate with English-speaking clients. Finally, attorneys were invited to add any comment they deemed relevant. Other materials included a digital recorder, and the same consent form used with all participants.

These interviews were conducted in Los Angeles, individually and privately. Interviews began with participants confirming their consent to record the session. Participants were first informed of the nature and extent of the study, and received and signed a consent form describing the purpose and conditions of participation, which were explained as needed. All interviews were recorded and transcribed.

7.3.1.3. Listening comprehension test

According to the codes and the literature reviewed, placing the non-English speaker on an *equal footing* with the English speaker is a primary reason for the provision of interpreters for non-English speakers. Accordingly, this study was designed to test this

implied claim of equal footing, in other words, equal access to language in terms of comprehension. The initial purpose of this test was to determine and compare the comprehension levels of English speakers and Spanish speakers using equal registers. As described in 5.2.1 above, studies by Charrow and Charrow, Benson, Gunnarsson and other scholars have already shown that register simplification leads to better comprehensibility for English-speaking users of legal language. Drawing on these studies, this test also aimed to determine if register simplification resulted in a significant difference in comprehension by Spanish speakers as well. The view that the adjustment of register, in being linked to explaining and advocating, may represent a lack of impartiality, necessitated a further focus on whether comprehension could be enhanced without providing explanations or extra information, that is, by maintaining impartiality according to the standards.

A total of six participants took part in this test. This experiment involved three groups: one group of two English speakers and two groups of two Spanish speakers each. The participants selected for this experiment had, according to census data and the literature reviewed, the average education levels for English speakers and Spanish speakers in California. Since it has been shown that education does play an important role in comprehension and accessibility of high formal registers, this test aimed to determine the difference in comprehension levels between the group of English speakers and the group of Spanish speakers who heard the same register of legal language. The other group of Spanish speakers, who heard the sentences with simplified register, was used to determine if in fact simplifying the register led to a comprehension level that would resemble or come close to that of English speakers, that is, if it would approach the equal footing premise.

Based on information provided by the U.S. Census Bureau and the literature reviewed at the time the pilot study was conducted, the approximate education level was 13.5 years of schooling for English speakers and approximately 6-8 years of schooling for Spanish speakers. This value was taken from the literature because the Census Bureau data on Hispanics included second and third generations who were bilingual or spoke only English. Since U.S.-born Hispanics attend school in English and have a much closer and direct contact with the English language than foreign-born Hispanics, I decided to work with Hispanic immigrants only. In order to reduce the variables, Spanish-speaking participants had little or no knowledge of English, and neither English

nor Spanish speakers had any court experience. The experiment was very much like a listening comprehension exercise.

7.3.1.3.1. Instrument design. Three different listening comprehension tests were administered, each to a different group of participants. Each test consisted of five sentences, each paired with a question to assess comprehension. The first idea was to prepare the tests with sentences from actual courtroom discourse. Seven courtrooms were contacted, but since none allowed recordings of proceedings, it was decided to use fragments from other sources. Three of the five sentences used in this test were taken literally from the old versions of jury instructions. The other two sentences were taken from a sample state court interpreter oral exam provided by Prometric on their website (2007).

1. The first set of sentences consisted of the five original English sentences as described above, each paired with a question to assess comprehension. These sentences were administered to a group of English speakers.
2. The second set of sentences consisted of a Spanish translation of the five original sentences in which the original register of legal language was preserved. Each sentence was followed by the same question posed to English speakers, which was translated into Spanish. This set was administered to the first group of Spanish speakers.
3. For the third set, the two sentences taken from Prometric were translated into Spanish using a simplified register. The other three sentences in the set were jury instructions, and the Spanish translations were made not of the original but of the newer versions of the instructions that were already simplified to make them more comprehensible for jurors. Each sentence was again followed by a question to assess comprehension. This set was administered to the second group of Spanish speakers.

Following are the five sentences and translations used in the pilot study. The first three sentences were taken from jury instructions, and the last two sentences were taken from Prometric's sample certification exams.

Table 1. English sentences – pilot study

1	A witness who is willfully false in one material aspect of his or her testimony is to be distrusted in others. You may reject the whole testimony of a witness who willfully has testified falsely as to a material point, unless, from all the evidence, you believe the probability of truth favors his or her testimony in other particulars. Question: What should you do when a witness is willfully false in one material aspect of his or her testimony?
2	Circumstantial evidence is evidence that, if found to be true, proves a fact from which an inference of the existence of another fact may be drawn. A factual inference is a deduction that may logically and reasonably be drawn from one or more facts established by the evidence. Question: What is circumstantial evidence?
3	"Preponderance of the evidence" means evidence that has more convincing force than that opposed to it. If the evidence is so evenly balanced that you are unable to say that the evidence on either side of an issue preponderates, your finding on that issue must be against the party who had the burden of proving it. Question: What is preponderance of the evidence?
4	The defendant further alleges that it was his perception that his attorney had disclosed privileged information to co-counsel, before the case was severed, that later led him to enter into a guilty plea. Question: What does the defendant allege?
5	Since the defendant's explanation as to the behavior of the parties is not supported by the sworn statement of any witnesses, it scarcely rises to the level of clear and convincing evidence. Question: Why does the defendant's explanation not seem believable?

Table 2. Spanish sentences with original register – pilot study

1	Si un testigo declara voluntariamente en falso en un aspecto esencial de su testimonio, se debe desconfiar de él en otros. Usted puede rechazar todo el testimonio de un testigo que ha declarado voluntariamente en falso sobre un punto importante, a menos que al conocer todas las pruebas, usted considere que la probabilidad de que sea verdad favorece su testimonio en otros puntos. Question: ¿Qué debe hacer cuando un testigo declara voluntariamente de manera falsa en un aspecto esencial de su testimonio?
2	Las pruebas circunstanciales son pruebas que, de determinarse que son verdaderas, prueban un hecho del cual puede efectuarse una inferencia de la existencia de otro hecho. Una inferencia de hechos es una deducción que puede efectuarse lógica y razonablemente de uno o más hechos establecidos por las pruebas. Question: ¿Qué son las pruebas circunstanciales?
3	"Preponderancia de la prueba" significa prueba que tiene más fuerza de convicción que la que se le opone. Si la prueba está tan uniformemente equilibrada que usted no puede decir que la prueba de ninguna de las partes prepondera, su decisión sobre ese punto debe ser en contra de la parte que tenía la carga de probarla. Question: ¿Qué es preponderancia de la prueba?
4	El acusado alega, además, que su percepción de que su abogado había divulgado información privilegiada al co-abogado antes de que el caso fuese separado, fue lo que luego lo llevó a darse culpable. Question: ¿Qué alega el acusado?
5	Puesto que la explicación del acusado en cuanto al comportamiento de las partes no está apoyada por la declaración jurada de ningún testigo, dista mucho de alcanzar el nivel requerido para constituir una prueba clara y convincente. Question: ¿Por qué no parece creíble la explicación del acusado?

Table 3. Spanish sentences with simplified register – pilot study

1	Si usted decide que un testigo mintió a propósito sobre algo importante, usted debe considerar no creer nada que ese testigo diga. Por otro lado, si usted piensa que el testigo mintió sobre algunas cosas pero dijo la verdad sobre otras, usted puede aceptar la parte que cree que es verdad y puede ignorar el resto. Question: ¿Qué debe hacer usted si un testigo miente adrede sobre algo importante?
2	Algunas pruebas demuestran algo de forma directa, como por ejemplo la declaración de un testigo que vio un avión volando en el cielo. Algunas pruebas demuestran algo de forma indirecta, como por ejemplo la declaración de un testigo que vio sólo el humo blanco que a veces dejan los aviones. Estas pruebas indirectas a veces se llaman "pruebas circunstanciales". En cualquiera de los casos, la declaración del testigo demuestra que un avión voló por el cielo. Question: ¿Qué son las pruebas circunstanciales?
3	Una de las partes debe convencerlo con las pruebas que presenta en el tribunal, de que es más probable que lo que esa parte tiene que probar sea cierto que falso. Esto se llama "obligación de probar". Question: ¿De qué tiene que convencerlo una de las partes?
4	El acusado también dice que se declaró culpable porque le pareció que su abogado le había revelado información confidencial al otro abogado antes de que se separara el caso. Question: ¿Qué dice el acusado?
5	La explicación del acusado no parece una prueba clara ni convincente porque lo que dijo sobre la conducta de las partes no coincide con lo que dijeron los testigos bajo juramento. Question: ¿Por qué no parece convincente la explicación del acusado?

All translations were provided by a court certified interpreter. All participants received a consent form describing the purpose and conditions of participation.

7.3.1.3.2. Procedure. The tests were conducted in Los Angeles in 2008. Each test took between ten and twenty minutes to complete and was conducted in person, individually and privately. Participants were first informed of the nature of the study and received and signed the consent form describing the purpose and conditions of participation, which were explained as needed. Next, participants were told they would hear a recorded sentence followed by a question, after which they would provide an answer that would be recorded. No repetitions were allowed. All answers received were transcribed, and the Spanish answers were translated into English by a court certified interpreter. To measure comprehension levels, percentages were used based on the share of correct answers to comprehension questions.

7.3.2. Results

7.3.2.1. Interviews with interpreters

The interview section did not present problems. However, the extent of unsolicited and relevant information volunteered by the participants led to a decision to revise the interview guide to include additional items. Furthermore, three of the participants

contacted this researcher at a later time to ask if they could add information. These interviews were designed to take between ten and fifteen minutes; however, all candidates became so deeply involved in the subject matter that the length of the interview was almost doubled and sometimes tripled. Most participants articulated a feeling of excitement to discuss issues that did not usually come up, that "never crossed my mind," or that "nobody talks about." The questions seemed to elicit thoughts that continued prompting ideas that apparently needed to be shared. One of the participants asked to turn the tape recorder on again twice after the interview was completed. Although most participants were somewhat apprehensive at the beginning of the interview and verbalized this apprehension, two of them asked to continue the "conversation" and three of them offered repeatedly to be contacted for more information if needed. It was rather evident that there was a general need to have a forum to discuss issues that were either considered taboo, of which there is not much awareness, or which interpreters were usually reluctant to discuss with colleagues in everyday work.

It was decided that such interviews with interpreters would be part of the main study, with the addition of other questions about issues and topics volunteered by pilot study participants. For example, all participants made reference to formal vs. informal settings, and most participants made reference to definitions and boundaries of their roles. For example, P3 stated,

> If I am in an informal setting such as a deposition prep[aration], I often find myself telling the attorney that I believe the witness is not understanding because of the register being used. I wouldn't do that in a formal setting, I would feel intimidated to do so because I would be scared of someone telling me you're just the interpreter and your job is to interpret. (P3)

All participants interviewed claimed to be familiar with the concept of language register, but only P5 related it to the situation, "I think it's more related to maybe the setting and circumstances that the statement is made." Three participants related the register to education as a condition for comprehension. For example P2, suggested that "high register... might possibly mean that a person needs to have had many years of some specialized education to fully comprehend something." Participant 4 related it to levels of formality, despite calling it *registry,* "The registry... I can give you examples easier than I can define it verbally. There is if I'm [the one] talking, there is street

talking, there is polite, there is formal, and there is extremely formal, the level of formality, that's the best I can put it."

All but one participant claimed to be familiar with the code standard regarding register. The only participant who denied being aware of any standard regarding register referred to using her "own way" to adjust the register for clarity,

> Just informally from having attended workshops and listened to colleagues, but I'm not aware of any particular existing rule, no. Well I have my own way that I try to do things and I always aim for the solution that has the greatest possibility, in my opinion, of being understood. I use synonyms as often as I can squeeze them in when there may be a misunderstanding, and I seem to have a little radar that lights up in my brain when I think that what I'm saying can be understood in more than one particular way, so I'm always searching for clarity as far as when others are listening to me. (P2)

Regarding the reasons for maintaining the register, two participants mentioned the way the defendant would be perceived, which is the reason provided in the code. For example, P2 stated,

> It is important for the person getting the interpretation into English, probably the attorney or the judge, to know what the exact register of the answer or conversation is, or for example if there is a person who is not very educated, it is important that that comes across in the interpretation. (P2)

For two participants, adjusting the register would be tantamount to providing an explanation, "Changing the register would be the same as explaining" (P3), and "Basically its up to him to ask for an explanation not up to you to explain it. Without a translation the register will be maintained unless somebody asks for an explanation or to please rephrase it" (P4). Some interpreters follow the norm without knowing the reason, and even though they all stated that the register was sometimes too high for the Spanish speaker to understand, and one of them referred to register issues going both ways.

Only one participant felt comfortable enough to adjust the register in formal settings without oversimplifying, and the rest of the participants stated that they would adjust the register, request clarifications, or speak up to warn about misunderstandings, but only in informal settings.

All participants stated that they could tell when Spanish speakers did not understand from the their verbal and/or non-verbal cues, as described by P1:

> Well, the person might ask me directly, they might answer something different and I might realize through the answer that they did not understand what was asked of them, they might look at me with a puzzled look on their face, or they might just turn to me and not say anything, because of the way they look at me I realize they do not understand. (P1)

When that happens, some interpreters would do nothing, and others would take action, such as P4:

> I might simplify, I wouldn't use a lower register language, but I would kick the convoluted part if I think it's gotta be clearer. I didn't do it for years because I figured, like I said, I'm supposed to be invisible and I was hoping someone would say, what did he say? But nobody ever did. So I figure the whole point of not affecting the outcome is lost if the person is not gonna ask the question, they could be talking Chinese and it wouldn't make a difference. (P4)

All participants also held that Spanish speakers claimed to understand when in fact they did not, and linked this behavior to fear of angering the judge, receiving a harsher sentence, intimidation, embarrassment, and looking dumb. For example, P2 explained, "Yeah, it could be fear perhaps if they speak up they will make the judge angry and get a harsher sentence." When this happens, interpreter behavior again depends mostly on the circumstances. Two interpreters stated that they would interrupt the proceeding to request clarification. Participant 4 also described the use of body language:

> I mean, at some point if you can make it obvious to the attorney by answering whatever nonsense that the person is saying and making it sound as nonsense, even using your body language to the attorneys, so they inquire and clear it up but when the attorneys are pretty dumb too and they are not getting that the person is not getting it no matter what your body language is, at some point you have to interrupt, and say... (P4)

Two participants volunteered comments on the concept of invisibility. P4 stated,

> I think you should be [visible]. But people don't want you there. That's the bottom line. Because attorneys are fairly paranoid and they assume that the moment you have an opinion your opinion means leaning for or against sides and it has nothing to do with the language... So I'm not supposed to be there. (P4)

The most interesting finding in these interviews was the distinction interpreters made regarding their role and their room for maneuver, depending on the particular

judicial setting. Several reasons were offered for this distinction: it is not the interpreter's job but the attorney's; intimidation due to fear of somebody telling the interpreter that he or she is stepping out of their role; an ideal of invisibility; upsetting the proceedings; getting blamed for the words used; faithfulness to the record; avoiding being a "headline"; or simply because "What you can do or the possibilities of your role are different in an informal or a formal setting because of reality" (P4). Other interpreters would feel comfortable intervening only in informal settings, such as P3, above. The record seems to be a deciding factor in influencing interpreters' decisions to either simplify the language or intervene, or do neither.

In summary, based on the information provided by interpreters during the interviews, it was clear that additional questions should be included in the main study. The expanded interview guide will be described in detail in the next chapter, which presents the methodology of the main study.

7.3.2.2. Interviews with attorneys

This part of the study offered no implementation problems. The interviews with attorneys were designed to take approximately ten minutes, but again participants offered enough unsolicited information to warrant adding new questions to the guide that would be used in the main study. There were two general sets of questions, one involving communication with English or Spanish speakers, and the other involving interpreter interventions.

Aside from one participant's indication that the volume used in such situations might be louder, all participants claimed to communicate the same way with English speakers and Spanish speakers. They all believe they could speak to both groups of clients the same way, except "when interpreters suggest I may be using difficult words or syntax" (P2) or when being asked to slow down (P3).

Regarding the possibility of experiencing more instances of misunderstanding or miscommunication with Spanish speakers, two participants answered affirmatively, relating to language and education, "Yes. Lack of knowledge of the language and the process" (P2) and "Maybe a bit more with Spanish. Spanish speakers they often have less education in my experience, the average level of education is primary school" (P3).

Although all participants welcome interpreters' suggestions about possible instances of misunderstanding (as stated by P2: "I welcome it if the client is not understanding I want to know that, definitely"), they do not see it happen often (P3:

"Once in a blue moon, very, very rarely"). They do not feel threatened by the presence of an interpreter whom they acknowledge as visible and active, and rely on the interpreter's expertise not only to facilitate communication, but also to warn them about any possible miscommunication.

When switching to a simpler language, P2 describes the result as going

> ... from a hugely blank look on the client's face to someone who was animated and interested in what I had to say, as opposed to a zoned out zombie who is sitting there, probably who feels and experiences being talked to, or talked at. The client has transformed into someone who is being respected and listened to and willing to listen back. (P2)

This participant also believed that these interventions could be part of the interpreter's duty.

The responses received during these interviews and the quantity and quality of unsolicited information were reason enough to add a few more questions to the interview guide that would be used in the main study, as will be described in the next chapter.

7.3.2.3. Listening comprehension test

As described above, the purpose of this test would be to identify the comprehension levels of English speakers and Spanish speakers using sentences with equal registers, and determine whether or not simplifying the register in the Spanish sentences would produce an increase in comprehension, one closer to the English speakers'. In this small-scale pilot study, however, the main purpose was to evaluate the instrument and the design for further adjustment and improvement.

The test with Spanish speakers proved to be an unexpectedly difficult task, both for the researcher and for this population. The first problem was related to the reaction of participants to the word *experimento* (experiment): nervous giggling, puzzled looks, and the question *¿me va a abrir para ver adentro?* (are you going to open me up to see inside?). After the first two participants, it was decided to use the word *investigación* (research) instead, which yielded more favorable results.

The second problem was related to explaining the purpose of the research. Puzzled looks aside, after two or three offers of explanation participants continued asking what the research was for. They were particularly concerned with the words

court and *legal* and with the preliminary question to find out if they had ever been to court, which was asked in order to determine their eligibility to participate. Although the explanations were getting clearer and simpler from participant to participant, none of them seemed to fully grasp the concept of this research or its purpose.

The third and most difficult problem was encountered when attempting to get the participants to sign a consent form. An invitation to sign a document, even if it was in Spanish, immediately caused distrust and anxiety expressed by continuous requests for explanations and hesitations about participating. Three of the participants spent a few minutes appearing to be reading the document, and then asked what it was for and requested an explanation in terms of *no sé leer* (I can't read), *no entiendo de estas cosas* (I do not understand about these things) or *me lo lee/explica usted por favor* (can you read/explain it to me, please). I then offered to read the document slowly and explain its contents line by line, to which the three participants agreed. After the slow reading and explanation of each line, the three participants still expressed reluctance and fear of *meterse en problemas* (getting in trouble) and that *me van a venir a buscar* ([They] will come for me). In one case, a candidate decided not to participate after listening to a lengthy explanation of the contents of the consent form. After the experiment was completed, all participants were very anxious to get their copy of the consent form. One solution to this problem would be to produce an even simpler and shorter translation of the original consent form. This may prove difficult, however, as there are official requirements regarding the information that must be included in the form.

The last issue worth mentioning was related to the affective reaction of the participants following the completion of the experiment. When finding out that the research related to the comprehension of the language used in court, they were disappointed in their performance. This feeling was expressed in terms of *si es para ver quién entiende y quién no, yo estoy en los que no entienden* (if this is to see who understands and who does not, I am among the ones who do not). Other comments included *es que no he ido a la escuela* (it's [just] that I didn't go to school), and *está muy enredado* (it's very confusing), where participants seemed to have felt the need to account for their performance. These events were consistent with the sociocultural traits of Hispanics found in the literature reviewed and discussed earlier in this study.

An interesting incident took place shortly after the test. One of the participants approached me ten minutes after the test and asked to consult on a family matter, reassured by his idea that I was familiar with the law. The participant was directed to

seek legal advice, but he still insisted on telling the story. His niece wanted to divorce her husband, who had abandoned her and their son two years before, but she did not want to resort to the *police* because the family did not want to involve the police in a family matter. This incident was very revealing: in the first place, the family had not sought help for two years, and second, the family believed that divorces were granted by the police. This was evidence of the lack of legal knowledge non-English speaking Hispanics possess, their fear of authority figures, and their desire for privacy in family matters.

There were no major problems with English speakers' participation in this test. However, informing the participants that the research was about the comprehension of the language of the court seemed to have offered a challenge: most of the participants changed their posture, put on their glasses (although they were not required to read for the test), and became very serious and focused. Two of them seemed rather upset when they were not allowed to hear the sentences for a second time, expressed in terms of "If I were in court I would be able to ask for a repetition." Added to the question of how many years of education they had in order to make sure they qualified to participate, they seemed to have felt the need to justify their performance, expressed in terms of "legal jargon sucks" and "I am glad I am not an attorney."

Following are the results of the listening comprehension test. The answers to the comprehension questions were scored as correct or incorrect, and results are expressed in percentages. The last total column shows individual levels of comprehension for each of the participants, and the last total line shows the levels of comprehension for each of the questions.

Table 4. Pilot study - English speakers total results

	Question 1	Question 2	Question 3	Question 4	Question 5	Total
Participant 1	Correct	Correct	Incorrect	Correct	Incorrect	60%
Participant 2	Correct	Incorrect	Correct	Incorrect	Incorrect	40%
Total	100%	50%	50%	50%	0%	**50%**

As shown in Table 4, the first question yielded the highest scores, and none of the participants received a perfect score for the entire set. The total aggregate results indicated that the general level of comprehension of this group of English speakers was 50 percent. None of the Spanish-speaking participants, however, were able to answer any of the questions correctly, even when using a simplified register.

Another issue found during this test was that scoring participants' responses as either "correct" or "incorrect" would not allow the results to account for intermediate levels of comprehension. Consequently, a new scoring system would be designed for the main study using a different criterion for measuring comprehension levels. Instead of scoring responses as "correct" or "incorrect," a three-point system would allow to account for answers that might not be correct and complete but that would show some intermediate level of comprehension. This revised scoring system will be thoroughly described in chapter 8 (Methodology).

The most noticeable difference between English speakers and Spanish speakers seemed to relate to the content of the answers provided. While none of the English speakers' answers were irrelevant or non-responsive, most of the Spanish speakers' answers were, mainly those offered by Participant 4 in the first group and Participant 6 in the second group. For example, in question 4, Participant 4 seemed to take a few lexical elements from the original sentences heard and use them to compose explanations of new ideas. This participant understood that there was some exchange of information with an attorney, but was unable to make sense of these words in the original context, "¿Pues en este caso qué puede alegar?... si si hubo intercambio no? de... del abogado o sea de como quien dice se adelantó, algo así le entiendo yo" (*Well in this case what can he allege?... if if there was an exchange, right? of... the attorney I mean of, you might say he acted too quickly, that's more or less what I get out of it).* Both groups of Spanish speakers seemed very similar in that both contained one participant who consistently admitted not understanding the question, and one participant who instead provided answers with full conviction and self-assurance, but that were mostly irrelevant and unintelligible.

Sentence 3 contained word *preponderance* in the English set and *preponderancia* in the first Spanish set. One of the English-speaking participants admitted not understanding the question, and the other participant answered correctly. One of the Spanish speakers in the second group, however, replaced the word *preponderancia* with *prepondera* (preponderates), and the other participant replaced it with the word *propone* (propose) because of their similar sound, and used them in their answers, "Pues lo que... propone, nada más, no? Lo que yo entiendo es decir lo que... lo que más o menos... proponen ellos, algo así" (*Well what... [pronoun] proposes, that's all, right? What I understand, I mean, what... what more or less... they propose, something like that)* (P4).

Another consistent phenomenon observed was participants answering the questions from their own point of view and not basing their answer on what was heard in the question. For example, Participant 6 did so in question 1, "Tratar de que diga la verdad, lo correcto... eh por ejemplo si dice la mitad de palabras- o sea tratar de que explique lo que fue sucedido, un hecho" (*Try to get him to tell the truth, the right thing... er for example if he says half of the words- I mean try to get him to explain what was happened, an event),* and in question 3, "Eh... pues si es falso o si no tiene la culpa tiene que decir pues yo no fui, pero si tiene la culpa tiene que aceptar la culpabilidad que haya hecho" (*Er... well, if it is false or if he is not guilty he has to say well, it wasn't me, but if he is guilty he has to accept the guilt he had done).*

The results were rather alarming, as Spanish speakers were not able to answer any of the questions correctly, even in the second group that contained the translation of simplified jury instructions. To improve the instrument and the chances of obtaining more valuable results, it was decided to shorten the sentences in order to make the exercise less intense and more comprehensible, and to use a simplified-register translation of all five sentences instead of using a translation of the simplified versions of the jury instructions. Other adjustments were implemented for the main study, as will be described in further detail below, and the final version of the material will be presented in chapter 8 (Methodology).

7.3.3. Discussion

The three components of the pilot study provided useful insight for adjusting and improving both the instruments and the procedure of the main study.

The interviews with interpreters showed that although almost all interpreters interviewed followed the norm in formal settings, informal settings seem to give them the freedom to deviate from the norm to facilitate comprehension when the risk of criticism or challenge is not noticeably high. The interpreters' responses indicated that norms are followed more rigorously when these risks are higher. In informal settings—and mainly off the record—they feel safer and less constrained in their desire to follow their own norms to improve communication, almost anticipating (unarticulated) expectancy norms of comprehension, and definitely taking into account target constraints. The differences in interpreting style and strategies between formal and informal settings were volunteered by participants as unsolicited information in several

questions and also after the completion of the interview. This data is of great value for this research, and warranted the inclusion of a question in this regard in the interview guide of the main study.

The interviews also included a question regarding the reasons for maintaining the original language register in the target text, but this question proved to be ambiguous in the sense that it failed to identify the language direction. As a consequence, participants offered reasons for either direction without a clear distinction. Given that this is such a relevant aspect of this research, the question was modified to include both language directions and receive a more comprehensive list of reasons for not adjusting the register in each case.

The attorneys interviewed also provided information that showed behavior that deviates from the norm, as interpreter expertise is valued and taken into account particularly to advise them when communication might not be achieved. Therefore, the interview guide was expanded to include a question regarding the qualities attorneys would expect to find in the interpreters that would assist them in communicating with Spanish speakers. The interview guide for attorneys was also extended to include some of the questions posed to interpreters regarding the aspects of non-comprehension behavior observed in Spanish speakers, such as not asking for clarification or stating they understand when in fact they do not. Furthermore, given the willingness to discuss these topics and the amount of unsolicited information, the time allowed for all the interviews was also extended.

As described in the implementation problems detailed above, the presentation and the consent form were problematic for Spanish speakers. It was therefore decided to modify the consent form in a way that would be easier to read and understand for all participants.

The results of the listening comprehension test seemed to imply that in order to achieve some level of comprehension, the register should be simplified even more or some explanation should be provided. English speakers were able to answer some questions correctly but none of the Spanish speakers were, and obtaining data averaging 0% would not yield useful results for this study. In consequence, it was decided to shorten the sentences and use only the first part of each to make the exercise less intense and more accessible in terms of comprehension. It was also decided not to use a translation of the simplified version of the jury instructions, and instead use a simplified-register version of all five sentences. This decision was made because the

new jury instructions contain revisions that go beyond what a court interpreter could or would be able to do during simultaneous interpretation. These changes will be described in more detail in chapter 8.

7.3.4. Conclusion

This section described the methodology, procedure and results of the pilot study, which provided valuable information for adjusting and improving on the instruments to be used in both the qualitative and quantitative components of the main study. The outcome of the pilot study demonstrated the feasibility of the research design presented in section 7.2., but also pointed to the need for adjustments to the methodology, which will be detailed in the next chapter.

Chapter 8. Methodology

This chapter will describe the methods used for the three components of the main study: the listening comprehension test with English speakers and Spanish speakers, the interviews with attorneys and interpreters, and the focus group with Spanish speakers. The section describing the process used to obtain the sentences for the listening comprehension tests will also include the two interpreter focus groups conducted to translate and simplify the register of the five original sentences.

8.1. Listening comprehension test

As explained in section 7.2., the rationale behind this component was to test the equal footing claim from the code and the literature in terms of equal access to language, that is, equal comprehension by English speakers and Spanish speakers, which purportedly would be achieved by providing an interpreter. The first purpose of this test was to determine and compare the comprehension levels of English speakers and Spanish speakers using sentences with equal registers. Drawing on earlier studies that had already shown that register simplification leads to better comprehensibility for English-speaking users of legal language (see 5.2.1 above), the second purpose was to determine if register simplification resulted in an increased comprehension level by Spanish speakers as well, or if the comprehension gap between English speakers and Spanish speakers, if any, would narrow. In consonance with the institutional view that register simplification may be perceived as lack of impartiality, the study also aimed to test if comprehension could be enhanced without providing explanations or extra information, in other words, maintaining impartiality according to the standards. This test eventually consisted of the listening comprehension exercise applied in the pilot study, with a few adjustments that will be described in more detail in the sections that follow.

8.1.1. Participants

A total of thirty participants were invited to take part in this experiment: ten lay English speakers and twenty lay Spanish speakers. The test was conducted with ten participants

in each of three groups, in line with the recommendation of examiners of the minor dissertation (Lambertini Andreotti 2008). Ten English-speaking participants made up one group, and the twenty Spanish-speaking participants were randomly assigned to two groups of ten participants each. A few participants were selected from personal contacts and networking, but most of the participants were provided by a community center and a music therapy center that provide services for Hispanic children and their families. Participant selection criteria were the same as in the pilot study: for the lay English speakers, the same approximate education level of 13-14 years and no court experience; and for the lay Spanish speakers, the same approximate education level of 6-8 years of schooling, no court experience, foreign-born status, and little or no knowledge of English. The average education levels found for the pilot study were checked against updated census data and found to be unchanged.

8.1.2. Materials and instruments (sentences)

Although the sentences remained the same as in the pilot study, the three jury instructions were shortened to include only the first sentence in each instruction, thus lessening the intensity of the exercise. Three sets of five sentences were used for the three different groups of participants.

1. The first set of sentences consisted of the (shortened) original English sentences used in the pilot study. As stated above, three of the five sentences were taken literally from the old versions of jury instructions, and the other two were taken from a sample state court interpreter oral exam provided by Prometric on their website (2007). Each of the sentences was paired with a question to assess comprehension. These sentences were used with the group of English speakers.
2. The second set of sentences consisted of the Spanish translations that were produced in the first focus group with certified interpreters, with conservation of the original register of legal language. Each sentence was also followed by a question to assess comprehension. These sentences were used with the first group of Spanish speakers.
3. The third set of sentences was obtained in the second focus group, which met to simplify the register of the five sentences translated by participants in the first focus group. Each sentence was paired with a question to assess comprehension. These sentences were used with the second group of Spanish speakers.

The three sets of sentences and questions were recorded so that each member of a given group of participants would hear the same version of the test. The simplified-register sentences used for the second group of lay Spanish speakers were recorded at a lower speed, with pauses and marked intonation, as suggested by interpreters in focus group 2. The voice in the recording of the English sentences belonged to a male native English speaker from the U.S., and the voice in the recording of the Spanish sentences belonged to a male native Spanish speaker from Mexico. A laptop computer was used to reproduce the sentences and questions, headphones were used for the participants, and a digital voice recorder was used to record their answers. A consent form, based on a sample provided by URV, was adapted to conform to the particulars of this study. The English original consent form was translated into Spanish for Spanish-speaking participants (see Appendix 1 and 2).

8.1.2.1. Focus group 1 (for translation of sentences)

The purpose of this first focus group was twofold: to produce a Spanish translation of the five original English sentences with register conservation, and to present some of the most relevant points of this study to the participants to invite a discussion and obtain their feedback. It was also hoped that the feedback received during the meeting would provide ideas for new questions to be incorporated into the individual interviews, and that it would complement the comments received during said interviews. The translations produced by this group would later be 1) examined by five other certified interpreters to confirm the conservation of source register in the target text, and 2) used in the listening comprehension test with the first group of Spanish speakers.

8.1.2.1.1. Participants. Participants in this focus group met the same selection criteria as used for all interpreters participating in the study: a state certificate for court interpreting, and at least five years of experience in judicial interpreting in California. A total of nine court interpreters participated in the meeting, and five other interpreters participated in the subsequent examination of the sentences produced in this first focus group. Participants were selected from personal contacts, networking, and invitations posted in a private Internet group for interpreters.

8.1.2.1.2. Materials and instruments. Participants in this focus group received several handouts that included:

1. The consent form;
2. A definition of a focus group for those participants who were not familiar with the procedure: "A focus group is a data collection procedure in the form of a carefully planned group discussion among about ten people plus a moderator and observer, in order to obtain diverse ideas and perceptions on a topic of interest in a relaxed, permissive environment that fosters the expression of different points of view, with no pressure for consensus" (Omni 2013);
3. The five original English sentences: as described above, three of the five sentences used in this test were taken literally from the old versions of jury instructions, and the other two sentences were taken from a sample state court interpreter oral exam provided by Prometric on their website (2007). Also as stated above, the three jury instructions were shortened to include only one of the two sentences that made up each instruction;
4. A selection of statements gleaned from the literature review for this research and included in the summary focus group transcript (see Appendix 6).

Two digital voice recorders were used to record the session.

8.1.2.1.3. Procedure. The focus group session took place in Los Angeles, in November 2013. Nine court interpreters met in person for three hours. Also present were myself as an observer and moderator, and another court interpreter who assisted with technical aspects of the meeting, including the recording of the session. Participants first received and signed the consent form describing the purpose and conditions of participation, which were explained as needed. Participants were then informed of the general nature of the study and discussed the definition of a focus group that was provided in the handouts. Following the introduction, participants were asked to produce a group translation of the five original English sentences, and arrive at a Spanish version that would resemble the way they would normally interpret in court. Participants were also informed that the sentences were taken from actual jury instructions and sample certification exams.

In the second part of the meeting, participants were presented with quotes from the literature reviewed in this research, each of which was discussed among the group. This part of the session lasted about two hours, and participants discussed the items submitted with great interest. All parts of the session were recorded and transcribed.

The group worked in harmony and showed enthusiasm. The session presented no problems, except that since these topics are not frequently discussed openly,

participants offered many comments and the time allotted proved rather short for the material provided. Since there were nine participants, it took longer to arrive at agreed versions because of the number and variety of proposed translations and points of view. In the months that followed, five other certified interpreters were invited to examine the translations produced by participants in the focus group. They too received and signed a consent form, and were provided with the original sentences and the Spanish translations.

8.1.2.1.4. Final Spanish translation of sentences. Interpreters in this focus group worked for approximately one hour to produce the following English-into-Spanish translations:

Sentence 1.

ST: A witness who is willfully false in one material aspect of his or her testimony is to be distrusted in others.

TT: Si un testigo declara intencionalmente en falso en un aspecto importante de su testimonio, se debe desconfiar del resto de su declaración.

Sentence 2.

ST: Circumstantial evidence is evidence that, if found to be true, proves a fact from which an inference of the existence of another fact may be drawn.

TT: Las pruebas indirectas son pruebas que, de determinarse que son verdaderas, prueban un hecho del cual se puede inferir la existencia de otro hecho.

Sentence 3.

ST: "Preponderance of the evidence" means evidence that has more convincing force than that opposed to it.

TT: "Preponderancia de la prueba" se refiere a la prueba que tiene más fuerza de convicción que la prueba contraria.

Sentence 4.

ST: The defendant further alleges that it was his perception that his attorney had disclosed privileged information to co-counsel, before the case was severed, that later led him to enter into a guilty plea.

TT: El acusado además alega que a él le pareció que su abogado le había divulgado información confidencial a su colega en el caso antes de que se separara el caso, y eso lo llevó a declararse culpable.

Sentence 5.

ST: Since the defendant's explanation as to the behavior of the parties is not supported by the sworn statement of any witnesses, it scarcely rises to the level of clear and convincing evidence.

TT: Ya que la explicación del acusado en cuanto al comportamiento de las partes no está corroborada por la declaración jurada de ningún testigo, no alcanza a ser una prueba clara y convincente.

8.1.2.2. Focus group 2 (for register simplification)

This second focus group with court certified interpreters was convened with the single purpose of collectively producing the new simplified-register versions of the five Spanish sentences that were translated by the interpreters in the first focus group. These new versions would later be used in the listening comprehension test with the second group of Spanish speakers.

8.1.2.2.1. Participants. Participants met the same selection criteria used for interpreters who participated in the first focus group and in the interviews: court interpreting certification and at least five years of experience in the field. Six court interpreters participated in this session, assisted again by another court interpreter in charge of recording, and myself as moderator. Participants were selected from personal contacts, networking, and invitations posted in a private Internet group for interpreters.

8.1.2.2.2. Materials and instruments. Since the sole purpose of conducting this meeting was to produce new simplified versions of the original Spanish translations, the only materials needed, aside from the consent form, were the five Spanish translations produced by the first focus group.

8.1.2.2.3. Procedure. This focus group was conducted in April, 2014 as a telephone conference with six participants, one moderator, and one research assistant. The consent form and the five Spanish sentences were emailed to the participants before the meeting. Discussion started with a brief presentation about the research topic and the exercise that would follow. Participants were asked to pretend they had the freedom to adjust the register and to try to simplify it in the five sentences provided, without explaining, adding, omitting, or advocating, and thinking not only in terms of isolated vocabulary items but also in terms of syntax. The old and new versions of the jury instruction

concerning failure of recollection (see 5.2.3. above) were provided as an example of possible modifications. Participants were informed that the five sentences had been translated from English into Spanish by court interpreters in a previous focus group, and that the five original English sentences were taken from actual jury instructions and sample certification exams. Members participated actively and exchanged justified opinions to arrive at the five final versions. The session was recorded and transcribed.

The only challenge observed during this meeting concerned the setting, as at times it proved difficult to get ideas across during a phone conversation with six interpreters. It was probably not the most ideal of settings. However, it was the only possibility due to family, work, and distance constraints. Participants were still satisfied with the results and articulated this in terms such as "we behaved well" and "this was very interesting."

8.1.2.2.4. Final Spanish sentences – simplified register. Interpreters in this focus group worked for approximately one hour to produce the following simplified-register Spanish sentences, where "OR" stands for "original register," and "SR" stands for "simplified register":

Sentence 1.

OR: Si un testigo declara intencionalmente en falso en un aspecto importante de su testimonio, se debe desconfiar del resto de su declaración.

SR: Si un testigo miente en una parte importante de su testimonio, no tienen por qué creer el resto de su declaración.

Sentence 2.

OR: Las pruebas indirectas son pruebas que, de determinarse que son verdaderas, prueban un hecho del cual se puede inferir la existencia de otro hecho.

SR: Las pruebas indirectas son pruebas que, si se decide que son verdaderas, demuestran un hecho del cual se puede deducir la existencia de otro hecho.

Sentence 3.

OR: "Preponderancia de la prueba" se refiere a la prueba que tiene más fuerza de convicción que la prueba contraria.

SR: La prueba que tiene más peso es la prueba que es más convincente que la prueba que demuestra lo contrario.

Sentence 4.

OR: El acusado además alega que a él le pareció que su abogado le había divulgado información confidencial a su colega en el caso antes de que se separara el caso, y eso lo llevó a declararse culpable.

SR: El acusado además dice que a él le pareció que su abogado le había dado información confidencial a su colega en el caso antes de que se separaran las causas, y por eso se declaró culpable.

Sentence 5.

OR: Ya que la explicación del acusado en cuanto al comportamiento de las partes no está corroborada por la declaración jurada de ningún testigo, no alcanza a ser una prueba clara y convincente.

SR: La explicación del acusado sobre el comportamiento de las partes no llega a ser una prueba clara y convincente porque no está corroborada por la declaración jurada de ningún testigo.

8.1.3. Procedure

The listening comprehension test was conducted in Los Angeles, California. Each exercise took between ten and twenty minutes to complete and was conducted individually and privately. Participants were first informed of the nature of the study and received and signed the consent form describing the purpose and conditions of participation, which were explained as needed. Following the signing of the consent form, participants were informed that they would hear a recorded sentence followed by a question, after which they would provide an answer that would be recorded. No repetitions were allowed. All answers received were recorded and transcribed. The Spanish answers were translated into English for clarity by court certified interpreters. The group of English speakers worked with the original English sentences, the first group of Spanish speakers worked with the (original-register) Spanish translations produced during the first focus group with court interpreters, and the second group of Spanish speakers worked with the (simplified-register) second set of Spanish translations produced in the second focus group with court interpreters.

8.1.4. Data analysis

The pilot study had shown that the sentences used in the test contained information and terminology that was rather unfamiliar to most participants, and scoring the responses as either "correct" or "incorrect" did not account for intermediate levels of comprehension that were observed. For the design of a different scoring system that would include the borderline responses, the initial system was shared with three psychologists, one of them also an attorney, all bilingual in Spanish, and all working in California with this same population. These consultations resulted in the adjustment of the scoring criteria. For this main test, a three-point system was developed: 0 points were assigned for answers that showed no comprehension, 1 point for answers that showed an intermediate level of comprehension, and 2 points for answers that showed full comprehension. Since this test was designed to measure only an approximate level of comprehension, it is implicit that if the answer is entirely incorrect the participant will receive 0 points, if the answer is correct and complete the participant will receive 2 points, and the rest will receive 1 point. In consequence, the comprehension level of participants who receive 1 point will range between 1 percent and 99 percent and will denote "some" level of comprehension. This will include answers that have correct elements but are incomplete, and answers that have a combination of correct and incorrect elements as long as the incorrect element does not change and therefore invalidate the meaning of the correct element. It was decided that answers that contained both correct and incorrect elements in a way that the incorrect element invalidated the correct one would receive 0 points. For the assignment of points in borderline cases, the results were shared with two of the psychologists mentioned above, one of whom is also an attorney. The average points obtained per group are expressed as a percentage of the total possible score.

8.1.5. Implementation problems

Obtaining consent from participants for the listening comprehension test was not as difficult as in the pilot study, for two reasons. First, the language in the form was simplified, making comprehension easier; however, almost none of the participants attempted to read the form in detail. The form was read to those participants who had not taken the initiative to read it before their signature was requested. Second, since

most of the participants were provided by institutions, the legitimacy of the test was not questioned and there were virtually no issues of fear or distrust. In the test with Spanish speakers, as will be described later in greater detail in the next chapter, it was very difficult for participants to understand what they were supposed to do in terms of answering a question not related to them. Many of them would respond to the comprehension questions based on their own opinion or experience. This did not happen with the English speakers.

8.2. Interviews

8.2.1. Interviews with interpreters

This part of the study consisted of a semi-structured qualitative interview aimed at gathering information regarding interpreters' awareness of and views on register and register adjustment, and role limitations in matters of facilitating comprehension. Furthermore, and based on the pilot study results, the purpose was also to explore in greater detail interpreters' attitudes toward established institutional norms. This information was used to complement the results of the other tests and develop a better understanding of the intercultural communicative event, taking into account all parties involved. After analyzing the results of interpreters' interviews in the pilot study, the list of questions was adjusted to include several other areas that will be described below.

8.2.1.1. Participants

Ten certified court interpreters participated in this part of the study. Participants met the same selection criteria as those applied to all interpreters: a state certificate for court interpreting and at least five years of experience in judicial interpreting in California. The interpreters who participated in this part of the study were selected from personal contacts, networking, and invitations posted in a private Internet group for interpreters.

8.2.1.2. Materials and instruments

The list of questions used in these interviews was based on the original guides used in the pilot study, which was expanded to include other relevant questions that arose during the pilot study and the first focus group. Interviews started with a brief description of the purpose of the interview, reminding participants of the confidentiality

aspects, and making sure there were no unanswered questions about the process. The first questions mostly concerned demographics: national origin, upbringing, English and Spanish learning and/or acquisition, and length of stay in the United States. Interpreters were then invited to discuss the training received, certifications held, and the number of times they took the certification exam before passing it. These first questions were designed to make participants feel comfortable discussing themselves and their background from the outset, and also to confirm that they met the requirements for participating in the study. Another reason for gathering this information was to compare their background to the general characteristics of heritage speakers to determine whether or not there was any relation between their upbringing and the number of attempts at the exams.

The next set of questions was related to language register. The purpose of these questions was to gather information regarding register awareness and adjustment as related to established norms. Following a brief introduction to the topic, participants were invited to define the notion of language register in their own words. Questions in this group also dealt with the code standard regarding register, participants' familiarity with the code and said standard, and any training and/or practice received in the area of register, register adjustment, and features of legal language. The next two questions invited participants to describe the reasons, either personal or learned, for maintaining the register both from English into Spanish and from Spanish into English.

The next set of questions focused on the Spanish-speaking population that interpreters work with in California. The first question in this set was related to the average level of education interpreters find among the Spanish-speaking witnesses or defendants they usually work with, based not on assumptions but on personal knowledge, as the educational attainment level is usually one of the first questions attorneys ask their clients. This information was also important to compare with and complement the data from the census and the literature. The questions that followed related to the comprehension of legal register by Spanish speakers. Interpreters were invited to discuss their views on the suitability of legal register for this particular population in terms of comprehension. With reference to the assertion in the code that only a psychologist would be able to determine if a witness has understood a question (CAJC 2013a: 37), interpreters were invited to discuss their views on Spanish-speaking witnesses' comprehension as they perceived it, and the signs that helped them determine whether comprehension had been achieved or not. Interpreters were also asked whether

the non-comprehension they perceived could be related to the language register; in other words, did they believe the legal language register might sometimes not be the most suitable for the population in question. Interpreters were also asked to discuss their experience regarding another comprehension issue reviewed in the literature, one related to Spanish speakers not asking for clarification or claiming to understand when they do not. It seemed relevant, based on the pilot study responses, to add a question about the (potential) difference in interpreting style between formal and informal settings, mainly in terms of interventions and/or register adjustment. To conclude the register section, interpreters were asked if there were situations or settings in which they would consider adjusting the register and/or interrupting the proceeding for clarification purposes or to draw attention to possible non-comprehension issues.

The next set of questions related to the *hand/arm* and *foot/leg* issue discussed in detail in the first focus group and described in 3.4.2. above. Given the diversity of views observed in the focus group, a set of four different scenarios was presented to the participants interviewed, who were asked their opinion on the best course of action in each situation. All these scenarios involved a witness using the word *mano* (hand) to refer to the arm in four different situations: while pointing to the arm in plain view; while pointing to the arm in hidden view; when it was known by all present that the case involved only an arm; and in an everyday situation with no other indicators as to the possible double meaning of the term. A similar question about the *waist* dilemma was also incorporated. This last set of questions was designed to compare and contrast interpreters' views regarding this common issue. At the end of the interview, participants were invited to share any relevant comment they wished to add.

Other materials used in the interviews included a digital recorder and an external in-ear microphone, and the consent form, which was the same for all English-speaking participants throughout the study (see section 8.1.).

8.2.1.3. Procedure

The interviews with interpreters were conducted between November 2014 and February 2015, individually and by telephone. Interviews lasted between thirty and sixty minutes, although some participants requested to add information after the interview was completed. Consent forms were emailed to participants before the interview.

All interviews began by confirming participants' consent for recording the session. Following consent, participants were informed of the general nature and extent

of the study, although with little detail in order not to influence participants' answers. At the beginning of the interview, interpreters were also informed that there were no correct or incorrect answers, and that the questions were designed to explore their views on certain aspects of the practice of the profession. In most cases the questions followed the order established in the interview guide; however, in some cases this order was not followed when participants would volunteer information that would answer subsequent questions. After all questions were answered, participants were asked to add any other information they deemed relevant. All interviews were recorded and transcribed.

As in the pilot study, a common issue in these interviews was the amount of information participants offered and the number of topics that were derived from the questions. Since these issues are not frequently discussed openly among interpreters, the interviews provided a favorable forum for participants to share their views and experience. Some participants asked to turn on the tape recorder again after the interview was completed, and a few also contacted me days later to add information that came to mind while rethinking the issues discussed.

8.2.2. Interviews with attorneys

This part of the study consisted of individual semi-structured qualitative interviews with ten attorneys. As with interpreters' interviews, gathering information about attorneys' views on interpreter interventions and role limitations was necessary to complement the results of previous tests and provide a better understanding of this triangular intercultural communicative event. After analyzing the results of attorneys' interviews during the pilot study, the list of questions was adjusted to include several other areas that will be described below.

8.2.2.1. Participants

The ten attorneys participating in this part of the study met the same selection criteria as those used in the pilot study: at least five years of legal practice with the Hispanic population in California. These interviews also aimed to explore whether attorneys who were familiar with the Spanish language would have different views than those who were not. To achieve this, the ten attorneys who were selected to participate included five monolingual English-speaking and five English-Spanish bilingual participants, recruited through personal contacts and networking.

8.2.2.2. Materials and instruments

The list of questions used in these interviews was based on the guide used in the pilot study, and was extended to include other relevant questions that had arisen during the pilot phase. As with the interpreters, these interviews started by briefly describing the purpose of the discussion, reminding participants of the confidentiality aspects, and making sure there were no unanswered questions about the process. The first set of questions was partly designed to confirm that participants met the qualifying criteria: five years of legal practice in California working with the Spanish-speaking population. They were also asked about the percentage of English speaking and Spanish-speaking clients that made up their practice. Additionally, participants were asked if they were proficient in the Spanish language in order to confirm the group had five monolingual and five bilingual attorneys.

The following set of questions was related specifically to aspects of communication, starting with the average educational attainment levels of English-speaking and Spanish-speaking clients. This was intended to complement the data from the census and literature reviewed on the subject, as well as compare it with the information obtained in the interviews with interpreters. Participants were invited to discuss the key differences between their communication with English-speaking clients and Spanish-speaking clients, if any, mainly in terms of emphasizing different points, the content of the communication, or the instructions provided to clients before a proceeding. These differences between the groups were also discussed in terms of client awareness, participation, comprehension of the issues at hand and familiarity with the legal system. Participants were also asked to compare the comprehension levels of both groups of clients, in terms of experiencing instances of misunderstanding or miscommunication with either group.

The next set of questions was also based on the literature reviewed and aimed at comparing this information with results from the interpreters' interviews. These questions included inviting attorneys to describe and compare the attitude and/or reaction of both groups of clients in cases of non-comprehension, in terms of asking for repetition or clarification spontaneously. They were also asked to share their experience regarding Spanish speakers claim of comprehension when comprehension has not, in fact, taken place.

The next set of questions focused on interpreter intervention. Participants were invited to discuss whether interpreters may interrupt the proceeding to advise on a

possible language or cultural issue, or to suggest that the non-English speaker may not be understanding the language used. To conclude this set, participants were asked to share their views on these possible interventions. Finally, based on the results of the pilot study, the attorneys were asked about the expectations they brought to their work with interpreters, in terms of the qualities they would hope to find in an effective interpreter when communicating with Spanish-speaking clients. After the interview was completed, participants were invited to share any relevant comment they might wish to add.

Other materials used in these interviews included a digital voice recorder with an external in-ear microphone, and the consent form.

8.2.2.3. Procedure

Interviews were conducted individually, two of them in person and eight of them by telephone due to work, family, and distance limitations. Interviews lasted between twenty and thirty minutes. Consent forms were either handed or emailed to participants before the interview. All interviews began by confirming participants' consent for recording the session. Following consent, participants were informed of the general nature and extent of the study. At the beginning of each interview, attorneys were also informed that the questions were designed to explore their views on their communication with both English and Spanish-speaking clients, when the latter took place through an interpreter. In most cases the questions followed the order established in the interview guide; however, in some cases this order was not followed when participants would volunteer information that would answer subsequent questions. After all questions were answered, participants were asked to add any other information they deemed relevant. All interviews were recorded and transcribed.

8.3. Focus group 3 (with Spanish speakers)

This focus group was convened with the main purpose of soliciting feedback from lay Spanish speakers about the five original-register Spanish sentences translated by the first focus group. Another goal was to attempt to produce, in a group, another set of simplified-register Spanish sentences in order to compare them with the simplified-register Spanish sentences produced by the interpreters in the second focus group,

mainly in terms of vocabulary. Lastly, it was hoped that the group discussion and comments offered by participants would provide insight into their reasoning and general comprehension of the sentences.

8.3.1. Participants

Participants met the same selection criteria established for lay Spanish speakers in the listening comprehension test: no court experience, an approximate educational attainment level of 6-8 years of schooling, foreign-born status, and little or no knowledge of English. This group of six lay Spanish speakers was provided by a local community center, where the meeting took place. Again, in addition to myself as moderator, another court interpreter was present to assist with the recording.

8.3.2. Materials and instruments

The only materials needed for this meeting were the five Spanish sentences translated by the interpreters in the first focus group. Participants received the Spanish version of the consent form. Two digital voice recorders were used to record the session.

8.3.3. Procedure

The meeting took place in a regional community center in Los Angeles, and it lasted about one hour. My assistant and I introduced ourselves as court interpreters doing research on the language used in court, specifically the Spanish language, and explained the task ahead: a group discussion of the vocabulary found in five Spanish sentences in terms of difficulty, comprehension, and their familiarity with said vocabulary. Participants were also invited to comment on all the changes they considered should be made to make the sentences more understandable, if necessary. The task was conducted as follows:

1. Each sentence was presented in oral form, read by the moderator and repeated as necessary.
2. After each sentence was presented, participants were invited to discuss any comprehension issues.

3. When participants claimed to understand the sentence, they were invited to try to reformulate or explain it in their own words to verify comprehension.
4. The group was then invited again to state if there were any unfamiliar words in the sentence.
5. Unfamiliar words were explained and replaced with the terms proposed by the participants.
6. After each change was incorporated, the sentence was read again to the group to determine whether or not comprehension had improved.
7. After all changes proposed by participants were incorporated, the final agreed-upon version was read again to the group to verify comprehension.
8. After the reading of the last version, participants were again invited to try to reformulate it or explain the meaning in their own words in order to verify comprehension.

This process continued for all sentences, with repetition of each step as necessary. The session was recorded and transcribed.

Several challenges arose in the implementation of this part of the study. The first was observed at the beginning of the session, as participants needed some time to feel comfortable and discuss their views openly. The second was the presence of two children in the room (a baby and a toddler), which at times made it difficult for their parents and the group to focus on the task at hand. Lastly, the nature of this task and the language involved made it necessary for me to intervene frequently and discuss several terms individually. Although most of the sentences were somehow simplified, it was not really clear whether comprehension was achieved, for several reasons. First, time constraints did not allow to spend enough time with each sentence to arrive at a truly simplified way to express the basic idea, particularly when not even the analogy of the plane in the sky from jury instructions was really helpful or clear enough for participants to restate it comfortably. Second, although participants seemed comfortable and open, they were at times embarrassed to acknowledge and state they did not understand. Evidence of this were the silence that ensued when participants were invited to repeat or rephrase the sentences after they had confirmed that the meaning was clear and understood, and the several terms I asked about that turned out to be unknown to participants, again, after comprehension had been confirmed. All these results will be discussed in the next chapter.

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Chapter 9. Results

Given that this research focuses on an intercultural communicative interaction among (at least) three main interlocutors, this study triangulates data from all three sources: interpreters, attorneys, and non-English speakers. It explores the equal footing claim through a comparison of the comprehension achieved by English speakers and Spanish speakers, and by exploring the possibility of enhancing Spanish speakers' comprehension by adjusting the language register. This latter point was addressed through the listening comprehension test described in the methodology chapter, which constitutes the quantitative component of this research. To obtain a more detailed and balanced perspective on this research issue, this data was triangulated with information obtained in interviews with attorneys and interpreters and in a focus group with lay Spanish speakers, all of which constitutes the qualitative component of this research. This chapter reports the results obtained in each of these three components: the interviews with interpreters and attorneys, the focus group with lay Spanish speakers, and the listening comprehension test.

9.1. Interviews

9.1.1. Interviews with interpreters

As described in the methodology chapter, the purpose of these interviews was to gather information mainly regarding interpreters' awareness of and views on register and register adjustment, and role limitations in matters of facilitating comprehension. Furthermore, the pilot study results suggested that a more detailed exploration of interpreters' attitudes toward institutional established norms was necessary to complement the results of the other tests and develop a better understanding of the intercultural communicative event, taking into account all parties involved.

Demographics (Question 1)

The interviews started by obtaining information regarding participants' place of birth, upbringing, education, and language (English and Spanish) learning and/or acquisition.

The ten interpreters interviewed included four born in a Spanish-speaking country and six born in the United States, two of whom migrated to a Spanish-speaking country in their early years. Of the ten participants, four completed their schooling in a Spanish-speaking country, four in the United States, and two completed their schooling in different countries due to migration. As a consequence of frequent relocation and traveling, six participants learned or acquired Spanish in a Spanish-speaking country, two in the United States, and two in both. English, on the other hand, was learned or acquired by five participants in the United States, in a Spanish-speaking country by only one participant, and in both by four.

Certifications and attempts at examinations before passing (Question 2)

As described in chapter 3, court interpreters may get certified to work in state courts and/or federal courts. Regarding the state exam, seven participants passed the written exam after one attempt, one participant needed two attempts, and two participants took the written portion five times before they passed. As for the oral portion of the exam, three participants took the exam once, three took the exam twice, two took the exam four times, and one participant took it five times. Regarding the federal exam, five participants took the written portion only once, one participant took it twice, another one three times, and one participant has not attempted this exam yet. As for the oral portion of this exam, four participants took it once, four participants took it twice, and two participants have not attempted it yet. In summary, the ten participants hold the state certification, and eight also hold the federal certification for court interpreting.

This data was obtained not only to confirm that interpreters met the selection criteria for participating in this study, but also to consider the possible relationship between formal schooling, language learning, and the number of attempts at the state and federal certification exams. While Participant 6 was born in a Spanish-speaking country, migrated to the United States as a child, and was raised in a Spanish-speaking home, Participant 7 was born and raised in the United States in a Spanish-speaking home. Both would fit the description of heritage learners (see 3.2.1. above), since they had little or no formal education in a Spanish-speaking country, and each had made five attempts at the written exam, which at that time included a Spanish component. Their number of attempts at the oral exam is also among the highest (four and five, respectively), and these two participants made comments in this regard, “Because I was

failing the Spanish by a few points each time" (P6) and "Because I didn't have any formal training in Spanish and that's what got me on the written" (P7).

Training (Question 3)

Seven of the participants received training in an interpreting program, and two of them complemented it with further private instruction. While two participants received only private instruction, only one of the participants received no training from any interpreting program or privately.

"Language register" defined, code standards (Questions 4)

Participants were asked to define "language register" in their own words. Most remarkably, seven of them defined the register as a factor of education, such as P5: "A lower register word is more commonly used within people of lower education" and P9: "... language register is really a factor of formal education." It is also worth noting that four participants defined the register as something interpreters must not modify, such as P7: "you have to maintain the register," and P1, who stated, "... I'm not going to start distorting the English version," and who also believes it is more important "to keep the exact same register when you're interpreting from Spanish into English." Other factors included the level of sophistication, difficulty, correctness, or politeness, and characterizations in terms of descriptors such as high or low, or formal or informal. Only one participant made reference to legal language and qualified it as being of high register, "... if we are in a courtroom setting, the legalese would be a high register" (P6), and only one participant related it to the formality of the situation: "... register can also have to do with the words you select and depending on the formality or informality of the situation you are in" (P9). Only one participant (P8) related it to the source context: "I mean, it means that you are trying to put whatever you hear in the same context as used in the original language." Two participants also related language register to comprehension, such as P1: "The level at which a person will understand," and P6: "So somebody with a little more education may be able to understand it better." All participants claimed to be aware of the code standard for handling the register.

Training in register, register manipulation, or features of legal language (Question 5)

Except for the six-hour ethics seminar described in chapter 3, which is mandatory for all newly-certified interpreters, none of the participants received any training or practice in

register or register adjustment before they started working, or before they became familiar with the code and the register standard.

Reasons for maintaining the register from Spanish into English (Question 6)

All participants related the conservation of register from Spanish into English to allowing the jury and others in the proceeding to get the most faithful possible representation of the defendant or witness, the rendering of whose testimony into English must reflect his or her same level of language, mostly in terms of origin, education and sophistication. For example, P1 stated that the register should not be modified because "the judge, the jurors, the attorneys, they got to hear not only the meaning that the person is conveying through his testimony, but also the level of sophistication, the level of education, the level of how well-rounded the person may be or not," and P6 stated that register is maintained "for the Court to ascertain the speaker's education and sophistication." One participant qualified register adjustment as changing the real meaning or embellishing a word. According to P5, by adjusting the register

> ... you would convey a different meaning, you would not convey the level of education of the person, you would not convey maybe the area where the person comes from. I'm talking about embellishing and changing the word so the person doesn't sound so uneducated. (P5)

It is interesting to note that two participants also stated that interpreters should maintain the register from Spanish into English because it is the language of the record, such as P9: "English is the language of the record. And to not maintain the register is to present something that doesn't exist," and P10: "Because that's the register used by the court, the attorneys, the people, and that's the one that they understand and feel more comfortable with." Again, the requirement to maintain the register was mentioned by P9: "You have to, to the best of your abilities, maintain the register."

Reasons for maintaining the language register from English into Spanish (Question 7)

Six of the ten respondents believe interpreters should not adjust the register when interpreting from English into Spanish so that Spanish speakers would hear the same as an English speaker would, also stated in terms of equal footing, same level, or fairness. This was mentioned by several participants, such as P1:

> I think it is so that it's at the same playing field, footing, as a person who, in the same exact situation, lack of education, lack of sophistication, lack of training, lack of being exposed to judicial terminology, does not need an interpreter, speaks perfect English, but has to listen to this jargon which they are not accustomed to listening to. So then both of them, the Spanish speaker and the English speaking person are at the same level. (P1)

Other examples include P3, who stated, "So that the party's witness, or defendant, can have the same experience as an English-speaking person would have," P6: "If the Court were to speak to an English speaker, that English speaker doesn't have the luxury of somebody explaining to him or telling him what the Court's meaning," and P10: "If a guy who is American, born and raised here, he listens to those words and that's what he hears. Even if he doesn't understand the high register, that's what it is."

Again, the requirement to keep the register unchanged was mentioned by six participants. For example, P7 stated that the register should remain unmodified "just because you have to maintain the register," and P8: "You have to maintain the register to the best of your abilities... it's the only way around." Adjusting the register was characterized by participants in many significant and revealing terms: P5 stated, "You would be violating your code of ethics by basically explaining or dumbing down the language to the person that doesn't understand legalese... because you could change meaning, the person could see you maybe as an advocate," and P9 explained, "because then you are interceding."

The connection between high register, register adjustment and comprehension was also made explicit in participants' responses. For example, P6 explained, "If we change it to make it easier to understand to the other speaker, in my case the Spanish speaker, then we're assisting in their understanding"; P7 stated, "I know a lot of times they don't understand, but it's really not my job"; P8: "But if he doesn't understand something, he has lost. I am not there to explain what they are trying to tell him"; and P9: "More than likely he's not gonna understand half the crap you're saying if you maintain the register." Interfering with legal strategy was only mentioned by P7, who stated, "A lot of times there's a strategy that they use with certain vocabulary. There's always a strategy, especially by the person asking the question. And you can't interrupt that, you know, basically we're transparent, we don't exist." The possibility of third parties listening and realizing the register was changed was mentioned by P5: "... the district attorney may be bilingual and can figure out that you are not saying what you're supposed to say, part of the jurors may be bilingual and understand." Last but not least,

six participants showed awareness of Spanish speakers' lack of understanding of a high or legal register, one of them (P1) admitting (to) feeling "guilt" for looking for "the easiest."

In summary, although most participants expressed awareness of the difficulty to understand the high register of legal language, they believe the interpreter's role does not include explaining or facilitating comprehension. The main reasons reported for not adjusting the register while interpreting from English into Spanish included keeping English speakers and Spanish speakers on a level playing field, not being perceived as an advocate, and not interceding to make the source-language utterance easier to understand.

Interpreting style variation according to setting (Question 8)

The results from the pilot study had suggested that interpreters used different styles according to the setting, and consequently participants were specifically asked about this variation. All respondents indicated that the setting affected their interpreting style, mostly in terms of being able to interrupt or make suggestions to the attorney about lowering the register or stating the client is not understanding, non-comprehension being again a common element in interpreters' answers. The reasons for not changing the interpreting style in court or more formal settings again included being on or off the record as a determining factor, in terms of being invisible while on the record, as explained by P4: "The record is a decisive factor," and P2: "On the record or in court... I want to be as invisible as possible and just there as a communicator, and I don't want my feelings or my opinions to be recorded or to become part of the record." The presence of the judge and the decorum of the setting are also factors in respondents' views, as stated by P10:

> In court there's more decorum. I think there's a little bit more fear because there's a judge sitting there... fear that they're going to think that you are an argumentative, difficult interpreter. Especially in federal court. In state court no but in federal court yeah, it's like oh my gosh. (P10)

Other reasons included the possibility of bilingual jurors or colleagues who may be listening, as explained by P5:

> Ok, so there's- not only I wouldn't do it on the record because the judge is listening, there might be bilingual jurors that are highly educated and they might feel like I'm dumbing down the language and using a lower register... I would also not do it in front of a colleague, especially if I do not know the person. You are subject to criticism and opinions and people saying that you may not even know the word and that's why you're using a lower register word, which may be the case for some individuals but not for everyone. (P5)

Half of the respondents explained that informal settings give them the freedom to either ask the attorney to simplify the register or suggest that the client is not understanding, or simplify the register when attorneys ask them to do so. P1, for example, stated, "I'm more likely to tell the attorney, 'I'm sorry but you know what? I don't think he got what you said'" and P2: "When I'm off the record... if the witness is not understanding what I am saying, and it is obvious to me that he or she is not understanding, I feel the liberty, the freedom of interrupting and telling the attorney that I believe the witness is not understanding me." Other strategies used by some respondents in informal settings include following the same register and then adding a few words for clarification or switching to a lower register. For example, P5 stated,

> If I am just having an attorney-client conference in a hallway or a private room and there is no one else listening to me, and... that person was giving testimony and said something that could compromise the case, and the attorney tells me, 'Interpreter please do this quickly, he needs to understand right away what are the consequences of his plea.' And I start by using... the same register the attorney is using, the person is not understanding, I switch... to a lower register so the person has the right to understand what is really going on... and what he should say according to what's informed to him by his counsel. (P3)

One way or another, most respondents seem to find strategies to address the gap between the legal register and non-English speakers' comprehension level; however, the most remarkable finding seems to be the diversity of answers and strategies among participants.

Settings in which interpreters may adjust the language register (Question 9)

Based on some responses to the previous question, participants were asked to describe the settings in which they might feel free to make register adjustments to facilitate comprehension. Once again, strategies for adjusting the language register vary considerably across respondents, ranging from never to only in informal settings to even in formal settings. For example, P2 stated, "I never do," while P6 referred to a more

intuitive "common sense" approach to interpreting to enhance comprehension, not equating it to changing the register or the meaning:

> I do change the register for the sake of making sure my listener understands. I do it for the defendant, in private settings, and even at the witness stand. My choice of words does not necessarily change the meaning, nor do I consider it changing the register when I simply use more common terms or a different word to make myself understood. That's the difference between a new interpreter and a seasoned one, you develop a common sense approach to interpreting, it becomes more intuitive. (P6)

Although in different settings and circumstances, six interpreters take the initiative to simplify or adjust the register to facilitate comprehension: by making it easier, only in informal settings, in both formal and informal settings, during the whispered part of the trial, by adding a few words, or only after using the original register. For example, P1 explained, "If I think that a statement, while expressed well by an attorney, is confusing or difficult, I do my best to make it easier to understand, yes... I may add a couple of words to clarify or I may use an easier word," and P3 stated,

> During the whispered part of the trial I do not keep the same register, because it's impractical, because I can't speak that many words by so many people so quickly at that level, because they're not doing it for our benefit. They're not trying to help the interpretation. And also I find the defendant or the witness is very confused by all of the speaking, so I lower the register and I tend to summarize in order to make sure they understand what's happening. (P3)

Other respondents would warn the attorney that the client may not be understanding, or they may adjust the register only after asking the attorney for permission to do so, as P10 explained, "I tell them 'You know what, I think that your client is having a really hard time understanding, harder than normal, and if it's ok I'm going to lower the register.'"

The reasons for not adjusting the register in court or more formal settings again included having to say exactly what witnesses and attorneys say, avoiding repercussions because of colleagues who may be listening and may report the interpreter, or fearing that attorneys might report the interpreter because non-comprehension was intended. For example, P5 explained,

> In any of the other more formal settings I don't feel comfortable because I know if there is... not because I don't think it shouldn't be done, but because of the repercussions. The repercussions could be that if another fellow interpreter hears me or sees me doing that, that person is going to tell the world that I'm not following the code of ethics, or if there is a bilingual attorney that may want to do some harm may report me to a supervisor, if maybe because of that explanation there was an answer that his client was not supposed to understand, or complex, and there could be a lot of repercussions. (P5)

Strategies used by two respondents include warning the Spanish speaker before or after the proceeding to state when they don't understand, such as P1: "Sometimes, at the end of a hearing, I say to the defendant 'Sir, if you are not clear on some of the things he discussed during this hearing, let your attorney know.'" It is also relevant that two participants stated that attorneys or judges would not know how to make it easier for the client to understand, being limited to the vocabulary they learned in law school. This was explained by P9:

> So you've got a judge or a lawyer with 21 years of formal higher education trying to explain to a third grader what's going on, and they just don't see it. They just don't see how to make it understandable, other than using the register and vocabulary that they learned in law school or university. (P9)

While awareness of non-comprehension is again a consistent element in respondents' answers, the most remarkable finding seems to be the diversity of answers and strategies among participants, who share and follow the same code and institutional norms and work with the same population and the same language combination.

General educational attainment level of Spanish speakers (Question 10)

The average educational attainment level of Spanish speakers reported by interpreters is 6.1 years, which is consistent both with the literature reviewed and the data provided in the attorneys' interviews (see Section 9.1.2.).

Register used may not be the most suitable for CA Spanish speakers (Question 11)

Participants were asked if they ever considered that the register used in judicial proceedings might not be the most suitable for the Spanish speakers they work with, and implicitly, if they believed that the language used in court may hinder comprehension for this particular population. Remarkably, all respondents found that at times the register may not be the most appropriate for the Spanish speaker, and coping strategies

are again diverse. Among them, for example, interpreters may warn the defendant or witness about the limitations of the interpreter's role and prompt them to say when they do not understand, such as P1:

> What I have done is kept the register but before we started I have told the person, "Sir, I am here to interpret for you. If there's something you cannot understand, even if I can tell you did not understand, there's nothing I can do. So if you do not understand, when the judge says did you understand? You need to say yes when you do, and no when you don't, and then you might want to say, I need to talk to my attorney. Because once the question comes to you, and I have to interpret what the judge is saying..." (P1)

Interpreters may also simplify the language to facilitate comprehension, let attorneys know that the register may be too high, or use eye contact and a slow and louder rendition to convey to the attorney that the register is too high. This last strategy was explained by P4:

> The only way I have ever found to dispassionately and harmlessly convey to an attorney that the register is too high is by keeping my eyes on the attorney for the first several words of my interpretation of his question and, additionally, rendering my interpretation somewhat slowly and deliberately and perhaps in a slightly louder and more emphatic voice than I really need. This conveys a bit of doubt or incredulity on my part without compromising communication with the witness, or the jury, in the least. It's just a way to convey to the attorney that, somewhat to my surprise, I am being asked to formulate high-register language. (P4)

Again, two respondents included comments about role limitations: "that's not for me to do anything about" (P8), and "that is not your job to make judgment about that" (P4). One participant (P5) provided an example of non-comprehension:

> [When] you need to read the advisement of rights... at a speed that you run out of saliva... they have no clue whatsoever. And not only that, when they go before the judge, the judge says, "Ok, would you like me to read you your indicated sentence?" And then you interpret. They don't understand the interpretation for *indicated sentence*. And they look at me like, "¿Y qué quiere decir eso?" (And what does that mean?) So I look at the judge and say "What does that mean?" blah blah blah. "Oh no, but I wanna plead guilty." Ok, so you need to go back into the audience, sit down, and read all the advisement of rights again, which is a two-page sight translation... [Do they ever ask what it means, or ask for a repetition?] No. There's a mix of embarrassment, self consciousness, and I don't know, there's a big temptation to tell them "Do you really understand what's going on here?" but it's like opening a can of worms. (P5)

In summary, respondents showed awareness of non-comprehension issues as a consequence of the high register of legal language, and provided a wide variety of bridging strategies to help facilitate communication.

Interpreters' awareness of Spanish speakers' non-comprehension - Signs (Question 12)
All respondents claimed to be able to tell when the Spanish speaker does not understand, and all respondents included among the signs: the look or expression in the non-English speakers' face in terms of confusion, despair, looking down or away, a blank expression, staring, and frowning. The manner in which defendants and witnesses answer was also a sign of non-comprehension for eight of the respondents, expressed in terms of non-responsive answers, stammering, hesitation, false starts, pauses, longer answers, mumbling, asking more questions, saying "yes" too many times, talking directly to the interpreter, remaining silent, or using a higher register than they can handle. For example, P4 stated,

> Another sign is when the person tries to speak at a higher register than they're really capable of handling well to conceal the fact, and this is often a matter of dignity and pride, to conceal the fact that they're embarrassed that they don't have the language skills to cope with the situation. (P4)

Body language was also a sign of non-comprehension for half the participants, expressed in terms of palpitations, sweating, rubbing hands, yawning, hanging the head, and nodding. Only two respondents stated that the non-English speaker would ask for clarification, and P5 provided an example:

> For example, ok "objection your honor," if they were not prepped, they don't even know what an objection is, and it has happened to me, they interrupt, and I'm interpreting and they stop me in the middle of interpreting the objection, and they start talking to me asking me what an objection means, that they don't understand. The judge stops to tell me "Interpreter, tell the witness to stop talking because there is an objection," so it's like I would need to go back again explain what an objection is, and then the judge may perfectly say "Ok interpreter, interpret the question," and by that time I forgot the question. (P5)

One participant described a strategy to confirm comprehension: "I always, I say 'Do you understand?' at the beginning, and I say '*¿Entiende? ¿Comprende*?' (Do you understand?) Because that opens the door for the person to say 'Yes, I do' or 'No, I

don't'" (P1). Lastly, one respondent included an interpreters' norm in terms of "it's not my job to tell the attorney" (P8).

Spanish speakers claim they understand when in fact they do not (Question 13)

All respondents reported witnessing situations in which a non-English speaker would claim to understand when in fact the opposite was true, in one case even when the defendant did not speak Spanish but another indigenous language. Interestingly, three respondents offered cultural reasons as an explanation: according to P6, "They may say 'yes' too many times, because they're too embarrassed to say 'I don't understand' so they may just agree, because it's part of the culture," and P7: "And a lot of times they'll answer a question without understanding it because they simply feel like they have to answer the question." A most revealing explanation and example was provided by P9:

> You do this whole thing with them and they go *"Sí, sí, sí,"* and then you find out they speak Zapotec or some other language, some other indigenous language, from Mexico or... [But they still say they understand?] Oh yeah, they'll say that, because they don't wanna get beaten, you know? Where they come from, up in Antigua or Guatemala, [if] you don't say yes, you get slapped around. So their concept is yes, of course, whatever you want. They do not order their world the way we do. They'll still say yes even if they don't understand because that's just what you do in front of authority. There's not just a language element to look at, there's a cultural element to look at. Yeah, I took an entire plea, a guilty plea and sentencing, before we realized that the guy was just saying yes yes yes and he didn't really know what the hell else to say. (P9)

While Participant 9 characterized the phenomenon as linguistic and cultural, another participant explained that while the language may be understood, the concept may not be (P6). Three respondents stated they would feel comfortable intervening and communicating to the attorney that the non-English speaker is not understanding, but only in informal settings and not in the courtroom (P1), after weighing the "consequences of the misunderstanding and the repercussions" (P5), or outside the courtroom, if they know the attorney, or if the non-English speaker claimed not to understand and the attorney asked the interpreter for an opinion (P8). Participants' answers were largely consistent with the literature on cultural traits reviewed in chapter 2.

Interpreter interventions (Question 14)

Interpreters were asked if they ever felt comfortable enough to interrupt a proceeding, either to clarify a term, to advise on a possible language or cultural issue, or because they believed the witness or defendant might not be understanding. While more so in private or informal settings and to different degrees, nine respondents stated that they may interrupt the proceeding or interview for different reasons: to seek clarification for either the non-English speaker or the interpreter, to warn about non-English speakers' lack of comprehension, or when a non-English speaker speaks a language other than Spanish. Once again, responses ranged from interpreters who would not interrupt the proceeding, such as P6: "I don't interrupt the proceeding, I don't feel free to do so... if it was acceptable, if it was expected, I would," to interpreters who would interrupt any proceeding: "Yes. I would say in any setting" (P3). Reasons for not interrupting included, for example, an uncertainty about when to do so. As P10 explained, "Sometimes I find it difficult to discern whether I need to bring something up that is culturally important, or not. Because I don't want anybody to think that I'm leading the witness." Other respondents mentioned judges who do not care (P1), or having had a bad experience doing so, such as P2:

> I told the attorney, "I don't think the witness is understanding you," and he told me, "Well, let the witness tell me." So it kind of threw me off, because I was only trying to help. And I thought, ok he's putting me in my place and maybe I shouldn't be saying anything. I think my instinct in that moment, and I remember that case in particular, that the attorney was making it seem as if the witness was just dumb. And he wasn't dumb, maybe he was uneducated, but he wasn't dumb. It's just that he was unable to understand the words that this attorney was using. (P2)

Two respondents provided revealing examples of cultural issues: asking defendants or witnesses to spell their name, and testing a Spanish speaker on U.S. judicial officers' roles. These examples were provided by P2 and P5:

> "State and spell your name for the record." And the person will state their name and start spelling it, let's say Mario, and they'll say "M-r-i-o," and I don't care how educated or uneducated the person is, we in Spanish do not spell out loud. We don't, we separate in syllables. I never in my native country have had to spell [Participant's name] out loud, x-x-x-x in Spanish, or spell words. And they'll look at the person like, what? And I don't know if you've ever encountered that, but sometimes they roll their eyes, I've been in settings where everybody in the room rolls their eyes like "Oh my God give me a break, they don't know how to spell their name." (P2)

> This specific person was being interviewed for competency in terms of mental health. It turned out that this psychologist, after we left, she told me, "What do you think?" And this is where there's a really thin line for me, the interpreter, to determine where is the right to culture present, and where is my opinion, as something not being called for taking place? So I thought in this particular case I had to speak up, because they started asking the defendant, "Are you ready to stand trial?" and then I interpreted. And he said, "Well, I don't know." "Do you know what a public defender is?" "Is that my attorney?" "Yeah yeah yeah." "Do you know who the prosecutor is?" "No." "What does the prosecutor do?" "I don't know." "Do you know what the judge does?" "No." "Do you know how many members of the jury are in the jury box?" "Uhh... " He didn't know anything. So I thought that my input was necessary to let this psychologist know that in the country of origin where this person comes from there are no oral trials, so this person doesn't have any idea about how the judicial process, how the system works here, so if someone is found guilty of a crime, it's because the judge ruled and that was it. Yeah, you go to jail for so and so months, go to a rehab center, whatever. None of this show happens. So in that specific instance, yes, I did think that this person had the right to culture, because of lack of competence, cultural competence. (P5)

Once again, role limitations regarding mutual comprehension and interpreter interventions were made explicit in responses by several participants: "'Cause it's like I said, it's not my responsibility to make sure they understand each other. If I'm using the register that the attorney's using and the witness is not understanding it, then that's that" (P7), "And there's a legal concept that, you're not a party to the action, whether it's the prosecutorial side, whatever it may be, you don't have legal standing to sit there and stop things, interrupt things" (P9), and "So ethically, this happens to me all the time, that I think ok, I have to say something, but I don't. I don't because I know that I shouldn't, because I have been trained not to" (P2).

Hand/arm scenarios (Questions 15-18)

Participants were given four different scenarios in which a witness would use the term *mano* (hand) to refer to the arm, but in different circumstances. In each situation, participants were asked what, in their opinion, would be the most appropriate course of action for the interpreter.

Scenario 1 (Question 15): The witness says *mano* (hand) but points at the arm in plain view. In this first scenario in which a Spanish speaker says *mano* (hand) and points at the arm in a way that everyone can see, only one participant would translate the term *mano* as *arm*, but only in a medical setting and not in court. The literal translation *hand*

would be the preferred choice for eight participants: P3 would make a comment about the pointing, "Interpreter note: witness is indicating his arm," P2 would like to offer a cultural account of the apparent error but does not, and two participants may ask for clarification, one of them only if the attorney does not clarify first: "Sometimes the attorney says, 'I'd like the record to say that he's pointing at his arm, do you mean your arm?' So if that doesn't happen, I would just ask the attorney 'May I clarify, because in Mexican [Spanish] they use hand and arm for both, so may I clarify?'" (P10). Only two respondents would clarify before translating: P8 would comment on the pointing: "I go to the judge and say 'Your honor, the witness used the word for hand but he pointed at his arm,'" and P7 would alert the court to the double meaning of the term *mano*: "I say 'This is the interpreter speaking. The witness is using a term that can mean hand or arm.'" Three participants acknowledged this double meaning as a cultural issue, while three other participants would expect the judge or attorneys to see the witness point at a body part and name another. The miscommunication and role limitations were clearly expressed by P2:

> What I will do is interpret the word *hand*. What I would like to do is make an interpreter comment on the record. Not a comment as to the pointing, I would just like to state on the record that in several areas of different countries, I believe that happens a lot with Mexican nationals but I cannot guarantee that it is only with Mexican nationals... And I would like to be able to state that, as an interpreter, to put that on the record, that that exists, that it's not just this witness was doing that, but it is common. But again, that's not what I would do. (P2)

Scenario 2 (Question 16): The witness says *mano* (hand) but points at the arm in a way that only the interpreter can see. In this second scenario, six participants would translate the term *mano* literally as *hand*, and three of them would also add a comment to let the judge and attorneys know that the witness is indicating the arm. The other three participants who would translate the term as *hand* would make no comment; however, P2 relates the situation to a moral conflict:

> What I will do once again is interpret *hand*, but this is the main reason why I would like to be able to make an interpreter comment. And the reason I don't do it is out of fear... I don't wanna find myself in the situation of being told, "Well that's not your job." It's really not my job to be looking at the witness, but ethically, and now I'm not talking about the Judicial Council ethics, I'm talking about my moral ethics... I really feel horrible because I know what he is saying, I know that I'm the only one looking at him, 'cause it has happened and I know nobody saw him. So

> they're not going to clarify it, and it may be a very important part of the case that he's pointing at the arm and saying *hand*, and I have to say *hand*, and I leave with that bad taste in my mouth. (P2)

The other four participants would either ask for clarification before translating the term or make a comment about the pointing or the double meaning. One of them (P1) assumes responsibility for making the court aware of the pointing:

> I probably ask for permission to clarify or I might, in a situation like that, say "Your honor, the witness pointed at an area in his body and I think I was the only one that could see that." So then it becomes my responsibility. (P1)

Five participants would make a comment about the witness pointing at the arm.

Scenario 3 (Question 17): The witness says *mano* (hand) without pointing, but everyone (including the interpreter) knows that the case only concerns an injured arm. The third scenario presents the first case of an interpreter who would translate *mano* as *arm* based on familiarity with the case and the possibility of offering an argument about the "cultural implication of the term" to justify the choice. This was explained by P6:

> If I'm familiar with the case, I'll probably use *arm* rather than *hand*. And I can, one of the things about using the different words is being able to argue in favor of your choice. So if somebody from a juror says, the witness says *hand* but the interpreter says *arm*, I can argue, I can give a good argument as to the cultural implication of the term. I can justify my choice. (P6)

This time, half of the participants would translate *mano* as *hand* without adding any comment or asking for clarification, four of them leaving it in the hands of authorities to make the determination, and one of them (P9) referring to other Spanish speakers present who would understand the original term *mano*, "Any Spanish speaker knows that he's saying the word *hand*, I'm not gonna sit there and say *arm*." Four participants would ask for clarification or make a comment about the double meaning of the term before attempting a translation.

Scenario 4 (Question 18). The witness says *mano* (hand) without pointing, and interpreters have no previous knowledge about the case, only a possible suspicion, based on experience, that the witness may mean the arm. Results indicated that half of the participants would translate *mano* (hand) as *hand* in court without adding any

comment. In a more informal setting, however, one of these participants (P9) would still translate *mano* as *hand* but maybe ask for clarification:

> I would do it in an interview outside of a judicial hearing because in a judicial hearing the most important thing is to not become a proactive person in the proceeding. And if I were to sit there and start throwing out, well I think this may be this or that, I've become proactive. That's not the role of the interpreter in a judicial proceeding. But in an interview process, that's completely different, what's most important is meaningful communication, accuracy, and the meaning. (P9)

Other participants would ask for clarification, and Participant 7, who would in all cases comment about the dual meaning before attempting a translation, explains, "You can't assume facts not in evidence."

The following table shows a summary of the results of these four scenarios:

Table 5. Summary results – hand/arm scenarios

	S 1	S 2	S 3	S 4
Interpret *mano* as *hand* with no comment	45%	25%	50%	50%
Interpret *mano* as *hand* with comment about pointing	10%	20%		
Interpret *mano* as *hand* with comment about dual meaning			10%	20%
Interpret *mano* as *arm*	5%	5%	10%	
Request to clarify the term before attempting a translation	20%	10%	20%	20%
Comment about pointing before attempting a translation	10%	30%		
Comment about dual meaning before attempting a translation	10%	10%	10%	10%

Of these forty possibilities (ten participants, four scenarios), only in sixteen cases would interpreters translate *mano* as *hand* with no comment whatsoever, and one of these respondents would sometimes translate it as *arm*. Only one respondent would, in all scenarios, make a comment about the dual meaning of the term before attempting a translation. Another one would, in all scenarios, request to clarify the term before attempting a translation. Out of the ten interpreters, only one would translate *mano* (hand) as *arm*, and then only in the third scenario, when everyone knows that the case involves only an injured arm and the choice can be justified. This same respondent would translate *mano* sometimes as *hand* and sometimes as *arm* in the first two scenarios.

Five of the interpreters interviewed would make a comment about the pointing: two after interpreting *mano* as hand, and three before attempting a translation. Of these five respondents, two would make this comment in the first scenario, when the pointing is done in plain view, and all five of them would make the comment when the pointing

is not visible to the court or attorneys. In summary, five interpreters believe that making a comment to alert the court about the pointing is vital to the testimony. Although the others may agree that the pointing is vital to the testimony, they refrain from commenting, either because they believe it is not the interpreter's duty to do so, because other Spanish speakers in the room could hear and challenge the interpretation, because they believe the court and attorneys can see it, or because of fear.

The case of cintura (waist/low back) (Question 19)

In this last scenario a Spanish-speaking witness refers to his lower back as *cintura* (waist). Half of the respondents would translate this term as *low back* or *lower back*, two would translate it either as *waist* or *low back*, another two would translate it as *waist*, and one would make a comment about the double meaning of the term before attempting a translation—the same participant who would make a comment before translating *mano* as *hand*. A clear explanation for translating *cintura* as *low back* was provided by P4, a native English speaker:

> The reason I say *lower back* directly and immediately for *cintura* (waist) is because it would be highly unlikely for any actual English speaker to say "My waist hurts." It's not a part of the body, really. A waist is an abstraction; a waist is a description rather than an anatomical part, strictly speaking. And so I have no problem because I know, as I think all of us interpreters know, that when a Spanish speaker says *la cintura* and especially our Spanish speakers say *cintura*, they mean *lower back*, precisely. Let me add something to that. For the first number of years as an interpreter, whenever I had that problem I would stop and ask counsel, usually in depositions, I would ask if I could please clarify. And in clarifying, I would add an additional unnecessary three minutes of exchange with the applicant, witness, whatever, talking about *la espalda*, (the back) *la parte inferior de la espalda, la parte baja de la espalda,* (lower back) *"¿No es eso lo que quiere decir?"* (Isn't that what you mean?) and the net gain in doing this would be absolutely zero. Because I could have just simply... I knew, at the beginning I knew, but after a thousand times you know so much more, so much better, that all along the person has meant *lower back* and nothing but *lower back*, and so I simply dropped that whole little interference because it wasn't gaining anybody anything. (P4)

The last comment offered by one of the participants summarizes most of the issues addressed in this research and these interviews. According to this respondent, although interpreters may do what they are supposed to do to comply with the codes, they may not be able to communicate meaning to a Spanish speaker with less education and less exposure to the legal system, and being able to communicate is "what interpreting is all about":

> There might be instances where you are doing what your "formal education" in California, and your code of ethics, or the Canons of the profession, as they call them, they tell you you're supposed to do a, b, c in this order and this way. But if the person that you are interpreting for is not understanding, you're not getting the concept through to the person that you're interpreting for, I mean, you might be doing what they told you to do; however, that doesn't mean that you're doing what an interpreter is supposed to be doing... the point is to be able to communicate. That's what interpreting is all about. (P8)

In all these scenarios, participants show awareness of the different terms used by some Spanish speakers to denote the *arm* and the *low back*; however, even though interpreters are aware of this common issue and of its legal consequences, very few ask for clarification before attempting a translation. Again, not only in these scenarios but throughout the interviews, the most remarkable finding seems to be the wide diversity of answers and strategies among participants who follow the same code and comply with the same norms while working with the same population and the same language combination.

9.1.2. Interviews with attorneys

As with interpreters' interviews, gathering information about attorneys' views on interpreter interventions and role limitations was necessary to complement the comprehension test results and achieve a better understanding of this triangular intercultural communicative event.

Spanish-speaking clients (Question 1)

The interviews started by confirming that respondents indeed worked with Spanish-speaking clients with enough frequency to enable them to provide informed responses. The average share of Spanish speakers in the respondents' clientele was 77 percent. As described in the methodology chapter, half of the attorneys interviewed were bilingual English-Spanish, and the other half spoke only English.

Communication with Spanish speakers vs. English speakers (Question 2)

Attorneys were asked if they believed they could communicate with English-speaking clients and Spanish-speaking clients in the same way, or if there were any differences. The question was also designed to learn if there were any differences between the two

groups of attorneys in terms of this communication. The answers provided to this question indicated a marked difference between the respondents who spoke Spanish and those who did not. All bilingual English-Spanish respondents overwhelmingly mentioned simplifying the legal language, using simpler terms and cultural examples and vocabulary, and most showed concern about the client's comprehension. Four of these five participants also mentioned Spanish-speaking clients having less education than English-speaking clients, mostly as the main reason for keeping the language simple to facilitate comprehension. For example, P1 stated, "Spanish speakers are less educated and I will consciously try and keep things even more simple. Like, I don't want to overwhelm them with details so I will try to just keep in mind that the comprehension is going to probably be lower so I'll use the simpler language." Cultural issues were also mentioned: "When I speak to the Spanish-speaking clients, I give them more examples than I do with my English speaking clients. I use more cultural examples and words as well, that I think that they'll be more familiar" (P3). Lastly, P5 described resorting to Spanish to speak in a way the client would understand:

> I just find that the Spanish language is a lot more rich. There's so many different words to explain something, I can actually lower the legal terms to a level that... in English I find it harder to do that when I'm using an interpreter, especially because the interpreter is limited to only interpreting what I am saying so it's all up to me. (P5)

The non-Spanish-speaking group, on the other hand, made reference to giving other instructions when working with interpreters. P8 stated,

> Sometimes I may add an additional instruction that deals with the language of the process, so I instruct the client that they must only depend on the words of the interpreter, and then I instruct them that I'm going to sit them in a way that they're not distracted by English speakers so they're not facing English speakers, they face the interpreter. (P8)

Only one respondent mentioned a difference regarding the language used, "I try to avoid using slang or colloquialisms that might get lost in translation" (P9). It is also important to note that three of the five monolingual English-speaking respondents believe that the difference in communication is not due to language issues but to the education level of the clients, and four of them stated that they communicate the same way with English speakers and Spanish speakers.

Comprehension, participation, familiarity with the legal system (Question 3)

Again comparing English-speaking and Spanish-speaking clients, this question was designed to elucidate their differences in comprehension, participation, and familiarity with the legal system and the proceeding at hand. The most relevant results showed that seven of the ten participants indicated that English-speaking clients are more assertive, ask more questions, and show more involvement. P3 explained, "I feel that the English-speaking clients, I get more feedback from them, they're more into the conversation," and "Whereas with my Spanish-speaking clients, I feel like they're looking at me, but their mind is wandering somewhere else."

Regarding familiarity with the legal system, half of the respondents indicated that English-speaking clients are more familiar with the legal system, and it is also significant that three participants referred to issues of exposure. For example, P6 stated, "They're basically clueless. They don't understand even though it's been explained, the fundamental concept of a [legal] system," and P8 explained, "Almost zero percentage familiarity with the system for the Spanish speaker, because culturally they're not affiliated with it, they don't grow up watching TV, they don't understand what English speakers take for granted."

Regarding comprehension, nine participants indicated that Spanish-speaking clients had more difficulty understanding the case and the system. P1, for example, stated, "I have to make a lot of effort to make sure that they understand what I'm saying," and P2 stated, "I have to explain things over and over to Spanish speakers to make sure that they understand." Two participants referred to issues of lower education among Spanish-speaking clients, and P9 mentioned a deferential attitude toward authority, consistent with the literature reviewed regarding cultural traits of Hispanics (see chapter 2), "The problem becomes more about being overly deferential to me. They don't tell me something unless I ask specifically. They don't necessarily appreciate or don't understand what I'm telling them about what is important and not important in the case." The same respondent later added, "They seem to think that if they just cooperate with everybody that everything will be alright, and that oftentimes leads to them waiving important rights before I even see them." Lastly, P6 explained,

> Especially with the less educated, they lack... their ability to do critical thinking or independent thinking or abstract thinking is very very limited, and you've gotta basically feed them questions. In many cases, because of their education level or their background, they cannot give a clear narrative... For example, I had one, 'Do

> you have any pets?' and the answer is 'No, only one dog,' rather than in English or more sophisticated education, 'Yes, I have a dog.' (P6)

It is interesting to note that all monolingual English-speaking attorneys indicated that Spanish-speaking clients have less understanding of the legal system; however, except for one participant's avoidance of slang or colloquialisms, they all stated, in response to the previous question, that they communicate with English speakers and Spanish speakers in the same way.

Non-comprehension: requests for repetitions or clarifications (Question 4)

Participants were asked, on the one hand, about the way they would characterize the difference in attitude of English-speaking clients vs. Spanish-speaking clients in cases of non-comprehension; and on the other, if they found Spanish speakers tending to ask for repetition or clarification spontaneously. Overwhelmingly, all participants found that Spanish speakers failed to ask or say when they did not understand, which is also consistent with the literature on cultural traits of Hispanics reviewed in chapter 2. For example, P1 stated, "Spanish speakers do not generally volunteer the fact that they do not understand what's going on, and they don't always show it in their faces," and P7: "I believe Spanish-speaking deponents rarely ask for clarification even when they really don't seem to grasp the question." Three respondents believed that this was due to feelings of embarrassment, such as P6: "They're just clueless to what's going on and they're too embarrassed to say that they don't understand, and it's all over their head and they don't understand," and two respondents referred to Spanish speakers feeling intimidated. For example, P8 stated,

> Spanish speakers, the clients that I've been dealing with, they're much more intimidated by the process, much more hesitant to speak up and ask for clarification even when it's apparent that I would not expect them to understand. English speakers tend to just say, "I don't understand, I'm really confused." (P8)

This lack of comprehension may be evident by the answer received, as explained by P6: "Or many times... they will answer a question, but not the one asked. So they'll give information, but they don't ask, for example, 'Did you see Dr. Jones last month?' it's a yes or no question, and the answer is 'I saw him for pain in my back.'" P9 similarly explained, "When the lawyer tells him, these are the consequences for the conviction of this charge, and they're just like, 'Oh, ok,' it tends to be a sign that they

didn't quite understand." Attorneys also mentioned how they cope with the situation: "I go to great lengths to make sure they understand" (P2), "constantly I'm asking, 'Ok did you understand that? Does it make sense?'" (P3), and "you have to ask them if you feel that they're not understanding, and you have to help them" (P4). These three participants belong to the bilingual English-Spanish group.

Claim of comprehension when the opposite is true (Question 5)

As discussed above, some Spanish speakers tend to claim they understand what they hear when in fact they do not. This claim was also mentioned by some respondents in previous questions and now confirmed by all participants, who found that Spanish-speaking clients will often claim to understand when they actually do not, and will also answer the question asked without understanding it. For example, as P8 explained, "Yes, they just won't make any sense. I know many times when someone answers a question, they believe, they say that they understood it, and they may answer something completely different, off topic"; P2 stated, "They're kind of glazed over but they say they understand"; and P5 explained, "So they'll say 'Yes, I understand,' or they'll answer the question even though they don't understand what they're answering."

In alignment with the cultural features of Hispanics described in chapter 2, respondents referred to feelings of embarrassment and politeness among Spanish-speaking clients. For example, P4 explained, "Yes, sometimes they don't understand, they're more polite, no doubt about it. I think it's an aspect of being polite. They just, they don't wanna be a bother," and P6 stated, "I think a lot of them get, they're very nervous, they're very embarrassed." Other participants also made reference to issues of pride. For example, P5 stated, "I find especially within the male community they don't wanna look or feel that they're dumb or that they don't understand. I think that they feel that that's a sign of weakness."

Once again, attorneys mentioned their coping strategies, such as "you should go over certain things more than once" (P4) and "I'll try to emphasize, it's okay to say I don't know, it's ok to say I don't understand" (P6). P9 elaborated,

> If they have me for their lawyer, they're... and they get convicted, they are very likely going to federal prison, and oftentimes for a very long period of time. And so I have to... it's a constant battle to make sure that they understand the seriousness of what's going on, while, at the same time, maintain their trust and confidence. (P9)

Educational attainment levels of Spanish speakers and English speakers (Question 6)

All but one respondent found English speakers to have at least a high school education up to two years of college, yielding an average of 13.5 years of education, while the average educational attainment level indicated for Spanish speakers was 6.2 years. P1 added, "Spanish speakers will have about a sixth grade education, as that is what I understand is customary in Latin American countries." These numbers are consistent with the literature reviewed and with interpreters' responses.

Interpreter interventions (Question 7)

Participants were asked if, in their experience, interpreters may interrupt the proceeding to advise on a possible language or cultural issue, or to suggest that a Spanish-speaking client may not be understanding. Attorneys were also asked if they would welcome such interruptions, if any. All respondents indicated that interpreters may interrupt the proceedings for clarification purposes, and six found it happening more often while off the record and in more informal settings, which is consistent with interpreters' responses. P1, for example, explained, "sometimes the interpreter is a little bit more sensitive to my client and can tell which words or which concepts are tripping them up. And they say, 'I think I understand where they're confused, do you mind if I try to straighten this out?'", and P2 made reference to the setting: "Before we get to trial, the interpreters are more likely to say 'Let me help you.' When we're actually on the record, it doesn't always happen." When interpreters do not take the initiative to clarify, sometimes attorneys invite them to do so: "Sometimes I'll try in several ways, and I'll ask the interpreter, 'Can you help me on this, and try to explain it maybe in a different way or ask it in a different way?'" (P6).

All respondents indicated they welcome interpreter interventions and find them helpful to promote understanding and communication. For example, P3 stated, "And so I do appreciate when the interpreters interrupt and say, 'Oh, I don't think he understood that' or 'I don't think we're getting through to him,'" and P9 added, "because more often than not it's what's needed to give it clarity, and the failure to do that would actually lead to miscommunication." Respondents characterized these interventions as positive, viewing them as a sign of a good interpreter. For example, P1: "It's tremendously helpful, and that's what good interpreters have done for me, is that they help me get on the same page, get on the same understanding, help me understand when my client is not understanding me, when I am not able to discern that for myself," P5:

"Actually those are the good interpreters for me. The ones that are able to stop me and say, 'Listen, I don't think your client is getting it, or may I explain it in a different way?,'" and P8: "And at that point they will say, 'Interpreter clarification, I need to inquire as to the client's understanding, if I may, may ask permission.' Those are the better interpreters."

Other respondents referred to these interventions as a source of learning. P5, for example, explained, "I usually appreciate that, I've learned so much that way. I've learned so much from the interpreters, because sometimes I get caught up in my legalese so I don't know how to bring it down to my client's level, and a good interpreter is able to do that."

Three respondents characterized the interpreters' role limitations as unfortunate and unhelpful for understanding:

> So I wish they would say it more, and I understand that they're not supposed to be advocates of the people that they're interpreting for, but if they're trying their best to interpret what this client is saying and what the attorney asking the question is understanding, then I think that they should speak up and say, I think there's a cultural difference in using that word, or I should seek further clarification to make sure that I really understand. (P1)

Similarly, P5 conceded, "I know they're not supposed to, unfortunately, but it usually helps me a lot and I've learned a lot from interpreters that do that," and P10 stated, "To say that the client is not understanding it doesn't happen very often, not enough. I wish they would do it more."

Preferred interpreter qualities (Question 8)

To conclude the interview, attorneys were asked about the main qualities they would hope to find in an interpreter who would assist them in a proceeding. In alignment with with previous answers, all respondents indicated that they hoped to find an interpreter who would alert them when there were comprehension or communication problems. For example, P4 stated, "I think that it's better that there's an interruption and a clarification so that the record is clear," and P5 explained,

> And also someone that is not gonna be afraid to stop me and say, you know what, I'm sorry [Participant's name], but you're not explaining this correctly, he or she is not understanding what you're saying. Then I appreciate that, because it

> challenges me. Or if they know how to explain it then go ahead, do it, let me learn from you. Those are the qualities that I like in an interpreter. (P5)

Several respondents also hoped to find an interpreter who is familiar with different dialects and immigrant communities, as explained by P1: "I like when the interpreters ask my clients at the beginning of a deposition, 'Where are you from?' Because then it makes them culturally sensitive to the language or to the dialect that the person speaks," and P3: "and that they're sensitive to the different dialects that are around". References were also made to the interpreter's role in different settings, as explained by P6: "you have to distinguish between the interpreter during the deposition and the interpreters during the preparation, 'cause I think their roles are somewhat different."

The client's comprehension was again presented as a main concern, as stated, for example, by P1: "The priority has to be our clients understanding what we're trying to say and feeling connected to their attorney. They don't feel connected, they don't feel understood, they don't feel like they have an advocate, then that puts me at a handicap." Issues of language and the interpreter's role were again mentioned, as stated by P6:

> And sometimes the attorneys make it difficult because they think they're talking to some other lawyer or a graduate student, not someone who's barely literate. And the poor interpreter, all they can do is translate these great big words, that, the client has no clue what they mean in Spanish. (P6)

Regarding the qualities attorneys would hope not to find in an interpreter, P2, for example, stated, "Not [someone] just sitting there like a robot, interpreting what I say, but actually engaging the client so that they understand, and telling me if they think that the client doesn't understand, that really helps me." Similarly, P8 spoke in favor of "someone who just doesn't turn their brain off and automatically have language going in their ear and words come out without being aware of the clients' responses." Lastly, P10 summarized most of the comments made in response to this last question, including a reference to the hand/arm issue:

> ... if the client is not responding for cultural reasons or whatever, they're pointing to the body part and saying the wrong body part for cultural reasons, I would like... I don't want the interpreter to translate perfectly literally. I don't think that's necessarily a fair interpretation. I think it should be, give some sense of what she's saying rather than literally, what comes out of a textbook or something. So I want

> them to volunteer what's going on, let's put it that way... I think that's really good if the interpreter is a little proactive and isn't just there to translate literally everything regardless of whether I've said everything clearly or not. A little help. (P10)

After participants had answered all the questions, they were invited to comment on any of the issues that were discussed during the interview. Respondents offered many comments that were consistent with the literature reviewed on cultural traits of Hispanics.

Regarding assumptions and communication patterns, P6 explained the difficulties encountered when the questions asked call for specific answers: "You ask someone, well, what do you clean? I clean everything. What do you mean by everything? I do everything. Well, I don't know what that means." This respondent also gave several examples of these assumptions:

> For example, the women, you'll ask them, "Have you ever been overnight in the hospital for any reason in your life whether it has to do with this case or not?" They say no. Then I'll ask, "Where were your children born?" They'll say "Oh, in the hospital." I'll say "Why didn't you say that?" They say, "Oh, I thought you were only talking about the case." So their ability to concentrate and focus, that if you give them a question or statement like that, it's too long. They just don't follow it... (P6)

Four participants mentioned a frequent issue regarding Spanish speakers volunteering more information than requested. For example, P5 explained, "They feel the need to start from the beginning and not answer the questions, and they wanna explain everything instead of just listening to my simple instructions"; P9 stated, "And there is a tendency, I think, to want to explain everything, want to tell you the whole story, when you're trying to simply take it step by step," and P10 added, "When they have no idea what I was asking at all, and just give a story which is partially irrelevant, I don't... well, it's frustrating sometimes."

Four participants also mentioned issues regarding Spanish-speaking clients' concept of time, dates, and numbers. For example, P6 explained, "So you have to make the questions real real simple because many of them, if you ask how old their children are, they don't know... Many of them have no concept of time or time differences." Regarding the notion of time, P8 explained, "So if you were to ask someone who may have developed... profound migraines 'When was the first time you experienced this?,' in addition to the sense of tenses being completely messed up, they understand it as

'When did you experience this problem as you experience it now?,'" and P9 added, "And it does lead to miscommunication if you're not conscious of it, because they're telling you information that they now have when what you're really asking them is what information did you have at this point in the past."

Participants also added comments regarding Spanish-speaking clients' use and knowledge of terminology to denote the parts of the body. For example, P6 explained,

> They don't know basic body parts, they don't know the names in Spanish, they have trouble describing, for example, the word for *wrist*, rather than saying "I don't know the name, it's the part of the body between my hand and my elbow," but that kind of sophistication is just beyond many of them. (P6)

Regarding the arm/hand and the waist/low back scenarios described above, this participant added,

> But here I've learned over time that when anybody talks about their arm or their hand, or their leg, that it can have many many different meanings... And I have all my clients fill out a diagram showing the parts of the body, but many times they'll say one word and they've marked a different word. For example, they've marked the hip but maybe they're using *waist* or *buttocks* or something like that, or vice versa. (P6)

In this regard, P6 offered the following experience:

> I'll say, "Ok, what do you mean by your arm?" "I mean the whole arm." I say "No, what do you mean, are you talking about the shoulder, yes or no? Upper arm?" I'm literally pointing to them so I say "When you explain you have to go through all these parts [of the arm]." They'll say "Yeah, my arm... I've had people say *back*, which is *espalda* in Spanish, but I've said *upper back*, *middle back*, and *lower back*, and sometimes they have no idea what I'm talking about, then I'm using layman's terms, not medical terms... And then people mix up the left side and right side, they say "I'm all confused." "What are you confused about?" And then I don't get an answer, something, so I can help them out. (P6)

Regarding Spanish-speaking clients' trust in the legal system, some of the comments received were contradictory. For example, while P4 stated, "They believe in you more and they trust you more than the American clients," P5 explained, "they don't trust the system as much, they don't understand it, they don't understand the process, they don't understand why they're there, they get very intimidated, they're afraid. I've... sometimes they don't even trust me and I'm the attorney." The way Spanish-speaking

clients deal with the legal process was explained by P6, who also offered some examples:

> I don't think most lawyers realize what they're going through and especially for the women, when there's psychological problems, I'll say, "What was more difficult, going through this or having your baby?" and it's amazing how many of them say that the deposition process was far worse than the pregnancy and the birth, which I wouldn't think at all. Or, I hear again, only with the older women, I'll say... "What's more embarrassing, having to go through these women's checkups or having to go through the deposition process?" and it's amazing how many women will say the deposition process... I think they have trouble concentrating, they get flustered, they're embarrassed, they're worried they're gonna say the right name, right thing or not. (P6)

On the same subject, P8 added, "Clients who are intimidated by the process break down and get extremely nervous, and that locks their ability to think. It's almost as if someone is going through a traumatic experience, which causes them to not be able to understand, or say when they don't." Willingness to cooperate and its legal consequences were mentioned earlier and now explained by P9 with a clear example:

> They tend to essentially give statements to the police... thinking that's going to help them without appreciating that the police are really gonna use it in a way to make them appear guilty... even if they've all been advised to their Miranda rights and told that their statement can be used against them in a criminal proceeding... for instance in a drug case, "It wasn't my drugs it was the other guy in the car's drugs," and they think if they tell the police that, the police is just gonna let them go, but how the police view that statement is that you just admitted that you knew there were drugs in the car, right? Which is now an element of the crime we have to prove and therefore we're gonna use that against you. So that's actually a fairly common scenario. (P9)

Lastly, P8 summarized the most relevant points discussed throughout the interview and related them to the legal system:

> I feel strongly that the system that's imposed doesn't work. The system imposed is a formalized interaction with a non-native speaker. They're being asked questions that we as attorneys take for granted, it is our language, and we take for granted that the deponent understands that language. But there are cultural nuances that shift between cultures of different countries. So somebody from El Salvador and Mexico or Argentina or France or wherever, they have a different life experience and educational background. And words have more formalized meanings to them, and they perceive it as a conversation. The consequences of a misunderstanding to the deponent can sometimes cost that client the case and cost them their credibility, because their entire believability is called into question. And the system that I work

> in or have worked in for the last 14 years doesn't work for non-native speakers without a high educational level. (P8)

The above characterizations seem to involve some of the most frequent reasons for intercultural misunderstandings between attorneys and Spanish-speaking clients. Most of the participants attribute these problems to lack of education, and lack of familiarity with the legal system. Attorneys acknowledge Spanish speakers' difficulty in understanding the language and the process, and they count on interpreters to help them work as a team, and to alert them when there are comprehension problems.

9.2. Focus group 3

As described in the methodology chapter, this focus group was convened with the purpose of soliciting feedback from lay Spanish speakers about their comprehension of the five Spanish sentences with original register produced by the first focus group. The goal was also to attempt to produce, in a group, another set of simplified-register Spanish sentences in order to compare them with the simplified-register Spanish sentences produced by the interpreters in the second focus group, mainly in terms of vocabulary. This section will first describe the feedback received from the group, and then present the comparison of both sets of sentences.

9.2.1. Focus group 3 feedback

Each of the five sentences was presented to the group and discussed among participants. They made comments regarding the terms that were unfamiliar or confusing to them, and made some replacements to arrive at sentences that, in their view, were easier to understand.

> Sentence 1. Si un testigo declara intencionalmente en falso en un aspecto importante de su testimonio, se debe desconfiar del resto de su declaración
> *[A witness who is willfully false in one material aspect of his or her testimony is to be distrusted in others]*

After hearing this sentence twice, participants stated that there were no vocabulary problems. When invited to state the meaning of the sentence in their own words, P2 offered the following, "Dice que, por ejemplo, si yo digo en mi declaración, lo que estoy diciendo... alguna palabra... estoy diciendo algo falso, toda mi declaración que he dado se va a tomar como completamente todo falso" *(It says that, for example, if I state in my testimony... what I am saying... some word... I am saying something false, all my testimony that was given will be taken as completely everything false).* It should be noted that the explanation offered was given from personal opinion and not based on the contents of the sentence, a phenomenon that would be recurring among Spanish speakers also in the listening comprehension test. The original version of this sentence was not modified. After confirming that everyone agreed on the meaning of the sentence and the absence of issues with the vocabulary, participants moved on to the next sentence.

Sentence 2. Las pruebas indirectas son pruebas que, de determinarse que son verdaderas, prueban un hecho del cual se puede inferir la existencia de otro hecho

[Circumstantial evidence is evidence that, if found to be true, proves a fact from which an inference of the existence of another fact may be drawn]

After hearing this sentence, participants asked for a repetition. The first word brought up by the group was *inferir* (to infer, to draw from). An explanation was provided about the meaning, using the example from the newer version of the jury instructions: "For example, if there is smoke in the sky, we may think an airplane just flew by even if we do not see it, that is *to infer*." Participants compared the term to *deducir* (to deduce) and *interpretación* (interpretation), and decided that *deducir* was more common and understandable. Some participants stated they had never heard the term *inferir* (infer) before, and some gave their own interpretations:

> Yo pensé que *inferir* por ejemplo, algo que fue pasado, algo que fue primero... y después... o sea primero esto y después esto, más o menos?... Por ejemplo, como dice usted esto de las pruebas que hicieron, no me acuerdo la pregunta, infiero que estas pruebas son verdaderas, más o menos así dijo usted, verdad? No todas las palabras verdad, pero yo pensé que *inferir* era primero las pruebas que puso y después estas pruebas, o sea algo que algo que pasó antes *(I thought that* to infer, *for example, something that was past, something that was first... and then... I*

> *mean first this and then this, more or less... For example, like you say this about the evidence they made, I don't remember the question, I infer this evidence is true, more or less that's what you said, right? Not all the words, right, but I thought that* to infer *was first the evidence he presented and then this evidence, I mean something that happened before).* (P3)

After the group agreed to change *inferir* to *deducir*, the new sentence was read. Participants then discussed the meaning of *pruebas indirectas* (circumstantial evidence), and offered, "Las pruebas indirectas... *indirectas* no es algo... o sea una *indirecta* es algo... estoy diciendo como una mentira..." *(Circumstantial evidence...* indirectas *isn't something... I mean an* indirecta *is something... like I'm telling a lie).* After asking the group what the word *indirectas* meant to them, the general answer was, "Que no es directamente a la persona" *(That is not directly to the person).* It was clear that participants were applying the meaning of the Spanish noun *indirecta* known to them. In Spanish, the noun *indirecta* means a "statement or means used to not represent something explicitly or clearly and, nevertheless, imply it" (DRAE, my translation), similar to an insinuation, or a hint. The difference in meanings between an *indirecta* and circumstantial (indirect) evidence was clarified, together with the different kinds of evidence in court, direct and circumstantial (indirect) evidence, and the example of the smoke and the airplane was repeated. This explanation produced the following feedback:

> Suena como si pasó un accidente, nadie supo, encontraron una persona, vienen los detectives, deducen qué es lo que pasó, no sé qué palabra usó, y van y dicen, pasó esto y esto y esto entonces ellos de ahí... ¿cuál era la otra palabra? Deducen qué fue lo que pasó *Indirecto*, porque no lo vieron lo que pasó no vieron exactamente pero deducen oh pasó esto, y de ahí toman la decisión si fue el hecho como dijeron, o no, ya me confundí *(It sounds like there was an accident, nobody knew, they found a person, the detectives come, deduce what happened, I don't know what word you used, and they go and say, this and this and this happened, and then from there they.. what was the other word? They deduce what happened, because they didn't see what happened exactly but they deduce oh this happened, and there they make the decision if it was the fact like they said, or not, I am already confused).* (P4)

Participant 5 agreed: "O sea que como dice ella, si hay un accidente y llega la policía ellos deducen lo que pasó por lo que miran* pero no vieron la... no tienen la prueba" *(I mean, like she says, if there is an accident and the police come they deduce what happened based on what they look* [see] but they did not see the... they don't*

have the evidence). This participant is using the verb *mirar* (to look) instead of the verb *ver* (to see), which is consistent with the literature reviewed in Chapter 2 regarding the Spanish language use in California. Participants were then asked how the sentence could be made easier to understand, and the group agreed with P3:

> Lo *indirecto* no está claro, porque las personas se quedan pensando cuál es la prueba indirecta y cuál es la directa, entonces así como nosotros estamos aquí también hay personas que no van a saber qué es lo que quiere decir, entonces tendrían que usar otra palabra para explicarle a las personas *(The "indirecto" is not clear, because people keep thinking which is the circumstantial and which is the direct evidence, so the same way we are here there are people who will not know what it means, so they should use another word to explain it to people).* (P3)

The group then asked to hear the sentence again in sections to address each unfamiliar term or expression individually. When asked why the sentence was so difficult to understand, P3 replied, "Para mí [es claro] porque lo explicó pero no por la oración" *(To me [it's clear] because you explained it but not from the sentence),* and "Porque hay frases que no escuchamos muy a menudo, por ejemplo *inferir* y la palabra... de un hecho a otro hecho... esa parte es complicada" *(Because there are expressions we do not hear very often, for example* inferir *and the word... from a fact to another fact... that part is complicated).*

After reading the new sentence and asking the group to try to explain the meaning of circumstantial evidence, P2 explained, "La prueba indirecta es como se deduce que pasó eso por la prueba que estamos viendo" *(Circumstantial evidence is how we deduce that that happened because of the evidence we are seeing),* and P4 offered,

> Que si se resuelve el caso, si se resuelve el hecho que hubo, entonces ya... o sea ya es directa, se convertiría en directa, porque nomás se hablaba de vamos a decir una suposición, se suponía que era así, tratando yo de explicarlo es como más o menos como lo vi, pero no va a ser hasta que se compruebe de que así fue" *(That if the case is resolved, if the fact that was is resolved, then... I mean it's already direct, it will become direct, because we were only talking about let's say a supposition, we supposed it was so, I am trying to explain it it's more or less how I saw it, but it will not be until it is proven that it was so).* (P4)

In a similar sense, P1 explained, "Se imagina que eso pasó porque la prueba directa lo está como señalando" *(You imagine that happened because the direct evidence is like indicating/pointing it out).* The group then discussed the difficulty of the sentence, with comments such as the following: "Porque es una pregunta muy larga, por

eso es que le dije que me leyera renglón por renglón. Si hicieran una pregunta más corta con las palabras usuales o comunes, sí se entendería, como la primera pregunta que usted que nos hizo" *(Because it is a very long question, that is why I told you to read me line by line. If they asked a shorter question with the usual or common words, it would be understood, like the first question you asked us)* (P2), "Están usando como vocabulario que no lo usamos diariamente, más común" *(They are using vocabulary we do not use daily, more common)* (P1), and "Así como está, no [se entiende]. La primera sí, esta no" *(The way it is, it is not [understandable]. The first one is, this one's not)* (P4).

The group agreed to change *de determinarse* (if found) to *si se determina* (if it is found) and *la existencia* (the existence) to *que existe* (that there exists). Discussion about this sentence concluded when the participants determined that without finding another word to replace *indirectas* (circumstantial), comprehension would not be achieved.

Last version: Las pruebas indirectas son pruebas que, si se determina que son verdaderas, prueban un hecho del cual se puede deducir que existe otro hecho

[Circumstantial evidence is evidence that, if it is found to be true, proves a fact from which it can be deduced that another fact exists]

Sentence 3. "Preponderancia de la prueba" se refiere a la prueba que tiene más fuerza de convicción que la prueba contraria

["Preponderance of the evidence" means evidence that has more convincing force than that opposed to it]

The first word that was unknown to the group was *preponderancia*. An explanation of the meaning was offered, and the following comments ensued: "¿Tiene más peso?" *(It has more weight?)* (P3), "La que gana" *(The one that wins)* (P1), "Que pesa más que otra" *(That weighs more than another)* (P2), and "Es más poderosa" *(It's more powerful)* (P5).

The next term discussed by the group was *convicción* (conviction), and participants expressed their understanding of the term, as formulated by P2: "Como yo lo entiendo *convicción* es algo que yo hice, por ejemplo, algo que quiero hacer con

convicción, o sea, cómo le explico... " *(As I understand it* convicción *is something that I did, for example, something I want to do with conviction, I mean, how can I explain it...).* After I provided an explanation, the meaning was expressed in the following terms: "Porque la segunda persona que llega y trae algo que demuestra que él no lo hizo entonces la otra persona está... la balanza se va en contra" *(Because the second person who comes and brings something that shows he didn't do it then the other person is... the scale tips the other way)* (P4), and "Estoy buscándole otra palabra más fácil en lugar de *peso* porque como dice él, porque *peso* está bien, pero como dice.. la prueba más fuerte es la que tiene fuerza de convicción sobre la otra" *(I am looking for another easier word instead of weight because like he says, because weight is fine, but like he says... the stronger evidence is the one that has convincing force over the other)* (P1). After another explanation and further discussion, the group agreed that *fuerza de convicción* (convincing force) meant "Que convence más que la otra" *(That [it] convinces more than the other)* (P3), "O sea que esta prueba es más fuerte que esta" *(That means this evidence is stronger than this one)* (P5), and "Esta prueba es más... convence... más creíble que la otra" *(This evidence is more... convinces... more believable than the other)* (P1). After this discussion, the group agreed to change the word *preponderancia* to *peso* (weight) and *que tiene más fuerza de convicción* (that has more convincing force) to *que es más creíble* (that is more believable).

Final version: La <u>fuerza</u> de la prueba se refiere a la prueba que <u>es más</u> <u>creíble</u> que la prueba contraria
[The <u>strength</u> of the evidence refers to evidence that <u>is more believable</u> than that opposed to it]

<u>Sentence 4</u>. El acusado además alega que a él le pareció que su abogado le había divulgado información confidencial a su colega en el caso antes de que se separara el caso, y eso lo llevó a declararse culpable
[The defendant further alleges that it was his perception that his attorney had disclosed privileged information to co-counsel, before the case was severed, that later led him to enter into a guilty plea]

After reading the sentence and inquiring about comprehension or vocabulary issues, participants claimed to understand and explained parts of the sentence, "Le dio

información confidencial antes de que se llevara el caso" *(He gave confidential information before taking the case)* (P2), and "De un abogado a otro abogado se dieron información confidencial y es por eso que este se declaró culpable, porque el abogado le dio información al otro antes que se separara el caso" *(From one attorney to another attorney they exchanged confidential information and that is why this one pled guilty, because the attorney gave information to the other one before the case was severed)* (P4). Participants were then asked if they were familiar with the term *alega* (alleges), and the following comments were offered: "¿Como que está en discusión, están discutiendo más o menos?" *(Like it's being argued about, they are arguing more or less?)* (P1), "Posiblemente es como defensa, buscando defensa" *(Possibly it's like defense, looking for defense)* (P3), "Como pelear" *(Like fighting)* (P4), and "Para nosotros *alegar* es como *discutir*" *(For us* allege *is like* arguing*)* (P5). The term was explained and the meaning was clarified.

After reading the sentence again and receiving confirmation from the group that everyone had understood it, participants were asked about the meaning of *divulgar* (disclose) and the following comments were offered: "Yo soy de El Salvador, en El Salvador *divulgar* es que uno ande difamando a otro, que ande hablando mal de otra persona, eso es *divulgar* en mi país" *(I am from El Salvador, in El Salvador* to disclose *means that one is slandering someone else, that one is badmouthing someone else, that is* to disclose *in my country)* (P2), "En México igual, poner los trapitos al sol" *(In Mexico it's the same, to wash dirty linen in public)* (P3), "Que ella robó, que ella esto, que está casada, esto y lo otro... anda divulgando en el vecindario anda divulgando a las personas" *(That she stole, that she this, that she is married, this and that... she is badmouthing in the neighborhood, is badmouthing people)* (P4), and "Porque está hablando de esa persona, como chismes" *(Because [pronoun] is talking about that person, like gossip)* (P5). The term was then discussed and the meaning clarified. The group agreed to change *alega* (alleges) to *dice* (says) and *divulgado* (disclosed) to *dio* (gave).

Last version: El acusado además <u>dice</u> que a él le pareció que su abogado le <u>dio</u> información confidencial a su colega en el caso antes de que se separara el caso, y eso lo llevó a declararse culpable

> *[The defendant further says that it was his perception that his attorney gave privileged information to co-counsel, before the case was severed, that later led him to enter into a guilty plea]*

Sentence 5. Ya que la explicación del acusado en cuanto al comportamiento de las partes no está corroborada por la declaración jurada de ningún testigo, no alcanza a ser una prueba clara y convincente

> *[Since the defendant's explanation as to the behavior of the parties is not supported by the sworn statement of any witnesses, it scarcely rises to the level of clear and convincing evidence]*

After reading the sentence and inviting comments, the first word the group did not understand was *corroborar* (to corroborate), and the next term discussed by the group was *convincente* (convincing). Participants offered the following comments, "Es como convencer a esa persona que no cree muy fácil" *(It's like convincing that person who does not believe very easily)* (P3), and "No parece estar muy seguro de lo que está diciendo, entonces no me convence" *([Pronoun] doesn't seem to be very sure of what he is saying, so [pronoun] doesn't convince me)* (P6). The group agreed to change *corroborar* (corroborate) to *confirmar* (confirm) and *convincente* (convincing) to *que convenza* (that convinces). The new sentence was read, and participants were asked if it was now comprehensible and were invited to try to explain the meaning. The following comment was offered, "Quiere decir que las partes no están corroboradas" *(It means that the parties are not corroborated).* Participants were then asked who they believed the parties were, and Participant 5 responded,

> Las partes es por ejemplo una pregunta antes dijimos un abogado le dijo a otro abogado información confidencial del caso del acusado, entonces esta pregunta viene a ser el seguimiento de eso digamos, por ejemplo los testigos no supieron si este abogado le pasó información al otro abogado, si es cierto o no es cierto, yo así es como lo tomé *(The parties is for example a question earlier we said an attorney told the other attorney confidential information about the defendant's case, then this question is like the follow-up of that, say, for example the witnesses didn't know if this attorney gave information to the other attorney, if it's true or not true, that is the way I took it).* (P5)

After explaining that there was no connection among the five sentences, participants stated that the parties were then "El acusado y la otra persona" *(The*

defendant and the other person) (P1), "¿Las personas involucradas en el caso?" *(The people involved in the case?)* (P3), and "Está hablando de todas las partes, la que acusa y la acusada" *(He is talking about all the parties, the accuser and the accused)* (P4). Participants then agreed that adding *involved in the case* made the sentence easier to understand, but P3 replied, "Las partes involucradas, las partes del caso, pero si no sabemos lo que son... " *(The parties involved, the parties in the case, but if we don't know what they are...),* and P5 offered, "Dice *las partes involucradas*, cuando dice el nombre, por ejemplo Juan y Pedro son las partes acusadas, o Pedro está acusando a Juan, esas son dos partes, la negativa y la positiva" *(It says* the parties involved*, when it says the name, for example John and Peter are the accused parties, or Peter is accusing John, those are the two parties, the negative and the positive).*

Participants agreed to change *las partes* (the parties) to *las partes involucradas en el caso* (the parties involved in the case). The new sentence was read, and after confirming that the meaning was clear to participants and asking if anyone could repeat the sentence in their own words, P3 commented, "- Eh... como no estuvieron los testigos no lo puede acusar al... que no pudieron convencer así que no hay pruebas" *(Er... as the witnesses were not there he cannot accuse... that they couldn't convince so there is no evidence).* Since it was clear that the sentence had not been entirely understood, the meaning was explained again, taking each vocabulary item individually to try to find out if there were other confusing terms. Participants were asked about the meaning of *en cuanto a (regarding),* and responses varied, "¿Cómo se comportó?" *(How he behaved?)* (P6) and "¿A causa de?" *(because of?)* (P1). Following an explanation of the term, P2 offered, "La acusación del comportamiento del acusado no es convincente para ellos, no los convence de que así fue el caso, tal vez titubea o está nervioso, o algo así, que demuestra que no se le puede creer, no es convincente" *(The accusation of the defendant's behavior is not convincing to them, it doesn't convince them that that was the case, maybe he hesitates or is nervous, or something like that, that shows he cannot be believed, he is not convincing),* to which P5 replied, "No, está hablando de que a causa del comportamiento de los abogados" *(No, it's talking about, that because of the attorneys' behavior).* Participants were then asked whose behavior the sentence was discussing, to which P1 replied, "Del acusado" *(The defendant's)*, and P4 answered, "De las partes" *(The parties').* The sentence was explained again, making sure all terms were clear to the participants, who agreed to change *en cuanto a* (regarding) to *sobre* (about). The new sentence was read twice at participants' request, and after confirming

that the meaning was clear and asking if anyone could repeat the sentence in their own words, silence ensued. Although the sentence had been rephrased using the new terms offered by the group, participants were not able to reproduce the sentence in their own words or in the original words. The exercise ended with comments by P2: "Lo podrían hacer más pequeño" *(They could make it smaller [shorter])*. After I pointed out that attorneys and judges used these words to talk, P5 remarked, "... para confundir al acusado" *(To confuse the defendant).*

Last version: Ya que la explicación del acusado sobre el comportamiento de las partes involucradas en el caso no está confirmada por la declaración jurada de ningún testigo, no alcanza a ser una prueba clara que convenza
[Since the defendant's explanation about the behavior of the parties involved in the case is not confirmed by the sworn statement of any witnesses, it scarcely rises to the level of clear evidence that convinces]

Although participants were rather reluctant to comment at first, they soon felt more comfortable and started offering comments with openness, cordiality, and humor, and the final comment was "we are learning." While everyone participated and felt at ease, the group would again fall silent each time they were asked to repeat or explain the simplified sentences. Even though at the end of the simplification process for each sentence the group would claim to understand, on very few occasions were participants able to express the main idea, albeit in a very different way than it was originally expressed. Also, despite the general claim of comprehension after the simplification process, new questions to the group, for instance regarding the meaning of *en cuanto a* (regarding), *alegar* (allege), or *divulgar* (disclose), which were terms not flagged by participants as unfamiliar, would show that, contrary to what participants claimed, comprehension was in fact not achieved. This claim of comprehension in cases where the opposite was true had also been a prominent issue in the interpreters' and attorneys' interviews. Moreover, despite the general comprehension claim, some of the versions offered by the group when invited to repeat or explain the sentences, were outright nonsensical, issuing instead in unrelated additions, sentences connected with previous ones, or words mixed from previous sentences. As will be seen, most of these deviations were also observed in the listening comprehension test (see Section 9.3.). There, as in

this focus group, participants were apologetic and embarrassed to admit when they did not understand or know the meaning of a word.

9.2.2. Comparison of sentences produced by focus group 2 and focus group 3

The following is a comparison between the simplified-register sentences produced by focus group 2 (FG 2) and the sentences produced by focus group 3 (FG 3). Each of the following tables shows four versions of each sentence: the original English version for reference, the Spanish sentence produced by focus group 1 (FG 1) with original register, the Spanish version produced by FG 2 with simplified register, and the Spanish sentence produced by FG 3, also with simplified register. All changes made by focus group 2 and focus group 3 are underlined for comparison purposes.

Table 6. FG 2 & FG 3 Comparison - Sentence 1

Original	A witness who is willfully false in one material aspect of his or her testimony is to be distrusted in others
FG 1	Si un testigo declara intencionalmente en falso en un aspecto importante de su testimonio, se debe desconfiar del resto de su declaración.
FG 2	Si un testigo <u>miente</u> en una parte importante de su testimonio, <u>no tienen por qué</u> creer el resto de su declaración *(If a witness <u>lies</u> in one material aspect of his or her testimony, <u>there is no reason for you to believe</u> the rest of his or her statement/testimony)*
FG 3	Unmodified

This first exercise was the hardest for FG 3 as participants were rather reluctant to be heard or admit openly that they did not understand. Also, this is not a very difficult sentence and the terminology is not very technical. If Spanish speakers hear and understand a series of four terms, they will get the basic meaning: *declara* (declares), *falso* (false), *aspecto importante* (material aspect), *debe desconfiar* (is to be distrusted). This sentence was not modified by FG 3.

Table 7. FG 2 & FG 3 Comparison - Sentence 2

Original	Circumstantial evidence is evidence that, if found to be true, proves a fact from which an inference of the existence of another fact may be drawn
FG 1	Las pruebas indirectas son pruebas que, de determinarse que son verdaderas, prueban un hecho del cual se puede inferir la existencia de otro hecho
FG 2	Las pruebas indirectas son pruebas que, si se decide que son verdaderas, demuestran un hecho del cual se puede deducir la existencia de otro hecho *(Circumstantial evidence is evidence that, if it is decided they are true, they prove a fact from which the existence of another fact can be deduced)*
FG 3	Las pruebas indirectas son pruebas que, si se determina que son verdaderas, prueban un hecho del cual se puede deducir que existe otro hecho *(Circumstantial evidence is evidence that, if it is found to be true, proves a fact from which it can be deduced that another fact exists)*

Although FG 2 and FG 3 used different terms (*decide* and *determina*), both made the same change in the verb phrase: *de determinarse* (if found/determined) to *si se decide* (if it is found/decided) and *si se determina* (if it is found/determined). Both groups changed *inferir* (infer) to *deducir* (deduce). FG 3 made an additional transposition: *la existencia* (the existence) to *que existe* (that there exists).

Table 8. FG 2 & FG 3 Comparison - Sentence 3

Original	"Preponderance of the evidence" means evidence that has more convincing force than that opposed to it
FG 1	"Preponderancia de la prueba" se refiere a la prueba que tiene más fuerza de convicción que la prueba contraria
FG 2	La prueba que tiene más peso es la prueba que es más convincente que la prueba que demuestra lo contrario *(The evidence that has more weight is the evidence that is more convincing than the evidence that proves the opposite)*
FG 3	La fuerza de la prueba se refiere a la prueba que es más creíble que la prueba contraria (*The strength of the evidence refers to evidence that is more believable than that opposed to it)*

Even though FG 2 and FG 3 made very different choices, both groups made changes to the same two items: *preponderancia* (preponderance) and *fuerza de convicción* (convincing force). The term *preponderancia* was replaced by *la prueba que tiene más peso* (the evidence that has more weight) by FG 2 and by *la fuerza de la prueba* (the strength of the evidence) by FG 3. The phrase *que tiene más fuerza de convicción* (that has more convincing force) was replaced by *que es más convincente* (that is more convincing) by FG 2 and by *que es más creíble* (that is more believable) by FG 3. FG 2 made an additional change: *que la prueba contraria* (than that opposed to it) was replaced by *la prueba que demuestra lo contrario* (evidence that proves the opposite). Although interpreters in FG 2 were able to identify the most difficult areas,

they used the term *convincente* (convincing), which was identified by FG 3 as a difficult term and replaced.

Table 9. FG 2 & FG 3 Comparison - Sentence 4

Original	The defendant further alleges that it was his perception that his attorney had disclosed privileged information to co-counsel, before the case was severed, that later led him to enter into a guilty plea
FG 1	El acusado además alega que a él le pareció que su abogado le había divulgado información confidencial a su colega en el caso antes de que se separara el caso, y eso lo llevó a declararse culpable
FG 2	El acusado además dice que a él le pareció que su abogado le había dado información confidencial a su colega en el caso antes de que se separaran las causas, y por eso se declaró culpable *(The defendant also says that he believed his attorney had given confidential information to his colleague in the case before the cases were severed, and that is why he pled guilty)*
FG 3	El acusado además dice que a él le pareció que su abogado le dio información confidencial a su colega en el caso antes de que se separara el caso, y eso lo llevó a declararse culpable (*The defendant further says that it was his perception that his attorney gave privileged information to co-counsel, before the case was severed, that later led him to enter into a guilty plea)*

In this sentence, both FG 2 and FG 3 replaced the verb *alegar* (allege) by *decir* (say), and the verb *divulgar* (disclose) by *dar* (give), although with a different verb tense in the latter: past perfect for FG 2 and simple past for FG 3. FG 2 proposed another change, replacing *y eso lo llevó* (that later led him to) with *y por eso* (and that is why) to lower the register.

Table 10. FG 2 & FG 3 Comparison - Sentence 5

Original	Since the defendant's explanation as to the behavior of the parties is not supported by the sworn statement of any witnesses, it scarcely rises to the level of clear and convincing evidence
FG 1	Ya que la explicación del acusado en cuanto al comportamiento de las partes no está corroborada por la declaración jurada de ningún testigo, no alcanza a ser una prueba clara y convincente
FG 2	La explicación del acusado sobre el comportamiento de las partes no llega a ser una prueba clara y convincente porque no está corroborada por la declaración jurada de ningún testigo *(The defendant's explanation about the behavior of the parties scarcely rises to the level of clear and convincing evidence because it is not supported by the sworn statement of any witness. Sentence inversion)*
FG 3	Ya que la explicación del acusado sobre el comportamiento de las partes involucradas en el caso no está confirmada por la declaración jurada de ningún testigo, no alcanza a ser una prueba clara que convenza *(Since the defendant's explanation about the behavior of the parties involved in the case is not confirmed by the sworn statement of any witnesses, it scarcely rises to the level of clear evidence that convinces)*

In this sentence, FG 2 successfully inverted the order of the clauses to facilitate comprehension. This change was thought out and well executed by professional interpreters, while it would seem to be a harder task for the Spanish speakers in FG 3.

Both groups changed *en cuanto a* (regarding) to *sobre* (about), and each offered one additional change. FG 2 replaced *no alcanza a ser* (scarcely rises) to *no llega a ser* (scarcely rises), and FG 3 considered it was necessary to change *las partes* (the parties) to *las partes involucradas en el caso* (the parties involved in the case) for clarification. Lastly, FG 3 changed *corroborada* (corroborated) to *confirmada* (confirmed), and transposed *convincente* (convincing) to *que convenza* (that convinces). Both of these last terms were discussed in FG 2, but participants believed they would be understood by lay Spanish speakers. FG 3, however, believed differently.

In summary, except for one register simplification and the sentence inversion made only by FG 2, Spanish speakers in FG 3 made several other changes to terms and expressions that interpreters in FG 2 did not consider problematic in terms of comprehension.

9.3. Listening comprehension test

As explained in the methodology chapter, this experiment aimed to test the equal footing claim from the code and the literature in terms of equal access to language, in other words, equal comprehension by English speakers and Spanish speakers. The first purpose of this test was to determine and compare the comprehension levels of English speakers and Spanish speakers using sentences with equal registers and, drawing on previous studies that had already shown that register simplification leads to better comprehensibility for English-speaking users of legal language (see 5.2.1 above), to determine if register simplification would result in a significant difference in comprehension by Spanish speakers as well. In alignment with the view that register simplification may be perceived as lack of impartiality, the study also aimed to test whether or not comprehension could be enhanced without providing explanations or extra information, in other words, by maintaining impartiality according to the standards. This test is based on the listening comprehension exercise done in the pilot study with a few adjustments as detailed in the methodology section, mostly in terms of shortening the sentences to reduce the intensity of the test.

The following tables depict the points assigned to each participant for each response. As explained in the methodology section, the borderline cases were discussed with two psychologists, one of whom is also an attorney, to assign the final scores. The

last total column shows individual levels of comprehension for each of the participants, and the last total line shows the levels of comprehension for each of the questions.

Table 11. Main study - English speakers total results

	Question 1	Question 2	Question 3	Question 4	Question 5	Total
Participant 1	2	2	1	1	0	60%
Participant 2	2	2	2	2	2	100%
Participant 3	2	2	0	1	2	70%
Participant 4	2	1	0	1	2	60%
Participant 5	2	1	1	0	0	40%
Participant 6	2	0	1	2	2	70%
Participant 7	2	0	0	0	2	40%
Participant 8	2	2	2	0	1	70%
Participant 9	2	0	0	0	1	30%
Participant 10	1	2	1	1	0	50%
Total	19 = 95%	12 = 60%	8 = 40%	8 = 40%	12 = 60 %	**59%**

The first question seems to have yielded the highest scores, and one of the participants received a perfect score. While the lowest comprehension level achieved by a participant was 30 percent, none of the participants scored 0 percent. The total aggregate results indicated that the general level of comprehension of the whole group of English speakers was 59 percent.

Table 12. Main study - Spanish speakers group 1 (original register) total results

	Question 1	Question 2	Question 3	Question 4	Question 5	Total
Participant 11	0	0	0	1	0	10%
Participant 12	0	0	0	0	0	0%
Participant 13	0	0	0	0	0	0%
Participant 14	0	0	0	0	0	0%
Participant 15	0	0	0	0	0	0%
Participant 16	2	0	0	0	0	20%
Participant 17	0	0	0	0	0	0%
Participant 18	0	0	0	0	0	0%
Participant 19	0	0	0	0	0	0%
Participant 20	0	0	0	0	0	0%
Total	10%	0%	0%	5%	0%	**3%**

As evident from Table 12, the scores are extremely low, with only two participants showing some comprehension level in only two of the questions, and most of the participants scoring 0 percent. The total aggregate results indicate that the average level of comprehension of this whole group of Spanish speakers was 3 percent.

Table 13. Main study - Spanish speakers group 2 (simplified register) total results

	Question 1	Question 2	Question 3	Question 4	Question 5	Total
Participant 21	1	1	0	0	0	20%
Participant 22	2	0	0	1	0	30%
Participant 23	2	1	0	0	2	50%
Participant 24	2	1	0	0	2	50%
Participant 25	2	0	0	0	0	20%
Participant 26	2	1	1	0	0	40%
Participant 27	2	1	0	0	0	30%
Participant 28	2	1	0	1	0	40%
Participant 29	2	1	0	1	1	50%
Participant 30	2	1	0	1	0	40%
Total	19 = 95%	8 = 40%	1 = 5%	4 = 20%	5 = 25%	**37%**

As seen in Table 13, the first question yielded the highest scores, though none of the participants received a perfect score. While the lowest comprehension level achieved by an individual participant was 20 percent, none of the participants scored 0 percent. The total aggregate results indicate that the average level of comprehension of this whole group of Spanish speakers was 37 percent.

Table 14. Main study - Listening comprehension test - Total results combined

Group 1 - English speakers - original register	59 %
Group 2 - Spanish speakers - original register	3 %
Group 3 - Spanish speakers - simplified register	37 %

The test results indicate that while the average level of comprehension of English speakers was 59 percent—coincidentally, the same value found by Charrow and Charrow (1979)—the first group of Spanish speakers scored only 3 percent, and the second group of Spanish speakers scored 37 percent. While the English speakers' scores were not ideal, they were nearly twenty times as high as the scores of the first group of Spanish speakers (equal register), and much higher than those of the second group of Spanish speakers (simplified register). Although this test was designed to measure only approximate levels of comprehension, the responses offered by participants reveal other elements that deserve attention since they complement the literature reviewed on the educational and cultural aspects of Hispanics in California, and show significant differences with the English speakers.

A common phenomenon observed in all tests was participants constructing non-responsive answers by incorporating some of the terms heard in the sentence. Although

this happened in all groups, there were some important differences among them. In the case of English speakers, although some of the answers were incorrect, none of them were irrelevant or nonsensical. For example, P4 in Q3 responded, "Circumstantial evidence proves that there is an inference to be drawn," and P9 in Q2 answered, "Something that is proven evidence that is shown to the court." In other cases, some words from the original sentence were replaced by other words that sounded similar, for example P6 in Q2, "It's the one that has... I would say more convincing form," replacing the original *force* by *form*, and P5 in Q4, "The defendant alleges that his lawyer talked to other counsel because the -the case was dismissed," when in fact counsel disclosed information *before* the case was severed, and not *because*.

Spanish speakers also constructed answers with some of the words heard in the sentence, such as P21 in Q4, "El acusado dice que le dio información er confidencial antes que -antes que separara de su colega" (*The defendant says that [Pronoun] gave, uh, confidential information before -before separating from his colleague),* when the question stated that counsel had disclosed information before the case was severed. In a few cases, Spanish speakers also replaced the original words by other actual words that sounded similar, such as P27 in Q5, "Porque no está bien eh... elaborada" (*Because it is not well, er... elaborated)* replacing *corroborada* (corroborated) by *elaborada* (elaborated). However, unlike English speakers, many Spanish speakers offered answers with utmost conviction in nonsensical sentences or fragments, even using non-words that sounded similar to the words heard. The term *preponderancia* (preponderance), for example, appeared in question 2 of the first group of Spanish speakers (original register), and this question received four answers with non-words to replace the term: *prepolderancia*, prepodancia*, proderancia*, and pronderancia**. For example, Participant 18 in Q2 attempted a full (incorrect) definition of the non-word *prepolderancia**:

> Ah pues la palabra prepolderancia* para mí viene siendo como -como que -o sea que me están -cómo le dijera la palabra... que me están acusando o sea me están haciendo algo... que no es correcto con este... más... cómo le dijera usted... no se me viene a la mente cómo es la palabra que usamos nosotros... Algo como como que están -como que me quieren como - cómo es la palabra -decirle que me están poniendo en el mismo lugar, con -con -cómo le dicen la palabra... alevosía (*Ah well the word prepolderance* for me would be like -like -I mean, they're -what's the word I could use here... that they are accusing me I mean they are doing something to me... that is not correct with er... now how can I say this... it doesn't come to mind what the word is that we use... Something like, like they are -like*

> *they want me to, like -what is the word -tell you that they are putting me in the same place, with -with -what is the word... malice aforethought).*(P18)

Another example of non-words used in place of the original term was related to the word *corroborada* (corroborated), which appeared in question 5 of both groups, and received responses including the words *coloborando** and *corraborada**. For example, P21 responded, *"*Porque no está coloborando* y no este... no está coloborando* y no es convincente" (*Because [Pronoun] is not colloborating* and not er... is not colloborating* and it is not convincing).* In this regard, it is worth mentioning that most English speakers asked for repetitions and many complained about not getting them, but almost none of the Spanish speakers did.

Lexical items and meanings used to construct answers were also taken from previous sentences. For example, in question 3 regarding circumstantial evidence, P28 responded, "La que tiene más peso?" (*The one that has more weight?),* which is the answer corresponding to preponderance. Also in question 3, P19 responded, "Este... pues es como juzgar mal y también quedar callado" (*Er... well it's like misjudging and also remaining silent),* repeating "remaining silent" from the answer offered in response to question 1.

As in FG 3 with lay Spanish speakers, in question 3 several participants attempted to give a definition of circumstantial evidence (*pruebas indirectas*) by defining what is known in Spanish as an *indirecta*, as described above. For example, Participant 18 stated, "Las indirectas para mí son las que le hacen a uno, que le están poniendo pruebas que no son correctas, verdad? O sea, es es indirecto, que no es algo que es falso" (*The circumstantial ones [indirect] to me is the kind that is done to one, like when they are showing evidence that is not correct, right? That is, it's, it's circumstantial [indirect], that it's not something that is false)*, and Participant 22 proposed, "Las pruebas indirectas es que le están preguntando como... con otra persona, no están preguntándole al... no están agarrando pruebas suficientes para ver si no hay otro medio, otra manera u otra persona que está juntando pruebas" (*Circumstantial evidence is that they are asking him like -with another person, they are not asking... they are not getting enough evidence to see if there might be other means, another way or another person who is gathering evidence).*

As explained in the methodology section, it proved very difficult for Spanish speakers to understand that the response that was expected had to be related to the

sentence and not to their personal opinion or experience. No English speaker answered questions from personal opinion or involved their feelings in the answers. Spanish speakers' answers, on the contrary, contained both. The first question for the first group of Spanish speakers seemed to have elicited the most personal responses because it asked what they (as jurors) should do in a specific situation, that is, if a witness was willfully false in a material aspect of the testimony. Although the instructions stated that the question was addressed to jurors, Spanish speakers' lack of familiarity with the process prevented them from stepping into that role. The correct answer should have made reference to the action provided in the sentence: the witness is to be distrusted in other aspects of his testimony. Instead of relating the answer to the sentence presented, several Spanish speakers responded by saying what they believed should be done, such as P18: "Entonces lo que tendría yo que hacer es este que... pedir más explicación, por qué razón me está -está haciendo eso" (*Then what I would have to do is, er, to... to ask for more explanation, why is -is [Pronoun] doing that to me);* P11: "Pues si yo sé la verdad, eh... la digo, eh... y también -también le digo a la corte que él está diciendo -que está diciendo información falsa" (*Well if I know the truth, er... I say it, er... and also -I also tell the court that he is saying -that he is saying false information),* and P13: "Pues si yo fuera el testigo, pues decir la verdad. Sea buena o sea mala pero siempre con la verdad enfrente" (*Well if I were the witness, well, tell the truth. Whether good or bad but always with the truth up front).*

Spanish speakers' answers also contained value judgments and personal beliefs, such as P20 in Q1: "Es malo dar una una información falsa y yo pienso que... que esa persona no merece estar ahí en la corte" (*It is bad to give false information and I think that... that person does not deserve to be there in court),* and P11 in Q4: "Que este... eh... su abogado no lo defendió como debió de haber hecho, porque eh... porque le dio información al otro -al abogado, al otro abogado que no debía de haber hecho" (*That er... er... his attorney didn't defend him as he should have done, because er... because he gave information to the other -to the attorney, to the other attorney that he should not have done).*

Similar to the pilot study, English-speaking participants' reactions were very different from the reactions exhibited by Spanish speakers. English speakers were noticeably displeased and even irritated when they were not able to produce a correct answer, again expressed in terms of "This sentence is not correct" or "Nobody could understand this." On the contrary, Spanish speakers who did not understand in general

showed two distinct reactions: while some expressed embarrassment and apologized, such as P12 in Q2: "Esa no la entendí nada. Perdón" (*That one I didn't understand anything. I'm sorry),* others offered responses with full conviction and self-assurance but lacking meaning, relevance, or sometimes grammar. For example, in question 2 about preponderance of the evidence, P25 responded, "Sí es la misma, sí es la misma, porque es la... eh es -es- él no se basa a una -a una, [daughter's interruption] pérame m'ija, a una... es que no -no se interroga algo más específico, es la misma prueba, es la misma prueba porque él no dice otra" (*Yes it's the same, yes it's the same, because it's the... er it's -it's - he doesn't rely to a -on a [daughter's interruption] hold on sweetheart, to a... it's that no -nothing more specific is questioned, it's the same evidence, it's the same evidence because he does not say any other).* Also, in question 3 about circumstantial evidence, the same P25 responded, "Ok, aquí dice que... haz de cuenta como la prueba no ocupa al... como traer a alguien, no? O sea eh -si ya tiene una prueba grande ahí ya se va a quedar, no ocupa más hechos" (*Ok, here it says that... let's say as the evidence does not need the... like bringing somebody in, right? That is er -if [Pronoun] has major evidence there, it's going to stay,[Pronoun] does not need any more facts).* In the same question, P27 responded, "Preguntas son respuestas verdaderas" (*Questions are true answers),* and P29 responded, "No, no sé [giggle]... Que salen de lo indirecto y que entonces qué son -qué realmente -cuales son las pruebas realmente valoradas, no? o verdaderas... ahí es donde un juego de palabras que complica la situación, verdad?" (*No, I don't know [giggle]... That they are drawn from circumstance and then what are they -what really -which is the truly valued evidence, right? Or true ... that is where a play on words that complicates the situation, right?).*

Another important example of bringing the personal into the answers was offered by Participant 14, who gave non-responsive answers related to the consequences of being undocumented. In Q4, this participant answered, "Pues que a veces no es verdad lo que ellos nos dicen pero es por no tener papeles nos echamos nosotros la culpa" (*Well, it's that sometimes what they tell us is not true but it's because of not having papers that we blame ourselves)* and in Q5, *"*Porque a veces decimos y a veces no -no creen lo que uno haga y a veces por medio de no tener documentos nos echamos la culpa aunque no sea verdad" (*Because sometimes we say and sometimes they don't - don't believe what one does and sometimes through not having documents we blame ourselves even if it's not true).*

In conclusion, this chapter has reported on the results obtained in the three components of this study from three different sources: interpreters, attorneys, and lay Spanish speakers. Interpreters mediate between a Spanish speaker with limited cognitive access to the high-register, system-bound language used by attorneys in judicial proceedings. Interpreters are also instructed to follow an ethics code and institutional norms that limit the range of possible strategies they might use to bridge the comprehension gap. Attorneys welcome and expect interpreter interventions to alert them when comprehension is not achieved, or when a simpler language would be more effective to achieve it. The results also showed that despite the register simplification in the listening comprehension test, and despite the explanations provided in FG 3, Spanish speakers did not achieve full comprehension of the legal language. This also indicates that the reason for non-comprehension is not limited to the vocabulary, but also to the lack of referents and prior domain knowledge. The results show that notwithstanding the code and the norms, both interpreters and attorneys acknowledge this comprehension gap and are inclined or willing to favor interpreter interventions in order to facilitate comprehension and enhance the intercultural communication between the interlocutors.

Chapter 10. Discussion

This research set out to examine Spanish speakers' comprehension of legal language when assisted by a court interpreter in judicial proceedings. The design involved two major areas: testing the institutional equal-footing claim by comparing comprehension levels of English speakers and Spanish speakers with and without register simplification, and collecting data from Spanish speakers, interpreters, and attorneys to better understand how each one contributes to the construction of meaning in this intercultural communicative event. The first hypothesis was that English speakers and Spanish speakers would not show the same comprehension levels when presented with the same original register of legal language, and the results supported the hypothesis. The second hypothesis was that Spanish speakers' comprehension would improve by simplifying the legal register, and the results supported this hypothesis as well. The results showed that providing an interpreter for the proceeding does not necessarily place the non-English speaker on an equal footing with the English speaker, because non-English speakers in this particular context for the most part lack important tools to access the high legal register that characterizes judicial proceedings, and that court interpreters are required to maintain. The tools required to access and be able to understand and communicate using a legal register include a certain educational attainment level, specialized domain education, socialization into a specific speech community, exposure to and knowledge of the U.S. legal system, and assertiveness to express non-comprehension. Other questions this research study set to answer included interpreters' views on register, register adjustment and intervention; and attorneys' views on issues of comprehension and interpreter interventions. The results of the interviews showed that notwithstanding the code and institutional norms, both interpreters and attorneys acknowledge a communication gap between English speakers and Spanish speakers, and are inclined or willing to favor interpreter interventions and adjustments of register in order to facilitate and enhance comprehension between speakers. This chapter will organize the discussion of the results in three areas: findings about factors that might hinder comprehension, findings about observed non-comprehension, and findings about factors that might enhance comprehension.

10.1. Findings about factors that might hinder comprehension

Communication in judicial proceedings is conducted in a particular language variety that bears little syntactic, semantic, and referential resemblance to everyday language. Although the level of formality might vary in different stages of judicial proceedings (O'Barr 1981: 396), this formality level varies within the same register of legal language—a register that cannot be accessed without formal and domain-specialized education. All interpreters interviewed in both the pilot and the main study as well as interpreters from focus group 1 reported that, except for the six-hour mandatory ethics workshop, they never received any instruction on the fundamental notion or features of legal register or register adjustment, which is probably due to the fact that this adjustment would not be officially required in their work. This lack of instruction might explain the descriptive narrowness in the definitions of register provided by participants, who for the most part related it to the *level of language*—indeed, the only definition provided in the code of ethics. This 215-word section on register would seem to contain, based on the results obtained in this study, the main reasons for non-comprehension of legal language by Spanish speakers, and the main issues explored in this research study:

> Register
> When rendering the source-language message into the target language, you must never alter the register, or level of language, to make it easier to understand or more socially acceptable. For instance, if the attorney asks, "What did you observe the subject to do subsequently?" you should not say in the target language, "What did you see him do next?" if more formal synonyms exist. You should not try to bring the question down to the witness's level. You also should not intervene and say that you do not think the question is understandable to the witness. If the witness does not understand the question, it is his responsibility, or that of the attorney who has called him to the stand, to say so. It is not the interpreter's job to evaluate and give an opinion on the witness's ability to understand. (See "California Standards of Judicial Administration, Standard 2.11," in appendix C.)
> It is important to remember that when interpreting a witness's testimony before a jury, the jury will draw certain conclusions about the witness's sophistication, intelligence, and credibility based on word choice, style, and tone, among other things. It is your job to faithfully convey all of these factors so jurors get the same impression they would if they could understand the witness directly. (CAJC 2013a: 7)

This brief section from the code of ethics contains a series of norms that interpreters have internalized and strive (or struggle) to comply with, as was found in

the interviews. These norms, however, conflict directly with other sections in the code that state that interpreters are provided so that parties can understand each other (2013a: 28) and that the interpreter is the medium of communication (2013a: 26). Court interpreters may be hired to work in a variety of judicial proceedings in and out of court, but regardless of the setting, the court interpreter's duty, role, instructions, and purpose do not change: the interpreter in a judicial setting always abides by the same code of ethics and is there with the same purpose of placing the non-English speaker on an equal footing with the English speaker. The code of ethics contains the instructions court interpreters must follow as well as the purpose for their presence and, in this sense, the equal footing purpose could be thought of as a hyper-skopos that covers every judicial proceeding, while the code of ethics could be thought of as a hyper-brief with instructions to follow in every judicial proceeding. These instructions, however, seem to be contradictory: 1) interpreters place the non-English speaker on an equal footing with the English speaker, 2) interpreters are there so non-English speakers will understand the proceeding, and 3) this is achieved by conserving the original legal register in interpreters' renditions. In the same way, the code equates *ethics* with *accuracy*, and *loyalty* with *fidelity*. Loyalty, however, refers to a relationship between people, while fidelity refers to a relationship between texts (Nord 2006: 6) (see chapter 6). Following Chesterman's (2001) four (incompatible) models for translation ethics—representation, service, communication, and norms—judicial proceedings would make use only of three of them: ethical conduct would fit the representation model by giving priority to accuracy, the service model by giving priority to the client's mandate of accuracy and loyalty, and the norms model by giving priority to compliance with the code. As mentioned in chapter 6, these three models would complement one another in that being ethical would mean being loyal to the client (service) by following the prescribed norms (norms) of accuracy (representation). The only model that could not be applied to this context is the communication model, because the interpreter is precluded from taking into account the communicative needs of the other. This represents a conflict for the interpreter, as facilitating communication is also part of the hyper-brief and, in this sense, not facilitating understanding may be considered unethical from the interpreter's perspective. This ethical conflict has been described in the literature (Angelelli 2004, Morris 1993, Berk-Seligson 1990, Mikkelson 1998, Rudvin 2007, among others), and was mentioned by all interpreters interviewed: either comply with the norms or facilitate understanding. The purpose of having an interpreter present is defined by the code as

that of facilitating communication among the parties; however, understanding, as it has been shown, is considered a prerequisite to effective communication (see chapter 5). At least in this context, it does not seem possible to comply simultaneously with both the individual and prescribed goal of facilitating communication and the norms requiring a verbatim translation. This is the professional and human conflict for the interpreter, who is precluded from (a) "identifying cultural or linguistic factors that are generating miscommunication"; (b) requesting or providing clarifications "when speakers' referents are based on different worlds of knowledge"; and (c) performing anything beyond a "mechanical, non-participatory role" (Morris 1993: 21). This view is supported by Moeketsi (1999), who states that "in their bid to behave professionally, court interpreters are often compelled to inhibit their human quality that dictates caring for those in distress," and Altano, who states that "under the mantle of professional conduct ... court interpreters must ... deny the urge to help, at precisely the moment when the witness is turning to them" (1990: 99). It is also supported by Anderson, who states that the interpreter is "the man in the middle" who has certain obligations to serve two clients at once, and that these duties "may not be compatible" (1976: 211). The norms contained in the Register section above could be summarized as follows:

1. Register must never be altered.
2. Register is defined (only) as the "level of language" (only "formal" is mentioned).
3. Register should not be altered to make language "easier to understand" or to bring it "down to the witness's level." Examples include not changing "observe" to "see," or "subsequently" to "next."
4. Register should not be altered to make it more "socially acceptable."
5. Interpreters should not intervene to say that the witness will not understand the question or evaluate or give opinions on witnesses' comprehension abilities. When a witness does not understand, that witness (or an attorney) is responsible for saying so.
6. Register is maintained so that jurors can evaluate witnesses' sophistication, intelligence, and credibility based on the interpreter's choice of words, style, and tone, the same way they would if there were no interpreter present.

Each of these norms represents an area explored in this study, and each of these norms showed potential for hindering comprehension. They will be addressed separately as follows.

1. Register must never be altered

It would have been ideal to observe and record interpreters in action to determine whether register is maintained, for example, during non-testimony stages of proceedings, when the only one listening is the non-English speaker. However, since the courts still do not allow the recording of proceedings, the only available data was gathered through observation of interpreters in both focus groups: the first group (FG 1) translated the five sentences used in the test, and the second group (FG 2) simplified the register of those translations for the second group in the test.

Interpreters in FG 1 were in charge of producing the translation of the five sentences for the listening comprehension test with register conservation. At times, participants would discuss terminology and the possibility of restructuring the sentence in Spanish to make it simpler or more grammatical. However, they would soon remind themselves and each other that the task was to produce a version that would resemble what they would normally use in court on the spur of the moment without much time to think, almost like a sight translation. Although at times participants were inclined to use simpler terminology, for example in the case of *preponderancia* (preponderance) vs. *el peso de la prueba* (the weight of the evidence), they decided to keep the original formal term because it belongs in the legal field even if it is a difficult term. In this sense, participants were making an effort to maintain the original register despite their inclination to simplify it. Not only did FG 1 participants consistently remind themselves and each other to conserve the spirit of the original, but the five other certified interpreters who were invited to examine the translations confirmed that the original register was conserved in the target sentences. They concluded that the five translations did correspond to O'Barr's category of formal spoken language (see 4.3. above) and that the register level was comparable between both versions. Chesterman explains that in order to show the existence of norms, evidence such as belief statements, norm statements, and explicit criticism must be linked to observed regularities. Although the translation produced in this focus group was not a simultaneous interpreting exercise, it nevertheless could be construed as representing the observed regularities that must be linked to the evidence of normative force that is necessary for proposing the existence of norms, as called for by Chesterman (1993) (see chapter 6).

Interpreters in FG 2 were in charge of simplifying the register of the five Spanish sentences used in the listening comprehension test. Although some simplification was

apparently achieved in several cases, participants did not feel they could turn the sentences into an explanation, provide examples, or arrive at the degree of simplification that was used in the redrafting of California jury instructions, for example (see chapter 5). This may denote some resistance to manipulating the legal register, or even lack of practice, as this is not usually taught or required. Even though they had the freedom to make any change they deemed necessary, they left some terms unchanged believing they would be comprehensible for Spanish speakers, but lay Spanish speakers in focus group 3 did not, in fact, understand some of them. This showed different criteria regarding register variation and accessibility between interpreters and Spanish speakers. The impossibility of simplifying legal terminology to be understood without referential knowledge was also acknowledged by some participants: "It cannot be lowered much there; for the person to understand this it must be explained; it's the only way; that is why the judges made the new instructions giving examples to show that register could not be lowered" (P4) and "We have to understand something, there are concepts that are more abstract than others and cannot be simplified" (P1). These statements imply that comprehension might not be fully achieved even with register simplification, and that unmodified legal register might not be conducive to comprehension.

2. Register is defined (only) as the "level of language" (only "formal" is mentioned)

From this section of the code, people who have not received any training or instruction on language register would conclude that register can only be *formal* or *easier*, which is reflected in participants' definitions. As described in chapter 4, the level of formality corresponds only to the tenor, which is also described by some scholars as *style*. Given that the register determines the language variety that will be used, it would seem fundamental for interpreters to be thoroughly familiar with the semantic and syntactic features that will be required both in English and in Spanish, as well as the features that define a specific register. As stated above, however, none of the interpreters interviewed both in the main and in the pilot study reported receiving any specific instruction or training in legal register before starting to work as interpreters. However, the experience interpreters gained at work helped them construct a wider definition of register than the one provided in the code. The definitions provided by interpreters in the pilot study related the register to education as a condition for comprehension: "high register... might possibly mean that a person needs to have had many years of some specialized

education to fully comprehend something" (P2), and only one participant related it to the setting or circumstances (P5). In the main study, interpreters interviewed defined register mainly in terms of high vs. low, formal vs. informal, and level of sophistication, difficulty, correctness, or politeness. Also in their definitions, one interpreter related it to the source context (P8), seven interpreters defined register as a factor of education, one interpreter related it to the formality of the situation (P9), two interpreters related language register to comprehension (P1 and P6), and four interpreters defined the register as something that should not be modified.

Interpreters in FG 1 reported that register can be instinctively identified or self-learned after years of experience (differentiating between a high and low register only), and discussed their lack of training: "And then when you leave something up for interpretation, you throw it out there, like *register*, if someone doesn't have it in them to decipher what exactly that means, cause we all do that when we're studying... you do it alone, nobody teaches you this" (P1). Participants in FG 1 also showed awareness of the need to specialize for years after receiving formal education in order to comprehend legal register, as stated by P1: "I think I speak for everybody, we all brought to the table everything else. I mean, the proficiency in both languages, the education, university degrees from other countries, so we have a whole bunch of stuff there, and then we specialize for two years or a year." In summary, interpreters are aware of the educational, cognitive, and social requirements to access the legal register, and of the way these barriers to accessibility might lead to non-comprehension.

3. Register should not be altered to make language "easier to understand" or to bring it "down to the witness's level." Examples include not changing "observe" to "see," or "subsequently" to "next"

The phrases "easier to understand" and "down to the witness's level" were left in quotation marks because as written they imply that register will be "hard to understand" or "above the witness's level," respectively. This implication was observed in interpreters' definitions of register as well.

Spanish speakers in California originate from many different countries, even the United States. Sociocultural traits, educational attainment levels, and degrees of language proficiency are of course diverse, even among members of the same speech communities. Although Latin American countries follow civil law systems, differences among them abound, starting with Mexico's efforts to implement oral trials and other

countries following suit. These and several other reasons make it impossible to arrive at an accurate description that would encompass every Spanish speaker in California, or that could predict sociocultural, linguistic, and comprehension constraints for all. That is why the literature on California's Hispanics describes a general list of traits apparently found in high-context cultures, and particularly in Mexicans, given that they are a majority in the state. It also partly explains the impossibility for the U.S. Census Bureau to arrive at accurate numbers to describe individual educational attainment levels, providing instead a general determination only of an average close to less than nine years of education. As stated in chapter 2, these numbers include non-Hispanics, do not include all the Hispanics, and do not include data that would differentiate those with no education from those who have completed nine years. To arrive at a more accurate depiction of average educational levels among Hispanics in California for the purpose of this research, inquiries were made with all participants who work in close proximity with them and are privy to this data. Overwhelmingly, all participants in all components of this study reported similar results: interpreters interviewed for the main study (6.1 years), attorneys interviewed for the main study (6.2 years), attorneys interviewed for the pilot study (primary school for P1, one to three years for P2), and interpreters interviewed for the pilot study ("they never went to school," P4). Equally low educational attainment levels were reported by interpreters in focus group 1:

> The defendants that we work with, if they come here, they have what, first grade education?... for the most part, you're not only dealing with people who have not been educated, school-wise, but you're dealing with people who have not been exposed to parents. We see the sad realities of people that have been raised by cows basically, and I'm not being facetious. I'm not lying, not exaggerating. (P1)

This was also discussed by interpreters in FG 2: "... the syntax, when you try to explain it it becomes an academic definition, and with sixth graders or less, or an IQ of... as it is being shown now that many defendants have an IQ of around 70, they cannot get it" (P4). The average educational attainment level for English speakers, on the other hand, is twice as high: 13.5 years of education reported by attorneys interviewed in the main study, the same number reported by the literature. Attorneys interviewed both for the main study and the pilot study also reported that these education levels cause communication problems with Spanish-speaking clients. The literature reveals certain educational requirements to access the legal register. For

example, Dueñas González found that the average difficulty level of legal language corresponded to 14 years of formal education (1977), and Moore et al. found that comprehension of legal language requires 12 years of formal education plus familiarity with specialized legal language (1999: 32). Dueñas González et al. also refer to these limitations and their effect, for example, on the comprehension of the Miranda warning: "... it is highly unlikely that an LEP suspect with limited education and poor literacy—from a rural or otherwise isolated background—would be able to understand the Miranda text" (2012: 459).

Spanish speakers' difficulty in understanding the language used in court can be explained, then, by their lack of formal education, specialized education, and interaction in the judicial speech community. Hale et al. explain that choosing among registers to use in each situation is only possible for expert language users who have mastered multiple registers (2013). The correlation between literacy, reading, and vocabulary richness and comprehension has long been established (Sternberg et al. 1983, Shen 2013, Fang et al. 2006, Rose 1999, Cazden et al. 1981), as has been the need to learn, develop special competencies, and interact with specific speech communities to access and use specialized registers (Johnson 2009, Sánchez Muñoz 2012). Rose also explains that the mastery of professional discourses requires a prior mastery of the "recontextualized discourses of schooling ... from early primary to senior secondary school" (1999: 224). Furthermore, U.S. Spanish speakers have not developed the registers required to communicate using academic, formal, or professional styles (Sánchez Muñoz 2012), and the linguistic features found in the U.S. Spanish variety are consistent with features of informal registers, such as code switching, borrowings, and colloquialisms (Otheguy 1989, Silva-Corvalán 1994, Valdés and Geoffrion-Vinci 1998) (see chapter 4).

As immigrants from civil-system countries, Spanish speakers also lack enough familiarity with the U.S. common-law system and the different proceedings, either from direct experience, school, or the media (Moore 1999: 25, 167, Demuth 2003, Palerm et al. 1999). The effects of this lack of exposure were also reported by nine attorneys interviewed both in the main study and in the pilot study, interpreters interviewed in the main study, and interpreters from focus groups. Among the attorneys interviewed in the main study, for example, P6 referred to Spanish speakers as "clueless," and P8 to "zero familiarity." Going through a deposition, for example, was described by P8 as a traumatic experience that hinders comprehension and leads to deponents concealing

non-comprehension, and equated by P6 to a gynecological exam or delivering a baby. P8 also explained how attorneys take comprehension for granted in a system that "doesn't work for non-native speakers without a high educational level." From the interpreters interviewed in the main study, P5 also reported on a situation requiring interpreter's intervention to prevent a Spanish speaker from being declared incompetent because he was unable to answer questions about the legal actors and their roles. This lack of familiarity was also discussed in FG 1 by P9, referring to interpreters performing comparative law (see chapter 5):

> I also believe that we have a big problem because we are interpreting in California, United States, under the penal code of the U.S. But we are interpreting for Spanish speakers that most of them grew up and lived in Mexico, Guatemala, Honduras, that had followed a complete different penal code and system. I mean, in Mexico you are guilty until proven innocent. In here, you are innocent until proven guilty. So when I interpret, many times in court when the judges ask an arraignment question, the judge goes, "And how do you plead to the charges?" and then the defendant looks at you and says, "So I can just say not guilty?" "Of course!" "Really? Not guilty, that means you are not guilty and that's it, I'm going home?" "No, no, wait a minute. Now we have to go through the process of trial." "What do you mean trial? I already said not guilty" and he put not guilty! So those are concepts that are completely different. So I mean, we are talking of completely different systems, so we can only, I think, interpret to the extent that we are kind of like transforming an American Penal Code... (P9)

The defendant's lack of familiarity with the system might lead him to plead one way or another without being aware of the consequences of such a plea, for example. The lack of exposure to the U.S. legal system and to legal language means Spanish speakers might not have enough prior and specialized knowledge to understand the consequences of their actions. This lack of knowledge would also prevent them from identifying and interpreting (understanding) new concepts because they cannot be tied to any previous knowledge, or schemata. Chapter 5 described how all accounts of communication and comprehension established that prior knowledge is the sine qua non of understanding.

Participants in FG 1 also discussed frequent cases of interlingual asymmetry of cognates, that is, cognates having different levels of use or formality in different languages. Lexical classification based on register class membership is not the same across languages, and there is, so far, no "register dictionary" that would assign levels of formality or intimacy to each word and for each language. The reason for not using

next, or *see*, however, is not articulated in the code, particularly when the translation into Spanish has no effect on jurors' perception. In summary, the lack of formal and specialized education, interaction in specialized speech communities, and exposure to the U.S. legal system, would contribute to Spanish speakers' non-comprehension. Compliance with this norm, therefore, would imply not "making it easier" to understand or promote the effective communication as provided in the code.

4. Register should not be altered to make it more "socially acceptable"

As in the previous section, the language in the code would imply that the register used might be "socially unacceptable." Sociocultural traits affecting comprehension as reported by all participants and supported by the literature (see chapter 2) include issues of respect for authority, indirectness, low assertiveness and involvement, a desire to explain and cooperate, fear, intimidation, anxiety, all of which are also consistent with traits of collectivist high-context cultures with high power distance and strong uncertainty avoidance, where "citizen protest should be repressed" (Hofstede et al. 2005: 180). In high-context systems, indirect, ambiguous and non-confrontational styles are preferred (Hammera et al. 2002: 555). These factors lead attorneys to perceive Spanish speakers' answers as non-responsive, usually loaded with much more information than requested, "volunteering" information, or a tendency to want to "tell a story." Attorneys also reported, for example, that English-speaking clients ask more questions, provide more feedback, and show more involvement and assertiveness, while Spanish-speaking clients' mind appears to wander off. This desire to cooperate and provide more information than requested is problematic, as Spanish speakers may inadvertently waive their rights by volunteering information at the wrong place or the wrong time (P9). English speakers' conversational style, on the other hand, is itemized in Grice's maxims: sincerity, brevity, and relevance (chapter 5). When and how to flout these maxims depends on culturally specific and relative norms (Silva-Corvalán 2001: 197; Alexieva 1997: 228), as other cultures may favor different values and emphasize one maxim at the expense of others. While some authors claim that Grice's maxims are universal, language-specific rhetoric styles, culture-specific values, and discourse styles, among other factors, seem to imply the opposite. The relevance and quantity maxims, for example, create a frequent clash during judicial proceedings with non-English speakers, as reported by several participants, who mentioned frequent non-responsive and long answers when the opposite is expected and requested. As described by

Montaño-Harmon (1991), English speakers and Spanish speakers use very different conversational styles that vary in terms of sentence length, language elaboration, prosodic features, directness, and topic deviation, and basically in how they say what they mean, and how they mean what they say. During testimony, the prosecutors' duty is to extract as much damaging information from the witness as possible, so they may use conversational resources to get witnesses to say more than they should. The interpreter is caught in the middle, knowing that speakers' inability to interpret each other's contextualization cues and conversational styles might cause misunderstandings. When witnesses are prepared by their own attorneys to testify, they are told that the proceeding is not a social conversation, and that they should answer only *yes* or *no* and not volunteer information. In most cases, this is impossible for Spanish speakers because they struggle to respect the attorney's request not to violate the cooperative principle and the maxims of quantity and quality. The maxims of manner and relevance also may cause difficulties when Spanish speakers consider certain subjects taboo or very private, such as sex, bodily functions, or family matters (Palerm et al. 1999, HRSA 2001, among others) (see chapter 2). Not disclosing information about private matters might be understood by attorneys as lack of cooperation. It could be concluded, as pointed out by Charrow, that the cooperative principle described by Grice works better as a way of showing the reasons legal language is often not conducive to communication. She proposes that instead of considering these instances as violations, they should be considered signs of an *uncooperative principle*: "the use of language to *constrain* others from doing certain things, to *protect* people, information, or things, and to *penalize* others for violating those constraints and protections" (emphasis in original) (1982: 98). Since what to say and how to say it are fundamental aspects whose variability across cultures causes problems in communication (Tannen 1984, Gumperz 1995), conversational styles could be another factor hindering comprehension, and the same applies to other contextualization cues described in chapter 5. Since contextualization cues are part of the communication context and contribute to constructing meaning, the inability to interpret these cues correctly would mean that part of the message cannot be decoded. This is exemplified by attorneys' answers to question 2 in the main study, and also by attorneys' answers in the pilot study interviews. Regarding the differences in the way they communicate with English speakers and Spanish speakers, all English-Spanish bilingual attorneys—who have a comparatively stronger membership in Spanish speakers' speech community—reported

obstacles attributable to clients' low education and low comprehension, leading attorneys to use simple language and cultural examples. On the other hand, except for one participant avoiding slang or colloquialisms, the only difference reported by monolingual English-speaking attorneys was an added instruction for the client to depend only on the interpreter's words. For this group, communication problems are a result of lack of education and not language, and four out of the five monolingual participants reported communicating with English-speaking clients and Spanish-speaking clients the same way. From the pilot study (all monolingual English speakers), aside from one participant's indication that the volume used might be louder, all participants claimed to communicate the same way with English speakers and Spanish speakers except "when interpreters suggest I may be using difficult words or syntax" (P2) or when being asked to slow down (P3). This difference between the two groups of attorneys reflects their different access to contextualization cues used by non-English speakers. In summary, the sociocultural cues that would indicate non-comprehension and that might change the literal meaning of the message might not be interpreted by non-members of the speech community, while the interpreter might be the only one able to do so. Complying with this norm, not adapting the message to the sociocultural constraints of the target receiver, or not conveying the sociocultural cues from the source message, then, would mean that the messages might arrive with different (and incongruent) literal and contextual meanings.

5. Interpreters should not intervene to say that the witness will not understand the question or evaluate or give opinions on witnesses' comprehension abilities. When a witness does not understand, that witness (or an attorney) is responsible for saying so

All interpreters interviewed both in the main and the pilot study found that at times the register may not be the most appropriate for the Spanish speaker to understand, and showed awareness of non-comprehension issues as a consequence of the high register of legal language. It is also relevant that two participants stated that attorneys or judges would not know how to make language easier for the client to understand, being limited to the vocabulary they learned in law school. Participants in FG 1 also reported that attorneys do not always seem to show awareness of the gap between the language register and comprehension, despite Spanish speakers indicating a low educational attainment level:

> The question that I really don't understand is "How many years of education did you finish?" That's a key question and it comes within the first five minutes of a deposition. Most of the people that I'm interpreting for are gonna say, "Oh I didn't go to school," or "Sixth grade in Mexico," "Third grade in Mexico," "I don't know how to read or write." I mean, that's a very common response when you are dealing with... and after that the attorney continues asking these questions that are like, incomprehensible, that I look at him and I'm like, "Ok, didn't he just tell you that he didn't go to school? Are you fucking kidding me or what?" (P9)

Regarding the possibility of achieving equal footing, participants in FG 1 believed that the statement "To place non-English speaking participants in legal proceedings on an equal footing with those who understand English" (CAJC 2013a: 3) should include "[those who understand English]... at their same level or register" (P3) and it would only be achieved by bringing "both worlds together" (P1). Furthermore, P4 added, "I think many times they are not on an equal footing regardless of how good the interpreter is, because they don't all necessarily understand everything we're saying." One of the reasons for incomplete comprehension discussed in this group was the lack of parity of concepts, or terms that may belong to a high register in one language but the cognate may belong to a lower register in another, and vice versa, as the case of *subsequently* above in 3. The lack of comprehension as a consequence of unfamiliarity with the legal register and system was also discussed by participants in FG 1:

> Well, there are concepts in court like, "Do you waive your right to a preliminary hearing?" I mean, who understands that? And especially when the judges are going, "You know, you have the right to a preliminary hearing to be set in ten days from the day that you were arraigned, now if you waive you give up your right to that preliminary hearing..." and here I am [fast] "Usted tiene el derecho a una audiencia preliminar en diez días del día que lo instruimos de cargos y si usted quiere renunciar al derecho..." Who understands that? Well, I leave it exactly the same and the man's face is like uhm, and the attorney says "say yes" and they say "yes." (P9)

> Lately I found myself in court, more and more frustrated, wondering why there isn't a movement amongst judges and attorneys to make the language simple for everyone to understand, because I see a lot of English-speaking defendants and I can see that they have no idea what's going on. I'm like, can you not see that the words that you are using are completely incomprehensible to these people? (P7)

As described above, interpreters might be the only ones who can identify non-comprehension because they are members of or have access to the same speech community as Spanish speakers, and are therefore able to identify contextualization

cues that convey non-comprehension the same way any person would be able to tell when the other in the conversation is not understanding. Furthermore, the code states that the interpreter is there for "the defendant to understand the proceedings" (CAJC 2013a: 28), so this represents a conflict of requirements for the interpreter whose goal is to comply with both. This conflict was also reported by interpreters in the main study in terms of leaving a "bad taste" in their mouth (P2). In summary, interpreters and attorneys are consistently aware of Spanish speakers' non-comprehension, and this is also reported in the literature.

This norm again places on the Spanish speaker (or an attorney) all responsibility for articulating non-comprehension, and prevents the interpreter from intervening to warn attorneys that this might be happening. Respect for authority, intimidation, and fear, mostly because of the defendant's immigration status or attributed to their sociocultural traits, have an important influence in this context because they lead Spanish speakers to hide non-comprehension, claim they understand when they do not, or even agree with statements even if they don't believe them to be true, as expressed by P14 in the main study. Not only the interpreters and attorneys interviewed, but also the literature, including *Fundamentals of Court Interpretation*, explain that Spanish speakers do not commonly state that they do not understand, and this phenomenon even has a name: "gratuitous acquiescence" or "gratuitous concurrence" (Berk Seligson 2009: 104, Dueñas González et al. 2012: 195, Buys et al. 2010: 471). Acknowledging non-comprehension in a defendant whose culture prevents him from speaking up, and at the same time not being able to alert the other speakers in order to comply with the comprehension requirement, represents the same ethical conflict for the interpreter as described above. Should the interpreter comply with the section of the code that prevents intervention, or should the interpreter comply with other sections in the code that assign interpreters the duty of facilitating comprehension? Compliance with this norm, then, might not be conducive to effective communication between the speakers. As stated above, interpreters' membership in Spanish speakers' speech communities allows them to notice when speakers are not understanding, an assessment that would probably not be available for non-Spanish speakers (Roy 1999: 6). As interpreters realize a witness or defendant might not be understanding, they are precluded from alerting attorneys or judges and therefore precluded from facilitating communication between speakers. Interpreters and attorneys' observations of non-comprehension will be further discussed in the next section on findings about observed non-comprehension.

6. Register is maintained so that jurors can evaluate witnesses' sophistication, intelligence, and credibility based on the interpreter's choice of words, style, and tone, the same way they would if there were no interpreter present

This norm assumes that the only difference between English and Spanish speakers is the language, and that English-speaking jurors will be able to evaluate non-English speakers' sophistication, intelligence, and credibility based on interpreters' renditions. The influence of interpreters' decisions on jurors' evaluation has been extensively reported in studies by Berk-Seligson (1990) and Hale (2004), among others. This norm also ignores contextualization cues, conversational styles, and other factors that are culture bound and not readily interpretable by members of different speech communities. Examples abound in the literature, from different interpretations of a witness' gaze to indirectness. The speech, linguistic, sociocultural, and contextual markers that denote credibility, intelligence, competence, and politeness are culture and language specific, and in many if not most cases impossible to translate without additional comments to explain how speakers mean what they say (see chapter 5). Furthermore, interactional norms, demeanors, and verbal and non-verbal expressions of sincerity, remorse, and contrition also vary across cultures and speech communities (Fought 2006, Martin et al. 2012, Cole et al. 1997). The code also states that the interpreter is there "to enable the court to understand all non-English speakers" (CAJC 2013a: 28), so when interpreters see that Spanish speakers' discourse markers or demeanor is understood by English speakers in a way that was not intended and are not able to intervene, this represents the same difficulty described above for interpreters, who are again caught between conflicting norms and purposes.

Jurors' evaluation of witnesses is also the only reason provided in the code for maintaining the original register, and it only involves interpreting into English. Although this is the only reason provided in the code, interpreters offered many more reasons for not adjusting the register. According to interpreters interviewed in the main study, the original register must be maintained when interpreting from Spanish into English: to allow the jury and others to get an accurate picture of the defendant or witness; because the defendant or witness must sound as though speaking at his same level of language (in terms of origin, education and sophistication); because it is the register used by the court and attorneys, the one they understand and feel most comfortable with; and because it is the language of the record. Register adjustment was

equated with changing the real meaning, embellishing a word, and presenting something that doesn't exist. When interpreting from English into Spanish, the original register must be maintained because: Spanish speakers must hear the same language variety as an English speaker would; be provided equal footing; experience fairness; perceive themselves as being on the same playing field, at the same level, and undergoing the same experience as English speakers, because English speakers are not afforded the luxury of explanations. Maintaining the register is also viewed as essential because: it's the only way to go; not doing so would be a violation of the code of ethics and would mean interfering with legal strategy if non-comprehension was intended; some jurors may be bilingual and understand; interpreters are transparent; interpreters don't exist; and "just because you have to" (P7). Register adjustment was equated with explaining, dumbing down the language, changing the meaning, being seen as an advocate, interceding, assisting in understanding, leading to feelings of guilt about looking for "the easiest." Other reasons include not wanting to appear argumentative or difficult, and not wanting the interpreter's own opinions or feelings to be part of the record. Interpreters interviewed in the pilot study offered reasons related to jurors' perception of defendants, and equated register adjustment with explaining. Interpreters in FG 1 believed that modifying the original register would mean changing the author of the source message, becoming the spokesperson for the Spanish speaker and therefore stepping out of the conduit role, and maintaining the register was equated with staying true to the source and the message, respecting the decorum of the venue, and not diminishing institutional value, or the "ceremonial quality in language" (P8):

> What you're communicating is the institution which needs to be delivered at a particular level. Other than, if you do not do that then the institution diminishes in value... so there's more than just the words; there's an entire structure and a symbolic structure and... all of that. (P8)

This rather extensive list of reasons and equated meanings reflects, among other things, interpreters' lack of information regarding language register, and their conflict in trying to comply with contradicting norms. These reasons could be organized in five main categories based on different inferential sources: the code, the institutional framework, perceived role constraints, personal feelings, and misconceptions. Reasons derived from the code include jurors' perception of witnesses, providing an equal footing, not facilitating comprehension, staying true to the source message, and not

interfering with legal strategy (the last two related to the verbatim requirement). Reasons derived from the institutional framework include register being the language of the court or the record, respecting the decorum of the venue, and not diminishing institutional value or the ceremonial quality in language. Perceived role constraints lead interpreters to maintain the original register because it's the only way to go, it would be a violation of the code of ethics, interpreters are transparent, they do not exist, it would mean stepping out of the conduit role, or just because they have to. Personal reasons include fear of repercussions, of third parties listening and reporting interpreters, being seen as an advocate, appearing argumentative or difficult, not wanting the record to reflect the interpreter's feelings or opinions, and feelings of guilt about looking for "the easiest." This risk relates to criticism by colleagues and challenge from other legal actors, which was articulated by several participants, such as P8 in the main study:

> If you start questioning what you're doing and you start exposing all these doubts you have within yourself, they start looking at you like a persona non grata or traitor, or something, like you're going against the system. Well, I mean, I think most interpreters are afraid of retaliation. (P8)

Lastly, misconceptions include the belief that modifying the register would mean changing the real meaning, embellishing, explaining, dumbing down the language, changing the author's message, and that maintaining the original register would actually place English speakers and Spanish speakers on the same level, since the opposite was articulated by most interpreters, such as P9: "More than likely he's not gonna understand half the crap you're saying if you maintain the register." In summary, although interpreters have incorporated the reasons stated in the code for not adjusting the register, they also show awareness of the non-comprehension that results from following this norm with Spanish speakers who cannot understand this language variety. Although they articulated the official reasons, they also articulated disagreement with this norm and fear of being singled out or reported. Again in this case, the code requires compliance with contradictory norms that might hinder comprehension, mainly due to the conservation of the legal register and to interpreters' non-intervention.

10.2. Findings about observed non-comprehension

In an article describing the redrafting of jury instructions, Tiersma (1993) quotes a renowned California jurist, Roger Traynor, who wrote that "In the absence of definitive studies to the contrary, we must assume that juries for the most part understand and faithfully follow instructions" (1970: 73-74). As described in chapter 5, research showed that this was not the case. So far the court interpreting system has been functioning without major overt debate except for claims describing the narrowness of the interpreter's role and the consequences of stepping out of it. Extensive research on court interpreting has focused mainly on the dialogic aspect of judicial proceedings, and on the way interpreters' decisions affect jurors' perception. Extensive research has also been undertaken on the comprehension of (English) legal language by English speakers, and efforts by the Plain Language movement, plain language legislation, and Title VI have made important progress, mostly in the written word and the providing of interpreters. Applying Traynor's view to this context, the equal footing premise assumes that non-English speakers are receiving the same information as English speakers, probably because so far there has not been evidence to the contrary. There is enough evidence, however, to suspect that this is not so. Findings by Dueñas González (1977) and Moore et al. (1999) regarding educational requirements to understand legal language, findings by Sánchez Muñoz (2007) and Valdés et al. (1998) regarding the registers accessible to U.S. Spanish speakers, data from the U.S. Census Bureau and the literature regarding educational attainment levels for U.S. Spanish speakers, their lack of exposure to the U.S. legal system due to their immigrant status, and relevant literature describing how legal language cannot be learned without specialized education and socialization into a specific speech community (see chapter 4), for example, imply that Spanish speakers might not have the same tools to understand or apply the information they receive. Spanish speakers' comprehension of legal language in judicial proceedings is not only a matter of fairness, it is a matter of law.

The listening comprehension test conducted in this research study was designed to test this implied claim of equal access to language by comparing the comprehension levels achieved by English speakers and Spanish speakers, and exploring the possibility of enhancing Spanish speakers' comprehension by simplifying the language register. The test results indicate that while the average level of comprehension of English speakers was 59 percent, the first group of Spanish speakers scored only 3 percent, and

the second group of Spanish speakers scored 37 percent. While the English speakers' scores were not ideal, they were nearly twenty times as high as the scores of the first group of Spanish speakers (equal register), and much higher than those of the second group of Spanish speakers (simplified register). Based on these results, the equal footing assumption is no longer tenable.

This test showed marked differences between English speakers' and Spanish speakers' comprehension, in many regards. In addition to the final results above, a different reading shows the number of answers that scored 0 and 2 points among groups:

Table 15. Perfect score vs. zero-score answers

	0 points	2 points
English speakers	14 (28%)	23 (46%)
Spanish speakers group 1	48 (96%)	1 (2%)
Spanish speakers group 2	24 (48%)	12 (24%)

This table shows that even after register simplification, Spanish speakers had only about half the number of perfect-score answers as English speakers, in other words, only 24 percent of answers were indicative of full comprehension. Incorrect answers provided by English speakers and Spanish speakers also showed significant differences in their content. None of the answers provided by English speakers were irrelevant or incoherent, and none showed personal involvement. The answers reflected a good knowledge of legal language and of the legal system, and many participants were able to convey legal meaning using standard language. Participant 2 in question 3, for example, explained the meaning of circumstantial evidence in these terms: "If this then that, it's an inference, so if this is true then that is true, it's not direct evidence, it's supposing that this is true then we can assume that that is true." Non-perfect scores among English speakers were due to answers that were incomplete, that resembled the original sentence but were non-responsive, that seemed to grasp the idea but did not convey the exact meaning, or that incorporated outside legal words or concepts and did not answer the question asked. For example, P10 in question 5 attempted to state why the defendant's explanation was not convincing: "Because it doesn't rise to the level of credibility required by the courts." While it did not answer the question, it did show perfect legal language use.

Besides the low levels of comprehension exhibited by Spanish speakers, what was also significant was the profound lack of relevance, sense, coherence, and even grammar in their answers. These can be grouped in three categories: correct and partially correct answers, irrelevant and/or incoherent answers, and no answer. Participants who did not provide an answer either apologized for not being educated or articulated non-comprehension ("I don't know," "I don't understand"), and irrelevant and/or incoherent answers contained a number of phenomena that deserve attention: words replaced by phonologically similar real words, words replaced by phonologically similar non-words, incorporation of words or concepts from previous sentences, incorporation of unrelated words and concepts, incorporation of personal beliefs and values, and answers based on personal opinion instead of the content of the sentence. These non-responsive answers were provided with utmost conviction and certainty, at times even in a louder tone. A striking example of an irrelevant, unintelligible, and ungrammatical answer was provided by P27 in Q3, from the simplified-register group: "Preguntas son respuestas verdaderas" (*Questions are true answers).* Except for the replacement of two words by phonetically similar words, none of this was observed among English-speaking participants. Most of these findings were also present in the pilot study. Also as in the pilot study, most English speakers asked for repetitions and complained about not getting them, but almost none of the Spanish speakers did. Furthermore, in both studies there was a marked difference in their reactions to the sentences. While English speakers were noticeably displeased and irritated when they were not able to produce a correct answer and expressed it in terms of "This sentence is not correct" or "Nobody could understand this," Spanish speakers would either express embarrassment and apologize, or provide an irrelevant answer.

As described in chapter 5, discourse comprehension follows a sequence from the phonetic identification of the input to its integration into a text base. The first step in word recognition is identifying the phonemes, which leads to word identification, and then to word interpretation. In brief, the word is recognized after the acoustic information is mapped onto the phonological, morphological, syntactic, and semantic information in the lexicon, and a semantic field is activated. Once the word has been recognized and its information is found to be consistent with the semantic information from the lexicon, the word can be interpreted. When the word interpretation fits in its context, the word is understood (Tabossi 1991). Understanding, then, involves a combination of bottom-up and top-down processes that require information from long-

term memory (lexicon, schemata, world knowledge) and from the context. Almost every word recognition model agrees that "A word is recognized in the context of similar sounding words in the memory" (Luce et al. 1998). What all of this means is very simple: listeners cannot recognize words they do not know. Since the lexicon does not contain information to match the input, there is no semantic or syntactic representation; since there is no world knowledge, there is no integration.

The listening comprehension test yielded results related to the comprehension of sentences, but did not explain why the levels were so low. The feedback received in focus group 3, on the other hand, allowed a view that goes beyond the results of the test. Although the group met for only one hour and the task was intense, it was possible to gain valuable information, for example, about (most of) the words that hindered comprehension of the sentences. These words were *inferir* (to infer), *preponderancia* (preponderance), *fuerza de convicción* (convincing force), *alegar* (allege), *divulgar* (disclose), *en cuanto a* (regarding), *partes* (parties), *corroborada* (corroborated), *indirecta* (circumstantial/indirect), and *convincente* (convincing). Furthermore, two phrases were modified: *de determinarse* to *si se determina* (*if found* to if *it is found*), and *la existencia* to *que existe* (*the existence* to *that there exists*). The reasons for these difficulties, however, were not the same for all the words.

Some of these words were flagged as unknown by participants: *preponderancia*, *convicción, convincente,* and *corroborada.* Other categories of words included terms that were familiar to participants, but not with the meanings used in the legal context. In consequence, they understood them to mean something else, expressed in terms of "For us it means..." This was the case of *convicción*, which some related to "convict"; *divulgar*, which for participants meant "slandering," "gossip," or "washing dirty linen in public"; *partes*, which required the addition of "involved in the case" because in Spanish it also means "parts" and participants did not know who the parties were; and *indirecta*, which for participants meant a hint or insinuation, as described in chapter 9. The words *alegar* and *en cuanto a* were not initially flagged by participants, but discussed at my request when trying to determine why the sentence was still not understood. In this discussion, participants stated that for them *alegar* meant "fighting" or "arguing," and they were not familiar with the meaning of *en cuanto a*. The semantic fields activated for these terms, then, corresponded to the meanings known by participants and not to the legal or contextual meanings necessary to make sense of the sentence. Some of these terms were not flagged by participants in FG 2 while

simplifying the sentences for the test, as they assumed they would be understood in the listening comprehension test: *corroborada, convincente,* and of course *parties*. Participants in FG 3 disagreed.

One of the phenomena observed in the listening comprehension test was the replacement of terms by phonologically similar words, both by English speakers and Spanish speakers. Among English speakers, P5 replaced *before* with *because*, and P6 replaced *force* with *form*, in both cases rendering an intelligible sentence that could make sense in the context. Among Spanish speakers, P27 replaced *corroborada* with *elaborada* (developed, manufactured, skillful, well thought out) in question 5. In the pilot study, P3 replaced *preponderancia* with *prepondera* (preponderates), a real word in Spanish but unknown to the participant; and P4 replaced it with *propone* (proposes), rendering an unrelated sentence that would not fit in the context due to the activation of a different semantic field. This phenomenon is explained by McClelland et al., who show that in the competition among possible candidates, "if no word matches perfectly, a word that provides a close fit to the phoneme sequence can eventually win out over words that provide less adequate matches" (1986: 56). Since there was no representation for *preponderancia* in the lexicon, the closest fits were *prepondera* and *propone*, as it also happened with *corroborada* and *elaborada*.

A similar phenomenon involved the replacement of words with phonetically similar non-words, which was observed only among Spanish speakers. Such is the case of the words *corroborada* (corroborated) and *preponderancia* (preponderance). The word *corroborada* was used in the answer as corraborada* (P26), and coloborando* (P21). The word *preponderancia* in question 2 of the first group yielded the largest variety of non-words: *prepolderancia** (P18), *prepodancia** (P15), *proderancia** (P19) and *pronderancia** (P16). This word could not be identified, and in these cases the responses included phonetically similar non-words. This is explained by Felty et al.: "when listeners made non-word responses, the errors reflected responses based on bottom-up, sensory-based processes and hence shared the overall acoustic-phonetic structure of the target word" (2013). This is the word that caused the most difficulty in all groups. During the register simplification task in FG 2, participants commented on this word:

- I am not concerned about them not understanding the term *preponderancia* (preponderance) because that is the reason it is explained, the idea is that it is

not understood in English either and that is why an explanation is given, the problem is if they still don't understand when you finish giving the definition (P2)

- But of course, you find a way to say it, anyone understands *the evidence that has more weight* (P3)
- But if we had a word for *preponderance* that everyone understood, we wouldn't have to explain anything, because there is no word that can be understood in English and in Spanish (P2)

The sentence containing this word explained the meaning of *preponderance of the evidence*, and the comprehension question asked what preponderance of the evidence was. This word, even when it was not understood and even in its non-word form, elicited some attempts at a definition, involving unrelated legal terms not included in the sentence:

> Ah pues la palabra prepolderancia* para mí viene siendo como -como que -o sea que me están -cómo le dijera la palabra... que me están acusando o sea me están haciendo algo... que no es correcto con este... más... cómo le dijera usted... no se me viene a la mente cómo es la palabra que usamos nosotros... Algo como como que están -como que me quieren como - cómo es la palabra -decirle que me están poniendo en el mismo lugar, con -con -cómo le dicen la palabra... alevosía (*Ah well the word prepolderance* for me would be like -like -I mean, they're -what's the word I could use here... that they are accusing me I mean they are doing something to me... that is not correct with er... now how can I say this... it doesn't come to mind what the word is that we use... Something like, like they are -like they want me to, like -what is the word -tell you that they are putting me in the same place, with -with -what is the word... malice aforethought).* (P18)

Another phenomenon observed was the incorporation of words from previous sentences in the answers, such as P28 in question 3, regarding circumstantial evidence: "¿La que tiene más peso?" (*The one that has more weight?)*, which is the answer corresponding to sentence 2 about preponderance. This was also observed in FG 3, when I asked who the *parties* were in question 5:

> Las partes es por ejemplo una pregunta antes dijimos un abogado le dijo a otro abogado información confidencial del caso del acusado, entonces esta pregunta viene a ser el seguimiento de eso digamos, por ejemplo los testigos no supieron si este abogado le pasó información al otro abogado, si es cierto o no es cierto, yo así es como lo tomé *(The parties is for example a question earlier we said an attorney told the other attorney confidential information about the defendant's case, then this question is like the follow-up of that, say, for example the witnesses didn't know if this attorney gave information to the other attorney, if it's true or not true, that is the way I took it).* (P5)

The incorporation of words not found in the context and words from other sentences could be understood as an attempt at establishing cohesion and resolving inferences to construct meaning. Furthermore, the frequency of unknown words makes it difficult to use contextual information to establish coherence. Without contextual information, corresponding schemata, or world knowledge, no proposition can be identified. As described in chapter 5, every account of comprehension shows that it is not achievable without knowledge of the world, of specific domains, and of language use in context. Since Spanish speakers lack all of these, non-comprehension is highly predictable.

Lastly, participants answered questions based on personal opinion and not on the content of the sentence. This happened mostly in the first question, which was a part of the jury instructions that explained what to do when a witness is willfully false. Although participants were informed that this instruction was addressed to jurors, and were also asked to base the response only on the sentence, the question "what should *you* do when...?" elicited several personal opinions instead. This may have been due to the fact that they have never served in juries and might not be familiar with the role or the process, but the first question was not the only one to elicit personal involvement. The most representative example was provided by P14, who gave the same unrelated answer twice to two consecutive questions: "Pues que a veces no es verdad lo que ellos nos dicen pero es por no tener papeles nos echamos nosotros la culpa" (*Well, it's that sometimes what they tell us is not true but it's because of not having papers we blame ourselves)* in Q4, and *"*Porque a veces decimos y a veces no -no creen lo que uno haga y a veces por medio de no tener documentos nos echamos la culpa aunque no sea verdad" (*Because sometimes we say and sometimes they don't -don't believe what one does and sometimes through not having documents we blame ourselves even if it's not true)* in Q5. This could be interpreted as "because we don't have legal documents, sometimes we take the blame even when what they tell us is not true." It could be argued that this participant found a safe space to share what is otherwise not visible to others but has been extensively documented in the literature: assenting and agreeing due to fear of deportation (see chapter 2).

These reactions were shared with the psychologists consulted for data analysis, both of whom work with this population and one of whom is also an attorney. They explained that unlike Americans, who learn in school to question and investigate,

Spanish speakers are taught to respect, obey, and not to question or doubt. They also explained that it is very difficult for Spanish speakers to say no and very embarrassing for them to appear uneducated, and offered as an example that many Spanish speakers would give directions if asked, even if the location were unknown to them. Regarding the incorporation of personal opinions and feelings in the answers, the consultants explained that since participants lack referents in their world of formal knowledge, they can only refer to the only knowledge they have, which is their own. This phenomenon seems to relate to the difference between people who have received formal education and those who have not, and the ability to understand abstract concepts or not. This leads those who do not understand to answer from the only knowledge they can refer to from their own experience. This experience sustains their individual knowledge: we must tell the truth, we must report those who do not (P11, P12, P13, for example), almost as a mandate or as a matter of personal ethics, which seems consistent across the answers in the first group of Spanish speakers (significantly to question 1), and evidenced in the simplicity of their information processing. According to the consultants, whether a speaker gives an authoritative irrelevant answer or articulates non-comprehension with embarrassment depends on whether fear or intimidation prevail over embarrassment or pride. When the sentence is simplified it becomes more direct and targets a possible area of comprehension, which at the same time triggers the ability to respond in a more coherent manner. Evidence of this reference to familiar contexts can be observed in question 3 about circumstantial evidence, which was translated as *pruebas indirectas*, and which Spanish speakers related to their only referent: the noun *indirecta*. As it happened in FG 3 with Spanish speakers, several participants attempted to give an unrelated definition of an *indirecta* in question 3, such as Participant 18 and Participant 22. Another important example of bringing the personal into the answers were the answers provided by Participant 14 to questions 4 and 5, related to the consequences of being undocumented. Lexical items and meanings used to construct answers were also taken from previous sentences as newly acquired knowledge in play, such as Participant 10 in question 3, and Participant 28 in question 3. This is exemplified by the final comment from participants in FG 3: "We are learning."

Non-comprehension can be identified in different ways: when participants say they do not understand, when they state they understand but their discourse proves the opposite, and when they do not ask for clarification and still provide an irrelevant

answer. Some of the participants articulated non-comprehension in the listening comprehension test, either instead of providing an answer or after attempting an answer:

Table 16. Non-comprehension articulated

	Instead	After
English speakers	2	1
Spanish speakers group 1	7	5
Spanish speakers group 2	2	1

This table shows that Spanish speakers articulated non-comprehension nine times instead of answering the question. Verbalizing non-comprehension in this context should not be confused with Spanish speakers volunteering they do not understand when there is no question pending. And even so, against these nine times Spanish speakers said they did not understand in lieu of giving an answer, they opted for answering the question 78 times without articulating non-comprehension and without fully understanding the sentence.

Participants in FG 3 expressed their non-comprehension more explicitly because they were openly asked about the words or sentences they did not understand, and it was clear for everyone that it was the purpose of the meeting. Besides mentioning unfamiliar words, participants in FG 3 made some comments about the general difficulty of the language used in the sentences: "Para mí [es claro] porque lo explicó pero no por la oración" *(To me [it is clear] because you explained it but not from the sentence)* (P3), "Si hicieran una pregunta más corta con las palabras usuales o comunes, sí se entendería" *(If they asked a shorter question with the usual or common words, it would be understood)* (P2). Non-comprehension was also articulated by English speakers after the test was completed, as stated above, but in the form of a complaint.

Not asking for a repetition or clarification before answering a question without understanding, which happened both in the listening comprehension test and in FG 3, also shows that participants opted for not verbalizing the fact that they did not understand. In fact, each irrelevant or nonsensical answer in the listening comprehension test is evidence of unarticulated non-comprehension. English speakers, on the other hand, asked for repetitions frequently. From the interpreters interviewed in the main study, only two stated that Spanish speakers might ask for clarification, and

one of them provided an example of a witness asking for clarification and the judge ordering him to stop talking (P5). All attorneys interviewed reported that Spanish-speaking clients fail to ask for clarification or say when do not understand. The reasons offered by attorneys included feelings of embarrassment and intimidation:

> Spanish speakers, the clients that I've been dealing with, they're much more intimidated by the process, much more hesitant to speak up and ask for clarification even when it's apparent that I would not expect them to understand. English speakers tend to just say, "I don't understand, I'm really confused." (P8)

Interpreters in FG 1 also showed agreement regarding Spanish speakers not asking for clarification when they do not understand, and made several comments in this regard: "Rarely have I met a defendant who will be truthful and say *I don't understand*," "Those are very few and far between that are assertive," and "Most of the time, we know, they just say '*Sí sí*, yeah, I do understand.'" This "gratuitous acquiescence" phenomenon was discussed under (7) above.

Non-comprehension was also observed in FG 3 each time participants said they understood but would keep silent when asked to repeat or rephrase the sentences after each simplification process. In some of these cases, I decided to ask about words participants had not flagged as unfamiliar to try to identify the problem, and found there were words they had not understood but failed to say so: *en cuanto a* (regarding), *alegar* (allege), and *divulgar* (disclose), for example. These words (and probably others) were not understood, although participants claimed to understand them.

All attorneys interviewed in the main study reported that Spanish speakers answer questions without understanding: "they just won't make any sense... answer something completely different, off topic" (P8), again interpreted as feelings of embarrassment, politeness, nervousness, pride, or because "they don't wanna be a bother" (P4), "they don't wanna look or feel that they're dumb... they feel that that's a sign of weakness" (P5). All interpreters interviewed in both studies reported that Spanish speakers claim to understand when the opposite is true, in one case even when the defendant did not speak Spanish but another indigenous language. They attribute it to cultural reasons, embarrassment, obligation, fear of angering the judge, receiving a harsher sentence, or "because they don't wanna get beaten... Where they come from, up in Antigua or Guatemala, [if] you don't say yes, you get slapped around. So their concept is yes, of course, whatever you want" (P9). Participants in FG 1 also showed agreement regarding

Spanish speakers not asking for clarification when they do not understand, or claiming they do when they actually do not. Participants in the pilot study also made comments in this regard:

> They rarely say they don't [understand]. For many years, I've wondered why not... they assume it's legal and they're not even supposed to understand, that's my conclusion because I've been wondering why they don't. But I wonder the same thing when I see new interpreters sitting there and I know the guy is sitting at the table not getting a word of it. If you have a kid and you see the look of the first time they hear a word and they go "huh?" well you gotta know like a mother would know what the kid means, you just know when people get it or not. For years I'm waiting for someone to turn around and say "What the hell are they talking about?" 'cause I've never heard it yet. (P4)

Interpreters in FG 1 also showed awareness of Spanish speakers' non-comprehension, mostly due to differences in education levels, legal systems, and cultural traits. All participants in this focus group claimed to be able to tell when non-English speakers do not understand, either by their answers or their body language. All interpreters interviewed both in the pilot and the main study also showed awareness of non-comprehension issues as a consequence of the high register of legal language. Furthermore, all interpreters from all components claimed to be able to tell when Spanish speakers do not understand, and the signs are many and diverse: facial expressions (the look of confusion, despair, looking down or away, a blank expression, staring, and frowning), body language (palpitations, sweating, rubbing hands, yawning, hanging the head, and nodding), and their answers (non-responsive answers, stammering, hesitation, false starts, pauses, longer answers, mumbling, asking more questions, saying "yes" too many times, talking directly to the interpreter, remaining silent, or using a higher register than the one they can handle). All these signs are contextualization cues that are interpretable mostly only by interpreters, because they share the language and either have constant interaction with members of Spanish speakers' speech communities, or are members themselves. This is one of the main reasons interpreters can identify non-comprehension, as summarized by P1: "Because of the way they look at me I realize they do not understand." In fact, mostly everyone can tell when the other in a conversation is not understanding; the opposite would be true only for speakers of other languages or non-members of the speech community. Furthermore, it is very easy for interpreters to know in advance that most Spanish speakers will not understand: interpreters themselves had to undergo years of

specialization after completing (at least) high school in order to understand this register, so without such specialization, non-comprehension can be expected. Nine of the attorneys interviewed also reported that Spanish speakers had difficulty understanding the case and the system, and that they could tell by the non-responsive answers they receive: "When the lawyer tells him, these are the consequences for the conviction of this charge, and they're just like, 'Oh, ok,' it tends to be a sign that they didn't quite understand" (P9).

In summary, these results confirmed that equal footing in terms of comprehension was not achieved in the listening comprehension test or in focus group 3, and also showed how interpreters as well as others who work with Spanish speakers can legitimately tell when Spanish speakers do not understand. Comprehension is fundamental for all three: the Spanish speaker, as a matter of justice; attorneys, to help their clients effectively; and interpreters, because one of the basic reasons for having an interpreter is "to enable the defendant to understand the proceedings" (CAJC 2013a: 8).

10.3. Findings about factors that might enhance comprehension

The first section of this chapter described some of the institutional norms established for court interpreters, and the way these norms might hinder comprehension by non-English speakers. Mainly, this relates to interpreters not being allowed to adjust the legal register to account for Spanish speakers' lack of specialized domain education, and not being able to alert the parties when the Spanish speaker is having difficulty to understand the language. These norms, which are internalized by interpreters almost as rules, were articulated by every interpreter interviewed, such as P5 from the main study, who stated that "There's ways an interpreter should go and rules an interpreter should follow without changing the registers. It's not my place to either use a lower register word or explain what the word means, even if I see the person does not understand." Regarding the norm preventing interpreters from adjusting the register, some participants also expressed their disagreement in certain terms, such as P1: "[Why do you think it's important?] I don't think it is. I do it because I have to"; P5, regarding simplifying the register: "I don't feel comfortable... not because I don't think it shouldn't be done, but because of the repercussions," and regarding interventions: "If it

was acceptable, if it was expected, I would" (P6). Attorneys interviewed also reported that these limitations are "unfortunate" (P5) and unhelpful for understanding (P1).

The first section also described an ethical conflict: on one hand, the role of the interpreter is prescribed as facilitator of communication and of comprehension (CAJC 2013a), and on the other hand, this context involves target-language receivers who cannot fully understand for reasons that were probably not considered when this code was developed. These particular target-language receivers do not have the cognitive, contextual, or world knowledge to understand the high legal register in a way that would allow them to communicate or make decisions based on this knowledge. Despite adherence to these norms, this research found that some interpreters do take the initiative to follow their professional sense instead, such as these participants interviewed in the main study:

> During the whispered part of the trial I do not keep the same register, because it's impractical, because I can't speak that many words by so many people so quickly at that level, because they're not doing it for our benefit. They're not trying to help the interpretation. And also I find the defendant or the witness is very confused by all of the speaking, so I lower the register and I tend to summarize in order to make sure they understand what's happening. (P3)

> So if that means we have to interrupt up to an attorney, even a judge, a prosecutor, whatever, even a witness... And it's up to us, we are the orchestra leaders. We direct, it's not every interpreter who knows that. The more experienced I get, the older I get, the more sure of myself I am in a courtroom, the less hesitant am I to interrupt. (P4)

> I do change the register for the sake of making sure my listener understands. I do it for the defendant... and even at the witness stand. My choice of words does not necessarily change the meaning, nor do I consider it changing the register when I simply use more common terms or a different word to make myself understood. That's the difference between a new interpreter and a seasoned one, you develop a common sense approach to interpreting, it becomes more intuitive. Lastly, the more comfortable you are in the delivery the less you'll be questioned as to your choices. (P6)

Although some experienced interpreters might feel comfortable interrupting or adjusting the language register in all settings, others expressed many reasons for not doing so, as reviewed in the first section. Besides adhering to the norms and the institutional decorum, there are also personal reasons: fear of repercussions, of third parties listening and reporting interpreters, being seen as an advocate, appearing

argumentative or difficult, not wanting the be part of the record, and guilt. All these reasons involve risks, and these risks might carry consequences that interpreters might not be willing to face. However, interpreters are not without resources. This ethical and professional conflict has led interpreters to find opportunities to intervene when the risk is not that high. One way or another, interpreters seem to find strategies to address the gap between the legal register and non-English speakers' comprehension level, in most cases depending on the setting, the record being the main determining factor. The code makes no reference to a different application of norms according to the setting; however, based on interpreters' responses, the setting does seem to play a role. This difference is also acknowledged by some attorneys, such as P6: "you have to distinguish between the interpreter during the deposition and the interpreters during the preparation, 'cause I think their roles are somewhat different." All interpreters interviewed reported that the setting affects their interpreting style, mostly in terms of the strategies they might use to facilitate comprehension and the freedom to step out of the prescribed role, as described by participants in the pilot study: "What you can do or the possibilities of your role are different in an informal or a formal setting because of reality" (P4), and "I'm more at liberty to be an explainer and a clarifier if there is no record being done" (P2). In the main study, except for one participant admitting to simplifying the register and then denying it, all interpreters reported that they simplify the register either in formal settings, informal settings, or both: "I just started taking away the unnecessary words that were convoluted without changing the register of the verb or anything, but I did it because I figured I could have been speaking Chinese and the person was not gonna react so I might as well get him something" (P4, pilot study). The most surprising finding was the diversity of strategies to facilitate comprehension used by interpreters when they feel they are safe, mostly in informal settings, in private meetings, or even in the hallway. These strategies include:

- Simplifying the register
- Intervening to ask attorneys to simplify the register
- Intervening to ask permission to simplify the register
- Intervening to alert attorneys about non-comprehension
- Maintaining the register but adding a few words for clarification
- Clarifying concepts to the non-English speaker outside the room
- Maintaining the register and repeating the message with simplified register
- Warning non-English speakers about the limitations of the interpreter's role

- Advising the non-English speaker before the proceeding to speak up in case of non-comprehension
- Using a slow and louder rendition or body language to indicate to attorneys that the register is too high or that there is no comprehension (eye contact, shrug)

Interpreters' deviation from norms has already been described in the literature (Hale 1997, 2004, Jacobsen 2002, Berk-Seligson 1990, 1999, Rigney 1999, Shlesinger 1991, Morris 1989, among others). Like some of the deviations found in these studies, the deviations found in this study are intentional strategies used to facilitate comprehension. Interpreters make conscious decisions based on personal, ethical, and professional values and attitudes toward established institutional norms, and deviate from them when they feel communication and comprehension will improve by doing so. This shows that although most interpreters interviewed follow the norms in formal settings, informal settings seem to give them the freedom to deviate from these norms to facilitate comprehension when the risk of criticism or challenge is not that high, or to address conflicts between these norms and professional and personal ethics. The following is an example of a frequent conflict faced by interpreters, and the different strategies they might use to address it. This case was described by a participant in focus group 1:

> I disqualified myself at a deposition when the defense attorney didn't allow me to inquire from the witness, and at that point I told the defense attorney that the interpreter wasn't able to continue interpreting, and would have to disqualify herself. So he of course said, "What are you talking about?" And I said "Well, you're not allowing me to inquire from the witness and I'm quite sure that if I just interpret what he's saying I might be mistaken, the interpreter might be mistaken, so I am not able to continue." So he said "Ok fine, inquire from the witness." It was quite obvious to me that, because the gentleman was from Mexico, and he kept referring to his *mano*, I pretty much knew that he was referring to the entire arm, especially when he's pointing to the entire arm throughout the entire deposition so I couldn't just say *mano*, I had to go with *arm*. So, but the reason why I'm saying it is because as soon as I said "My entire arm hurts" or "My right arm hurts" he said "You see? That's why I didn't want you to inquire." And there is a reason behind that, *no le conviene* [it's detrimental for him] because this gentleman has been to many medical appointments where he's been asked by the examiners "What's your problem?" And he said *mano* and they've been concentrating on the *mano*. And right now when the qualified or certified interpreter just said on the record that *mano* actually means *arm*, his claim is valid. (P9)

This interpreter had to choose between interfering with legal strategy, or preventing an injured person from receiving treatment and compensation for his arm. This is a typical conflict of professional vs. personal ethics that interpreters face often. As described in 3.4.2. above, some Spanish speakers often use the term *mano* (hand) to describe the arm, *pie* (foot) to refer to the leg, and *cintura* (waist) to refer to the low back (see chapter 3). To explore this issue, the interview included several questions about the action interpreters might consider appropriate in different circumstances in which a witness would use the term *mano*: while pointing to the arm in plain view; while pointing to the arm only in the interpreter's view; without pointing but with interpreter's knowledge of the case; and without pointing and absent any prior knowledge. Dueñas González et al. state that "When the witness points to a part of his or her body to describe where an injury occurred or where the pain is felt, the interpreter should simply interpret whatever the witness said... and let the other parties see where the witness is pointing" (2012: 1105). The code of ethics states the following in this regard:

> It is up to the attorney—not the interpreter—to describe any physical movement made by the witness so that the transcript will accurately reflect it (for example, by saying, "Let the record reflect that the witness has pointed to her right shoulder")... If the attorney does not notice the gesture or chooses to ignore it, the interpreter should not interject or act as an expert witness except as a last resort and only if the gesture at issue is vital to the testimony. In this case, you may politely inform the judge that nonverbal testimony accompanied the response, or that the witness responded only with a gesture, but do not offer any further information or explanation unless asked to give it by the judge or one of the attorneys. (CAJC 2013a: 11)

However, the findings from this exercise showed the widest array of strategies:

Table 5. Summary results – hand/arm scenarios

	S 1	S 2	S 3	S 4
Interpret *mano* as *hand* with no comment	45%	25%	50%	50%
Interpret *mano* as *hand* with comment about pointing	10%	20%		
Interpret *mano* as *hand* with comment about dual meaning			10%	20%
Interpret *mano* as *arm*	5%	5%	10%	
Request to clarify the term before attempting a translation	20%	10%	20%	20%
Comment about pointing before attempting a translation	10%	30%		
Comment about dual meaning before attempting a translation	10%	10%	10%	10%

Not only in these scenarios but throughout the interviews, the most remarkable finding was the wide diversity of answers and strategies among participants who follow

the same code and comply with the same norms, working with the same population and the same language combination. This diversity may be caused by a combination of many factors, some of which were reviewed in this study. First, since there is no specific education requirement to practice, interpreters may prepare for the exam (and the profession) in many different ways. Some interpreters may attend certification programs, some may receive private individual training, and some may prepare on their own. Even among those who attend interpreting programs, these programs do not follow specific rules regarding content and structure; and although they may be similar, instructors are mostly court interpreters who teach from their own experience and approach. Second, the degree of familiarity with the setting and the judges or attorneys may give interpreters more confidence to do what they believe could or should be done. As expressed by some respondents, if they know the attorney or the judge, or if they are working out of court, they may proceed differently. Third, there are personal differences regarding their individual idea of the interpreter's role, what it entails, and what interpreters can and cannot do, or should or should not do. In other terms, the degree of exposure or involvement interpreters are willing to invest to facilitate comprehension or to get a clear record. Fourth, not all attorneys and judges are thoroughly familiar with the interpreting profession and the interpreter's duties, and in consequence, some venues may be more rigorous or more lenient than others. Fifth, as described above, there are many Spanish varieties at play, including the U.S. Spanish variety. This may lead some interpreters to ask for clarification of unfamiliar terms that may be familiar to others. Lastly, although the code is presented and perceived as a strict set of norms that must be followed, it does leave many decisions in the hands of interpreters, who must use their best judgment to interrupt or not, or make a comment or not; in other words, to be seen or not. As with the hand/arm scenarios described above, other sections in the code leave decisions in the hands of interpreters (CAJC 2013a):

1) Regarding clarifications, although the code provides that interpreters should do their best not to intervene during courtroom proceedings, it also acknowledges interpreters may need at times to clarify a term so the record is accurate. The standard states "For the most part, stepping out of the role of interpreter should be undertaken with great caution ... if communication begins to break down and you feel you can easily resolve the issue ... if it appears that the attorney will be able to clarify the situation through follow-up questions..." Using caution, "feeling" one can solve the issue, and acting (or

not) on a belief that counsel will clarify the issue, all seem to involve and imply personal decisions (p. 4).

2) Regarding repetitions and redundancies, interpreters are expected to translate exactly what was said including repeated words and hesitations, except "in the case of persons who stutter due to a physiological or psychological condition." Is the interpreter qualified to determine if each repetition or redundancy is physiological, psychological, or otherwise? In the case of repetitions used for emphasis, such as the example provided in the code "she was talking and talking," the code provides a) "it is acceptable and may be more idiomatically correct to convey the meaning using a corresponding linguistic device of the target language, such as "she kept on talking," and b) "However, giving a literal interpretation may not be wrong either," concluding with "as is often the case in interpretation work, it comes down to using your best judgment" (p. 5-6).

3) Regarding emotions shown by witnesses or counsel, interpreters should preserve them "through moderate voice modulation," where "moderate" is a subjective term, again, subject to the interpreter's criteria (p. 10).

4) Regarding non-verbal communication, as stated above, interpreters should intervene "as a last resort and only if the gesture at issue is vital to the testimony," leaving this legal decision to the interpreter (p. 11).

5) Regarding misunderstandings, interpreters should not attempt to clarify them unless "communication breaks down and it is apparent from the questions and answers that false assumptions are being made due to cultural or linguistic misunderstandings," concluding again with "be very cautious about intervening in the process." What is apparent depends on individual perception, on which interpreters should base their decision using caution, also based on personal decisions (p. 16).

Attorneys interviewed both in the main and the pilot study also reported using strategies to facilitate comprehension and favoring interpreter interventions to alert them when it is not achieved. Attorneys also mentioned how they cope with the situation: "I go to great lengths to make sure they understand" (P2), "Constantly I'm asking, 'Ok did you understand that? Does it make sense?'" (P3), and "You have to ask them if you feel that they're not understanding, and you have to help them" (P4). Besides using simpler terms, more cultural examples, or repeating instructions several times to make sure non-English speakers understand, attorneys also hope to find in the interpreter an ally to work with as though on a team. Interpreter interventions were characterized by attorneys as positive: a sign of a good interpreter, sensitivity toward the client, a source

of learning, legal integrity, working as a team, and a sign of experience. All attorneys stated that they hope to find an interpreter who would alert them when there are cultural differences, or comprehension or communication problems, and not work like a "robot," "literally," or "automatically." Attorneys interviewed in the pilot study would also welcome interpreters' interventions, as stated by P2: "... there is a duty and it is an affirmative duty to say 'Look, may the interpreter inquire?'... That's I think where an interpreter could have a duty, if you will, to assist" (P2), and attorneys from the main study:

> And actually those are the good interpreters for me. The ones that are able to stop me and say, "Listen I don't think your client is getting it," or "May I explain it in a different way?" And I usually appreciate that, I've learned so much that way. I get caught up in my legalese so I don't know how to bring it down to my client's level, and a good interpreter is able to do that. I know they're not supposed to, unfortunately, but it usually helps me a lot and I've learned a lot from interpreters that do that. (P5)

> If I'm not being clear or it's not coming out right, I would like an interpreter who will say, "You know, you didn't explain it right" or whatever, who would help me clarify. To say that the client is not understanding it doesn't happen very often, not enough. I wish they would do it more. If the interpreter is actually conscientious, I would say, and not just going by the book, sometimes... rarely in the depo[sition] will they say, "They didn't understand the question," but occasionally. I wish they'd work as a team a little bit with me. (P10)

In this sense, attorneys also showed behavior that deviates from the norm, as interpreters' expertise is valued and taken into account particularly to advise them where communication might not be achieved.

Although the average educational level of English speakers is twice as high as that of Spanish speakers, and although English speakers have been exposed to the U.S. legal system, the government has taken further steps to assure English speakers fully understand legal language, such as the redrafting of jury instructions and plain language legislation. Although the simplification of legal language and general legal education is supported by many scholars (Tiersma 1999, Bhatia 1993, Eagleson 1991, Aiken 1960, Hyland 1986, among others), this simplification is mainly addressed to written texts and not to judicial proceedings. In few places other than the courtroom is full comprehension necessary, a context in which, as in a medical examination, the Spanish speaker's life or wellbeing might be at stake. But Spanish speakers cannot be

realistically expected to learn the U.S. legal system, complete 14 years of formal education, and acquire specialized domain terminology in order to access the legal register, nor can judges and attorneys be realistically expected to conduct trials in Spanish, or discuss motions and objections in standard English. In other words, neither side can be expected to adjust to the register of the other side. However, both sides must communicate, this communication must be effective, and the responsibility for this successful communication lies with the interpreter (CAJC 2013a: 28). If comprehension is so paramount to the preservation of justice, it is no wonder interpreters might take matters into their hands and attempt to bridge this gap to fulfill their task in keeping with the skopos of the interaction.

Several strategies seem to come into play when interpreters perceive a conflict between established norms and target constraints, perceived as a conflict of role, norms, and skopoi. While interpreters do their utmost to abide by the norms because they "have to" or because not doing so would mean violating the code, being criticized, being seen as an advocate, interfering with legal strategy or merely because of fear, they do find or create opportunities to simplify the register, warn attorneys when Spanish speakers do not understand, add words for clarification, or simply ask (and receive) permission to adjust the register. In this sense, even if not in plain view, interpreters do behave as the experts who make translation decisions based on target constraints, as suggested by skopos theory. The interpreter does not always make expert decisions due to external impositions and restrictions on the role that are beyond interpreters' control, but it is a definite possibility, one that occurs only when it is allowed, or when circumstances permit. As observed in the results, a new set of ethical norms seems to materialize in a way that contradicts established official norms. This "common sense" approach is not learned and is rarely observed in plain view. If interpreters did not receive any other training or instructions than these established norms, and are expected by authorities and colleagues to abide by them, where do these other norms originate? The motivation seems to arise from a place that lies deeper than professional expectations: from the interpreter anticipating unarticulated expectancy norms, from a perceived incompatibility between established norms and reality, or from the humane feeling of acknowledging the need of the *other*, linked to the perceived and prescribed professional duty of *communicating*. This was expressed by interpreters in terms such as "the point is to be able to communicate... that's what interpreting is all about" (P8). The new requirements to improve language services for LEPs introduced by Title VI afford

the interpreter a broader role to enhance comprehension by non-English speakers, as articulated by the Department of Justice:

> There may be languages which do not have an appropriate direct interpretation of some courtroom or legal terms and the interpreter should be so aware and be able to provide the most appropriate interpretation. The interpreter should likely make the recipient aware of the issue and the interpreter and recipient can then work to develop a consistent and appropriate set of descriptions of these terms in that language that can be used again, when appropriate. (USDJ 2015b)

This requirement, however, has not been incorporated into the code of ethics. This quote was shared with interpreters in focus group 1, who found it liberating and empowering: "I have a comment concerning this order. It almost like, it trumps everything else. It sort of gives the interpreter permission to do what we're supposed to do" (P2), "I'm gonna start reading this order before every freaking deposition" (P7), and "The quotes that you have shared are very revealing to me and actually very liberating as well, because I feel that it's empowering what we are already doing, which is a tendency to want to help people, and both sides, to be understood" (P2). This seems to substantiate the underlying communicative nature of the interpreter's role as prescribed in the code, which finds a way to materialize even when established norms would not seem to facilitate it, or when the verbatim requirement may lead to a breakdown in communication. Based on the results of this study and at least in this particular communicative context, it would seem that established norms are precisely what prevent interpreters from meeting the equal-footing purpose defined within the judicial system.

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COMPREHENSION OF LEGAL DISCOURSE IN INTERPRETER-MEDIATED JUDICIAL PROCEEDINGS
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Chapter 11. Conclusion

According to the code of ethics for court interpreters, the purpose of providing an interpreter during judicial proceedings is to place English speakers and non-English speakers on an equal footing, and facilitating comprehension and communication. The code also requires that interpreters convey both the content and the form of the source message, including the high register of legal language. The literature reviewed on the sociocultural and educational characteristics of Spanish speakers in California, the features of legal language and divergent legal systems, and the limited options afforded to interpreters in the code, suggest that this purpose might not always be achieved. The primary aim of this research study has been to test this equal footing claim by comparing the comprehension levels achieved by English speakers and Spanish speakers, and to explore the possibility of enhancing this comprehension level by simplifying the language register. The secondary aim of this research study has been to gather information from lay Spanish speakers, interpreters, and attorneys, to better understand how and what each of them contribute to the construction of meaning during this intercultural communicative event. To answer these questions, it was first necessary to examine each constraining angle individually: the setting, the participants, the languages, the purpose(s), and the institutional norms established for this interaction.

11.1. Key findings from the literature reviewed

- California is home to the largest immigrant population in the nation—Hispanics—who have surpassed the White population since 2014. The average educational attainment level reported for this population is 6-8 years of schooling, and the average reported for English speakers is 13.5 years of schooling.
- Due to their immigrant status, Spanish speakers lack sufficient familiarity with the U.S. legal system to understand the law and make informed decisions. English speakers, on the other hand, are exposed to this legal system through personal experience, school, and the media.
- Sociocultural traits such as pride, respect, and fear of authority might lead Hispanics to avoid disagreement and conceal non-comprehension, a phenomenon known as

"gratuitous acquiescence" or "gratuitous concurrence" (Berk Seligson 2009: 104, Dueñas González et al. 2012: 195, Buys et al. 2010: 471).

- The Spanish language variety spoken by most Hispanics in California bears a strong influence of English, which is evidenced in borrowings, code switching, anglicisms, and calques. Several studies have shown that the language used by most Spanish speakers in California does not include high registers (Silva-Corvalan 1991, Valdés and Geoffrion-Vinci 1998, Said-Mohand 2011, Sánchez Muñoz 2007). English is the high-register language of power and business, while Spanish is the low-register, casual language of everyday interactions (Valdés 2000, Roca 2000, Giambruno 2007, Mendoza-Denton 1999, Otheguy et al. 2010: 86). This lack of professional register development is also true for interpreter candidates attempting the certification exams (Dueñas González et al. 2012: 1177).
- Although the interpreter is deemed an officer of the court, a medium of communication, and an expert witness, established norms prevent the interpreter from adjusting the register to adapt the language to the educational and sociocultural constraints of the target-language receiver, and from alerting the parties in cases of non-comprehension. This assumes that the only difference between the English speaker and the Spanish speaker is the language, and that this gap can be overcome by providing an interpreter.
- There is no education requirement to become a court interpreter, but the difficulty and the low passing rates of the certification exams make it necessary to undertake some type of training, whether institutionally or privately. The training programs, however, only prepare interpreters for the exam and lack components of intercultural communication, pragmatics, or comparative law, among others relevant subjects. Features of legal register and legal language are not part of these programs either, so newly-certified interpreters start working without a sound knowledge foundation that would assist them in complying with the register standard or understanding its implications.
- The language of the law, "a profession-specific, relatively antiquated, and anomalous category of English" (Dueñas González et al. 2012: 749), does not resemble everyday language or the variety spoken by this particular Hispanic community. Besides the commonly known features of vocabulary, ambiguity, polysemy, unusual syntax, and high abstraction, the legal language makes use of referents outside the world knowledge of the Spanish speaker. This system, culture, and context-bound variety has

been called a restricted language (Halliday et al. 1964: 96), a sub-language (Danet 1985, Ferguson 1994, Gemar 2006: 69), a dialect (Charrow et al. 1978), and a language in its own right (Hatim and Munday 2004: 77).

- Studies by Dueñas González (1977) and Moore et al. (1999), among others, showed that access to legal register requires 14 years and 12 years of formal education, respectively. Moore et al. also indicate that besides schooling, understanding legal language at the same level as an English speaker would also require familiarity with legal vocabulary.
- Studies about comprehension of English legal language have prompted authorities to redraft California jury instructions and enact legislation to require a simpler and more accessible language that the (English-speaking) jurors can understand. Although Title VI would seem to afford interpreters a degree of freedom to use terminology that would be more accessible to Spanish speakers, this freedom has not been incorporated into the code of ethics.
- Every account of understanding shows that achieving comprehension during communication requires 1) knowledge of the world and specific domains to make sense of discourse, 2) knowledge of language use in context, or communicative competence, and 3) world, domain and language knowledge shared by participants.
- Comprehension of legal language has been shown to be difficult, even for English speakers and law students, who experience it as a foreign language (Alcaraz Varó 1994: 72), and people with little or no education may not understand it at all (Mikkelson 2000: 60).
- Legal register accessibility requires specialized education and interaction in specific speech communities (Schleppegrell 2004, Ure 1982, Melinkoff 1982: 109, Dueñas González et al. 2012: 709). Furthermore, "No interpreter can be expected to have mastered all areas of specialized terminology" (CAJC 2013a: 30).
- The purpose of the interpreter is to provide an equal footing for non-English speakers and facilitate comprehension and communication (CAJC 2013a), which is consistent with NCSC in that every litigant must show a "complete understanding" of courtroom language "in order to achieve equal access to justice for all" (2013).

In brief, the gap between the high legal register and the lack of Spanish speakers' access to said register is mediated by an interpreter who is not able to make any kind of

adaptation for either speaker. In such an uneven intercultural communicative event, non-comprehension can be expected.

11.2. Key empirical findings

1. The first question this research study aimed to answer was whether English speakers and Spanish speakers would show the same level of comprehension of legal language, in other words, whether the equal footing purpose would be achieved. To this end, a listening comprehension test was designed, tested in a pilot study, and adjusted. This test was then used in the main study with a group of English speakers and a group of Spanish speakers, who listened to sentences with the same legal register and were asked to answer a question to assess comprehension. The results of this test indicated that the average level of comprehension for English speakers was 59 percent, and the average level of comprehension for Spanish speakers was 3 percent, nearly twenty times lower than the scores achieved by English speakers. Similar findings were obtained in a focus group with lay Spanish speakers who met to discuss the comprehension difficulties in the sentences used in the test. Although the population sample in this test was rather small, the test indicated that the equal footing purpose was not achieved.

2. The second question this research study aimed to answer was whether Spanish speakers' comprehension would improve by simplifying the legal register. To this end, a second test was administered to another group of Spanish speakers who listened to the same sentences with a simplified register, also followed by a question to assess comprehension. The average comprehension level achieved by this group was 37 percent, still much lower than the scores achieved by English speakers in the first test. Although the equal footing purpose was not achieved in this test either, register simplification did lead to improved comprehension.

3. The third question this research study aimed to answer was related to interpreters' views on register, register adjustment, and intervention. To answer these questions, semi-structured interviews were conducted with certified court interpreters working in California with this population. The results showed that the interpreters interviewed lack enough information about register, register features, and the significance and

implications of register adjustment. However, they acknowledge the comprehension gap caused by the inaccessibility of the legal register for Spanish speakers and their inability to articulate non-comprehension. The results also showed that although most interpreters follow established institutional norms in plain view, they do not necessarily agree with them, and instead follow a different set of norms that were not learned or prescribed. Consequently, interpreters use a wide variety of strategies to bridge said gap when the risk of exposure is low. These strategies include register simplification (on their own initiative or with attorneys' permission), clarification, explicitation, and intervention to alert attorneys in cases of non-comprehension, among others.

4. The fourth question this research study aimed to answer was related to attorneys' views on Spanish speakers' comprehension and interpreter interventions. To answer these questions, semi-structured interviews were conducted with attorneys working in California with this population. The results showed that attorneys acknowledge Spanish speakers' lack of familiarity with the legal system, lack of comprehension of the language used, and inability to articulate non-comprehension. Furthermore, attorneys welcome and value interpreters' interventions, as they consider them part of a team working together to achieve the purpose of communication. Attorneys also reported asking interpreters to intervene and simplify the language to improve Spanish speakers' comprehension.

Based on the above findings, the following conclusions can be formulated:

1. Established institutional norms prevent interpreters from achieving the equal footing purpose
2. To attempt to achieve this purpose, interpreters behave as experts when circumstances allow and the risk of criticism or challenge is low
3. To attempt to achieve this purpose, attorneys expect and request interpreters' intervention and cooperation

11.3. Limitations of this study

The first limitation of this study relates to the fact that the courts still do not allow live recording of the proceedings, and the transcripts only contain the English version. Consequently, most data regarding interpreters' attitude toward register adjustment and intervention had to be collected through semi-structured interviews and focus groups rather than observation. The second limitation of this study is the statistical significance of the findings, which cannot be generalized without further research. It was my intention to possibly expand the number of participants for the listening comprehension test. However, the "legal" content of the instruments and the request to sign a consent form were enough to dissuade many Spanish speakers from participating. Another limitation of this study was related to the sentences selected for the listening comprehension test. Although they were representative of the legal language interpreters commonly find at work, and although they were condensed following the pilot study, the sentences still proved to be very difficult for Spanish speakers. Consequently, arriving at a more meticulous analysis of comprehension with this population might require the use of simpler language, and possibly of individual terms.

11.4. Implications for future research

1. Non-English speakers must understand judicial proceedings in order to be fully present, as required by the fundamental principle of fairness afforded by law (NCSC 2013, DOJ 2015, ABA 2012: 20). Non-comprehension by Spanish speakers, in this case, implies that their ability to participate and make informed decisions on their welfare and future might be impaired. Given the limited size of the population sample used in this study, further research is needed to assess the comprehension levels achieved by this and other non-English-speaking populations in California. As in this study, further research should include non-English speakers' feedback and participation in the process. To prevent issues related to fear and distrust and improve participants' involvement, focus groups are recommended because mutual support among members helps promote participation by reducing feelings of anxiety and uncertainty.

2. Legal language is the instrument attorneys and judges use to apply the law. It is therefore understandable that legal authorities fear that interpreters' intervention or register adjustment might interfere with legal strategy. This intervention or simplification, however, does not interfere with legal strategy when the legal discourse is not addressed to the non-English speaker, who might not achieve the comprehension that is legally required for non-English speakers to be fully present. If the purpose of providing an interpreter is to facilitate comprehension, further research is needed on the ways this could be facilitated. Translation and communication theories offer an ample theoretical basis for developing strategic ways to facilitate communication in judicial proceedings.
3. There are millions of Spanish speakers in California, and almost two thousand court interpreters working with this population. Although the sample was small, the high level of similarity and agreement among interpreters in all components of this study suggests that it is possible to come closer to achieving the equal footing purpose through the implementation of different strategies. These strategies, however, are not consistent with current established norms for court interpreting, which are still guided by principles of formal equivalence and source orientedness. Further research is needed on the effectiveness of the code of ethics in order to learn, through observation of professional interpreters at work, the best practices they use to achieve the equal footing purpose in this setting and with this population. In addition, further research could benefit from using focus groups, as these have been an excellent forum for interpreters to discuss openly their views on role constraints and possibilities.
4. This research has drawn on the fields of sociolinguistics, ethnography studies, intercultural communication, comparative law, psycholinguistics, and translation theory, among others. This is evidence of the interdisciplinarity that has come to be indispensable in order to understand and explore this unique interaction. Further research should contemplate the combination of different approaches in order to take advantage of what each can offer toward expanding the understanding of this intercultural communicative event.
5. Finally, further research is needed in the area of interpreter education, which is of utmost significance both for increasing the number of qualified and certified interpreters, and improving the proper delivery of professional interpreting services. Numerous scholars have described the subjects that should be part of interpreter

> education programs, many of which are lacking in California's programs: intercultural communication, pragmatics, discourse analysis, comparative law, professional ethics, and translation theory, among others. Further research should explore the educational needs of this particular population, taking into account the disparity between language proficiencies, the lack of professional register development, and possibly the incorporation of aspects of heritage learner pedagogy. The first step in this direction might be a thorough assessment of interpreting students' demographics in California.

It is my hope that despite its limited number of participants, this study represents a valuable contribution to the field of Interpreting Studies, and a first step toward exploring the target-language receiver's side of this interaction. This research study is important because, to the best of my knowledge, it is the first one to explore the effectiveness of providing court interpreters for the purpose of achieving the equal footing claim, and it is the first to explore target-language receivers' comprehension and feedback about this effectiveness. Given the limited sample size in this research study, it is my hope that other researchers will be motivated to continue this avenue of research and develop other productive methods to study and understand this fundamental issue. It is also my hope that these results will invite judicial authorities to take a closer look at the role interpreters should play in judicial proceedings in California, cause program directors to advance and revise the training for court interpreters to include the fundamental aspects of theory and professional role, and encourage fellow court interpreters to reflect on their profession in a different light: they might explore the significance of the set of norms that seems to guide them in their decisions when nobody is looking, and which they use to foster what Participant 4 in focus group 1 called a "tendency to want to help people, and both sides, to be understood."

References

AAJJ. Accessed November 2014. "Asociación Argentina de Juicios por Jurado." http://tinyurl.com/oc6a7jx/.

ABA. 2012. *Standards for Language Access in Courts*. American Bar Association. http://tinyurl.com/pfhcko7. Accessed October 2013.

Abril Martí, Isabel. 2004. "La interpretación social: una profesión por derecho propio" in *Acerca de la traducción y la interpretación. Actas del II Congreso de Traducción e Interpretació*n. Sevilla: CEADE. 213-228.

Aiken, Ray. 1960. "Let's not oversimplify Legal Language." *Rocky Mountain Law Review* 32: 358-364.

Albert, Rosita D. 2004. "Latino/Anglo-American Differences in Attributions to Situations involving Touch and Silence." *International Journal of Intercultural Relations* 28(3-4): 253-280

Alcaraz Varó, Enrique. 1994. *El inglés jurídico*. Barcelona: Editorial Ariel.

Alexieva, Bistra. 1997. "A Typology of Interpreter-Mediated Events." In F. Pöchhacker and M. Shlesinger (eds) *The Interpreting Studies Reader*. London: Routledge. 218-233.

ALTA Language Services, Inc. 2007. *Study of California's Court Interpreter Certification and Registration Testing*. http://tinyurl.com/ptz7y6j. Accessed June 2008.

ALTA Language Services, Inc. 2010. *California's Assessment of the Consortium for Language Access in the Courts' Exams*. http://tinyurl.com/h9jlj59. Accessed May 2013.

Altano, W. Brian. 1990. "The intricate Witness-Interpreter Relationship." In D. and M. Bowen (eds) *Interpreting: Yesterday, Today, and Tomorrow*. (ATA Scholarly Monograph Series IV). Binghamton, NY: SUNNY. 96-100.

Anderson, Benedict. 1991. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. London: Verso.

Anderson, Bruce. 1976. "Perspectives on the Role of Interpreter." In F. Pöchhacker and M. Shlesinger (eds) *The Interpreting Studies Reader*. London: Routledge. 208-217.

Anderson, John. 2009. *Cognitive Psychology and its Implications*. New York: Worth Publishing.

Angelelli, Claudia. 2000. "Interpretation as a Communicative Event: A Look through Hymes' Lenses." *Meta* 45(4): 580-592.

Angelelli, Claudia. 2004. *Revisiting the Interpreter's Role*. Amsterdam: John Benjamins Publishing.

Bachman, Lyle. 1990. *Fundamental Considerations in Language Testing*. Oxford: Oxford University Press.

Balota, David, and James Chumbley. 1984. "Are lexical Decisions a good Measure of Lexical Access? The Role of Word Frequency in the Neglected Decision Stage." *Journal of Experimental Psychology: Human Perception & Performance* 10: 340-357.

Bartlett, Frederic. 1932. *Remembering: An Experimental and Social Study*. Cambridge, UK: Cambridge University Press.

Bauer, Janet. 1999. "Speaking of Culture: Immigrants in the American Legal System." In J. Moore (ed) *Immigrants in Courts*. Seattle: University of Washington Press. 8-28.

Bednárová-Gibov, Klaudia. 2014. "EU Discourse as a Textual, Legal, and Linguistic Challenge." *Ankara University Journal of Languages and History-Geography* 54(2): 115-132.

Benmaman, Virginia. 2000. "The Spanish Speaker + Interpreter Services = Equal Access to the Judicial System: Is the Equation Accurate?" In A. Roca (ed) *Research on Spanish in the United States: Linguistic Issues and Challenges.* Somerville, MA: Cascadilla Press. 95-109.

Benson, Robert. 1984-1985. "The End of Legalese: The Game is Over." *Review of Law and Social Change* 13(3): 519-573.

Berk-Seligson, Susan. 1988. "The Impact of Politeness in Witness Testimony: The Influence of the Court Interpreter." In F. Pöchhacker and M. Shlesinger (eds) *The Interpreting Studies Reader*. London: Routledge. 278-292.

Berk-Seligson, Susan. 1990. *The Bilingual Courtroom*. Chicago: The University of Chicago Press.

Berk-Seligson, Susan. 2000. "Interpreting for the Police: Issues in Pre-trial Phases of the Judicial Process." *Forensic Linguistics* 7(2): 212-237.

Berk-Seligson, Susan. 2002. 'The Miranda Warnings and Linguistic Coercion: The Role of Footing in the Interrogation of a Limited-English Speaking Murder Suspect.." In J. Cotterill (ed) *Language in the Legal Process*. Palgrave, New York. 127-145.

Berk-Seligson, Susan. 2009. *Coerced Confessions: The Discourse of Bilingual Police Interrogations*. New York: Mouton de Gruyter.

Berlo, David. 1960: *The Process of Communication. An Introduction to Theory and Practice*. New York/London: Holt.

Bhatia, Vijay. 1993. *Analysing Genre – Language Use in Professional Settings*. London: Longman.

Biber, Douglas, and Edward Finegan. 1994. *Sociolinguistic Perspectives on Register*. New York: Oxford University Press.

Biber, Douglas, and Susan Conrad. 2009. *Register, Genre and Style*. Cambridge: Cambridge University Press.

Bierhorst, John. 1985. A Nahuatl-English Dictionary and Concordance to the 'Cantares Mexicanos'. Stanford, CA: Stanford University Press.

Blomquist, Lena. 2006. "One Little Word..." In A. Wagner and S. Cacciaguidi Fahy (eds) *Legal Language and the Search for Clarity: Practice and Tools*. Bern: Peter Lang. 303-327.

Bocquet, Claude. 1994. *Pour une methode de traduction juridique*. Prilly: CB Service

Borja Albi, Anabel. 1999. "La traducción jurídica: aspectos textuales y didáctica., In A. Gil and L. Hickey (eds) *Aproximaciones a la traducción.* Madrid: Instituto Cervantes.

Borja Albi, Anabel. 2000. *El texto jurídico y su traducción al español*. Barcelona: Editorial Ariel.

Bowen, Betsy, Thomas Duffy, and Erwin Steinberg. 1991. "Analyzing the Various Approaches of Plain Language Laws." In E. Steinberg (ed) *Plain Language: Principles and Practice*. Detroit: Wayne State University Press. 19-29.

Brick, Kate, A. E. Challinor, and Mark R. Rosemblum. 2011. *Mexican and Central American Immigrants in the United States*. Washington, D.C.: Migration Policy Institute. http://tinyurl.com/nr5lhdv. Accessed March 2012.

Bruthiaux, Paul. 1994. "Me Tarzan, You Jane: Linguistic Simplification in 'Personal Ads' Register." In D. Biber and E. Finegan (eds) *Sociolinguistic Perspectives on Register*. Oxford: Oxford University Press. 136-156.

Buck, Gary. 2001. *Assessing Listening*. New York: Cambridge University Press.

Bulow Group, Inc. 2005. *English Proficiency: What Employers Need for their Spanish-Speaking Workforce*. http://tinyurl.com/q8fesht. Accessed June 2007.

Buys, Cindy Galway. 2010. "Do Unto Others. The Importance of Better Compliance with Consular Notification Rights." *Duke Journal Comparative and International Law* 21(3): 461-502.

CAJC. 1998. *Court Interpreters Information Packet. Judicial Council of California*. http://tinyurl.com/o72lc34. Accessed April 2008.

CAJC. 2001. *Professional Ethics and the Role of the Court Interpreter*. Third Edition. Judicial Council of California. http://tinyurl.com/nln8t5s. Accessed August 2007.

CAJC. 2006. *Language Need and Interpreter Use Study*. Report to the Legislature. Judicial Council of California. http://tinyurl.com/o38vgnw. Accessed September 2009.

CAJC. 2013a. *Professional Standards and Ethics for California Court Interpreters*. Fifth Edition. Judicial Council of California. http://tinyurl.com/oqgf85b. Accessed June 2014.

CAJC. 2013b. *What's New in California Court Interpreting?* Judicial Council of California. http://tinyurl.com/o6jkodv. Accessed June 2014.

CAJC. 2014. *A Year in Testing: July 2010 - July 2011*. Judicial Council of California. http://www.courts.ca.gov/15925.htm. Accessed February 2015.

CAJC. 2014a. *Court Interpreters Advisory Panel*. Judicial Council of California. http://www.courts.ca.gov/ciap.htm. Accessed February 2015.

CAJC. 2014b. *Council Approves Expanding Interpreter Use in Civil Cases*. Judicial Council of California. http://www.courts.ca.gov/24943.htm. Accessed February 2015.

CAJC. 2014c. *Fact Sheet. Court Interpreters Program*. Judicial Council of California. http://tinyurl.com/pglvlz5. Accessed February 2015.

CAJC. 2015a. *Current Interpreters. Certification and Registration Requirements*. Judicial Council of California. http://www.courts.ca.gov/2693.htm. Accessed September 2015.

CAJC. 2015b. *Interpreter Orientation: Working in the California Courts*. Judicial Council of California. http://www.courts.ca.gov/21714.htm. Accessed September 2015.

CAJC. 2015c. *Frequently Asked Questions*. Judicial Council of California. http://www.courts.ca.gov/2683.htm. Accessed September 2015.

CAJC. 2015d. *California Jury Instructions. Frequently Asked Questions*. Judicial Council of California. http://www.courts.ca.gov/partners/315.htm. Accessed September 2015.

CAJC. 2015e. *California Jury Instructions. Civil Plain English Comparison*. Judicial Council of California. http://www.courts.ca.gov/partners/314.htm. Accessed September 2015.

CAJC. 2015f. *California Rules of Court – Rule 2.893 (984.2)*. Judicial Council of California. http://www.courts.ca.gov/rules.htm. Accessed September 2015.

CAJC. 2015g. *Jury Service*. Judicial Council of California. http://tinyurl.com/o6v4ysb. Accessed September 2015.

California Law. 2012. *Government Code. Title 8. The Organization and Government of Court. Chapter 2. The Judicial Council*. http://tinyurl.com/hmu88kq. Accessed September 2015.

California Law. Accessed January 2007. "Evidence Code." http://tinyurl.com/34edfh.

Camarota, Steven. 2001. *Immigration From Mexico: Assessing the Impact on the United States*. Center for Immigration Studies Report. http://tinyurl.com/oqtm6uw

Cameron, Debrah. 2002. *Working with Spoken Discourse*. California: Sage Publications Ltd.

Cao, Deborah. 2007. *Translating Law*. Clevedon: Multilingual Matters.

Carey, James. 1989. *Communication as Culture: Essays on Media and Society*. Winchester, MA: Unwin Hyman.

Carr, Donna. 2001. "Lost in the Translation: Due Process for Non-English Speaking Defendants from an Appellate Perspective." In *Interpreter Manual*. Kentucky Department of Public Advocacy. Frankfort, KY. http://tinyurl.com/pc8ek8z. Accessed May 2009.

Carrell, Patricia, and Joan Eisterhold. 1983. "Schema Theory and ESL Reading Pedagogy." *Tesol Quarterly* 17(4): 553-573.

Carter, Ronald, and Michael McCarthy. 2006. *Cambridge Grammar of English*. Cambridge University Press.

Catford, John. 1965. *A Linguistic Theory of Translation.* Oxford: Oxford University Press.

Cazden, Courtney, and David Dickinson. 1981. "Language in Education: Standardization versus Cultural Pluralism." In C. Ferguson and S. Brice Heath (eds) *Language in the USA*. New York: Cambridge University Press. 446-468.

CCAJ. 2005. *Language Barriers to Justice in California*. California Commission on Access to Justice. http://tinyurl.com/9wjaw. Accessed January 2008.

CDC. 2012a. *Promoting Cultural Sensitivity: A Practical Guide for Tuberculosis Programs That Provide Services to Persons from Mexico*. Center for Disease Control and Prevention. http://tinyurl.com/maw4gvr. Accessed October 2014.

CDC. 2012b. *Cultural Insights - Communicating with Hispanics/Latinos*. Center for Disease Control and Prevention. http://tinyurl.com/oa6pmp6. Accessed October 2014.

CFI. 2011a. *Petition to Maintain Certification Standards*. California Federation of Interpreters. http://tinyurl.com/ovwuf2g. Accessed May 2013.

CFI. 2011b. *AOC Adopts Consortium Exam*. California Federation of Interpreters. http://www.calinterpreters.org/aoc-adopts-consortium-exam/. Accessed May 2013.

CFI. 2011c. *Analysis of ALTA Reports on Consortium & California Exams*. California Federation of Interpreters. http://tinyurl.com/nl3dad3. Accessed May 2013.

Chan, Kit Ying, and Michael Vitevitch. 2009. "The Influence of the Phonological Neighborhood Clustering Coefficient on Spoken Word Recognition." *Journal of Experimental Psychology: Human Perception and Performance* 35(6): 1934-1949.

Chandler, Daniel. 1994. *The Transmission Model of Communication*. University of Western Australia http://tinyurl.com/pvffxzy. Accessed August 2015.

Charrow, Veda, and Jo Ann Crandall. 1978. "Legal Language: What Is It and What Can We Do About It?" Paper presented at the *New Wave Conference of the American Dialect Society.* Washington, D.C., November 4, 1978.

Charrow, Robert, and Veda Charrow. 1979. "Making Legal Language Understandable: A Psycholinguistic Study of Jury Instructions." *Columbia Law Review* 79: 1306-1374.

Charrow, Veda. 1981. "Linguistic Theory and the Study of Legal and Bureaucratic Language." In L. Obler and L. Menn (eds) *Exceptional Language and Linguistics.* Academic Press, Inc. New York. 81-101.

Charrow, Veda, Jo Ann Crandall, and Robert Charrow. 1982. "Characteristics and Functions of Legal Language." In R. Kittredge and J. Lehrberger, J (eds.). *Sublanguage*. Berlin: Walter de Gruyter. 175-190.

Chavez, Leo. 1992. *Shadowed Lives: Undocumented Immigrants in American Society*. Florida: Ted Buchholz.

Chesterman, Andrew. 1993. "From 'Is' to 'Ought': Translation Laws, Norms and Strategies." *Target* 5(1): 1-20.

Chesterman, Andrew. 1997. *Memes of Translation*. Amsterdam: John Benjamins.

Chesterman, Andrew. 1998. "Description, Explanation, Prediction. A Response to Gideon Toury and Theo Hermans." In C. Schäffner (ed), *Translation and Norms.* Clevedon: Multilingual Matters. 91-98.

Chesterman, Andrew. 2001. "Proposal for a Hieronymic Oath." *The Translator* 7(2): 139-154.

Chesterman, Andrew. 2006. "A Note on Norms and Evidence." In J. Tommola and Y.Gambier (eds) *Translation and Interpreting – Training and Research.* Turku, University of Turku, Department of English Translation Studies. 13-19.

Chromã, Marta. 2004. *Legal Translation and the Dictionary*. Lexicographica Series Maior. Tübingen: Max Niemeyer Verlag.

CJF. 2011. *El nuevo sistema de justicia penal acusatorio, desde la perspectiva constitucional*. Consejo de la Judicatura Federal. http://tinyurl.com/q7r8quz . Accessed May 2013.

Clark, Herbert. 1997. "Dogmas of Understanding." *Discourse Processes* 23: 567-598. http://tinyurl.com/ns9lmek. Accessed April 2008.

Clark, Herbert, and Susan Brennan. 1991. "Grounding in Communication." In, L. Resnick, J. Levine, and S. Teasley (eds) *Perspectives on Socially Shared Cognition*. Washington: APA Books. 127-149

Clark, Herbert, and Meredyth Krych. 2004. "Speaking while Monitoring Addressees for Understanding." *Journal of Memory and Language* 50(1): 62-81. http://tinyurl.com/oy7gl9r. Accessed April 2008.

CLIa. Accessed October 2013. "California Constitution. Article 1: Declaration of Rights." California Legislative Information. http://www.leginfo.ca.gov/.const/.article_1.

CLIb. Accessed November 2013. "Evidence Code." California Legislative Information. http://tinyurl.com/kocroy2.

CLIc. Accessed November 2013. "California Government Code Section 68560-68566." California Legislative Information. http://tinyurl.com/od4wd7h.

Clifford, Andrew. 2004. "Is Fidelity Ethical? The Social Role of the Healthcare Interpreter." *Traduction, terminologie, rédaction* 17(2): 89–114. http://tinyurl.com/oc2r39s**.** Accessed January 2008.

Clínica Santa María. 2010. http://tinyurl.com/ny2fzqp. Accessed June 2013.

Clutter, Ann, and Claudia Zubieta. 2009. *Understanding the Hispanic Culture*. Ohio State University. Family and Consumer Sciences. http://tinyurl.com/z8bd2uh. Accessed May 2010.

Cole, Richard, and Laura Maslow-Armand. 1997. "The Role of Counsel and the Courts in Addressing Foreign Language and Cultural Barriers at Different Stages of a Criminal Proceeding." *Western New England Law Review* 19(1): 193-261.

Cooke, Michael. 1998. *Anglo/Yolngu Communication in the Criminal Justice System.* Unpublished Doctoral Dissertation. University of New England, Australia.

Cotterill, Janet. 2000. "Reading the Rights: a Cautionary Tale of Comprehension and Comprehensibility." *International Journal of Speech Language and the Law* 7(1): 4-25.

CPR. 2007. *Plain Language Makes Government More Accessible*. California Performance Review. http://tinyurl.com/py5daow. Accessed July 2010.

Craddock, Jerry. 1981. "New World Spanish." In C. Ferguson and S. Brice Heath (eds) *Language in the USA*. New York: Cambridge University Press. 196-214.

Craig, Robert. 1999. "Communication Theory as a Field." *Communication Theory* 9(2): 119-161.

Crooker, Constance. 1996. *The Art of Legal Interpretation*. Portland: Portland State University. Continuing Education Press.

Crystal, David. 1997. *The Cambridge Encyclopedia of Language*. New York: Cambridge University Press.

Crystal, David. 2003. *A Dictionary of Linguistics and Phonetics*. Oxford: Blackwell Publishing Ltd.

Dahan, Delphine, and James Magnuson. 2006. "Spoken Word Recognition." In M. Traxler and M. Gernsbacher (eds) *Handbook of Psycholinguistics*. Amsterdam: Elsevier. 249-283.

Dainton, Marianne and Elaine Zelley. 2014. *Applying Communication Theory for Professional Life: A Practical Introduction*. Thousand Oaks, CA: Sage Publications, Inc.

Dance, Frank. 1970. "'The 'Concept' of Communication." *Journal of Communication* 20: 201-210.

Danet, Brenda. 1985. "Legal Discourse." In T. van Dijk (ed) *Handbook of Discourse Analysis. Vol. 1, The Discipline of Discourse Analysis*. London: Academic Press. 273-291.

Danet, Brenda. 1980. "Language in the Legal Process." *Law & Society Review* 14(3): 445-564.

De Beaugrande, Robert, and Wolfgang Dressler. 1981. *Introduction to Text Linguistics*. London: Longman.

De Fleur, Melvin. 1966. *Theories of Mass Communication*. New York: McKay.

De Groot, Gerard. 1987. "The Point of View of a Comparative Lawyer." *Les Cahiers de droit* 28(4): 793-812.

De Groot, Gerard, and Conrad van Laer. 2008/6. *The Quality of Legal Dictionaries: An Assessment.* Maastricht Faculty of Law Working Paper 2008/6. http://tinyurl.com/ogz3mf7. Accessed March 2015.

DeMuniz, Paul. 1999. "Introduction." In J. Moore (ed) *Immigrants in Courts*. Seattle: University of Washington Press. 3-7.

Demuth, Stephen. 2003. "Racial and Ethnic Differences in Pretrial Release Decisions and Outcomes: A Comparison of Hispanic, Black, and White Felony Arrestees." *Criminology* 41(3): 873-908.

Díaz Murillo, Gonzalo. 2015. *Lumbalgia*. http://tinyurl.com/o67qeo4. Accessed September 2015.

Didier, Emmanuel. 1990. *Langues et langages du droit*. Montréal: Wilson & Lafleur Ltée.

DuBay, William. 2004. *The Principles of Readability*. Costa Mesa, CA: Impact Information. http://tinyurl.com/56fmng. Accessed June 2015.

Dueñas González, Roseann. 1977. *The Design and Validation of an Evaluative Procedure to Diagnose the English Aural-oral Competency of a Spanish Speaking Person in the Justice system*. University of Arizona: Unpublished Doctoral Dissertation.

Dueñas González, Roseann, Victoria Vásquez, and Holly Mikkelson. 1991. *Fundamentals of Court Interpretation: Theory, Policy and Practice*. Durham, North Carolina: Carolina Academic Press.

Dueñas González, Roseann, Victoria Vásquez, and Holly Mikkelson. 2012. *Fundamentals of Court Interpretation: Theory, Policy, and Practice* (2nd ed.). Durham, N.C.: Carolina Academic Press.

Dunnigan, Timothy, and Bruce Downing. 1995. "Legal Interpreting on Trial: A case study." In M. Morris (ed) *Translation and the Law.* (ATA Scholarly Monograph Series VIII). Amsterdam and Philadelphia: John Benjamins. 93-113.

Eagleson, Robert. 1991. "The Plain English Movement in Australia and the United Kingdom." In Steinberg, E. T. (ed.), *Plain Language — Principles and Practice*. Detroit: Wayne State University Press.

Echevarria, Jana, Mary Ellen Vogt, and Deborah Short. 2004. *Making Content Comprehensible for English Learners*. Boston, MA: Pearson Education, Inc.

EDD. 2007. *Planning for Organizational Success, Strategic Plan 2007-2001*. Employment Development Department. http://tinyurl.com/nbm5zvr. Accessed September 2015.

EDD. 2015. *Occupation Profile. Interpreters and Translators (SOC Code : 27-3091) in California.* Employment Development Department. http://tinyurl.com/muv6rn3. Accessed August 2015.

Edwards, Alicia. 1995. *The Practice of Court Interpreting*. Amsterdam: John Benjamins.

Erickson, Bonnie, Allan Lind, Bruce Johnson, and William O'Barr. 1978. "Speech Style and Impression Formation in a Court Setting: The Effects of 'Powerful' and 'Powerless' Speech." *Journal of Experimental Social Psychology* 14(3): 266-279.

Erisman, Wendy, and Shannon Looney. 2007. "Opening the Door to the American Dream: Increasing Higher Education Access and Success for Immigrants." A Report by Institute for Higher Education Policy. Washington, DC. http://tinyurl.com/nezskx2. Accessed May 2014.

Fang, Zhihui, Mary Schleppegrell, and Beverly Cox. 2006." Understanding the Language Demands of Schooling: Nouns in Academic Registers." *Journal of Literacy Research* 38(3): 247-273.

Farah, Iffat. 1998. "The Ethnography of Communication." In N. Hornberger and P. Corson (eds) *Encyclopedia of Language and Education: Volume 8: Research Methods in Language and Education*. Dordrecht: Kluwer. 125-127.

FCICE. 2015. Federal Court Interpreter Certification Examination. http://tinyurl.com/oohvew8. Accessed February 2015.

Felty, Robert, Adam Buchwald, Thomas Gruenenfelder, and David Pisoni. 2013. "Misperceptions of Spoken Words: Data from a Random Sample of American English Words." *Journal of the Acoustical Society of America* 134(1): 572.585.

Ferguson, Charles. 1982. "Simplified Registers and Linguistic Theory." In L. Obler and L. Menn (eds) *Exceptional Language and Linguistics*. New York: Academic Press, Inc. 49-66.

Ferguson, Charles. 1994. "Dialect, Register and Genre: Working Assumptions about Conventionalization." In D. Biber and E. Finegan (eds) *Sociolinguistic Perspectives on Register*. New York: Oxford University Press. 15-30.

Fiske, John. 2011. *Introduction to Communication Studies*. London: Routledge.

Fodor, Jerry. 1983. *The Modularity of Mind*. Cambridge, MA: MIT Press.

Fodor, Jerry. 2000. *The Mind doesn't Work that Way.* Cambridge, MA: MIT Press.

Foppa, Klaus. 1995. "On Mutual Understanding and Agreement in Dialogue." In I. Markova, C. Graumann, and K. Foppa (eds) *Mutualities in Dialogue*. Cambridge: Cambridge University Press. 149-175.

Forster, Kenneth. 1979. "Levels of Processing and the Structure of the Language Processor." In W. Cooper and E. Walker (eds) *Sentence Processing: Psycholinguistic Studies presented to Merrill Garrett*. Hillsdale, NJ: Erlbaum.

Forster, Kenneth, and Susan Chambers. 1973. "Lexical Access and Naming Time." *Journal of Verbal Learning and verbal Behavior* 12: 627-635.

Fortuny, Karina, Randy Capps, and Jeffery S. Passel. 2007. *The Characteristics of Unauthorized Immigrants in California, Los Angeles County, and the United States*. Washington, DC: The Urban Institute. http://tinyurl.com/n7l57on. Accessed July 2009.

Fought, Carmen. 2006. *Language and Ethnicity*. Cambridge, UK: Cambridge University Press.

Fowler, Yvonne. 1997. "The Courtroom Interpreter: Paragon and Intruder?" In S. Carr, R. Roberts, A. Dufour, and D. Steyn (eds) *The Critical Link: Interpreting in the Community*. Amsterdam and Philadelphia: John Benjamins. 191-200.

Frade, Celina. 2008. "Implications of Legal Globalisation for Brazilian Legal Practice." In V. Bhatia, C. Candlin, and J. Engberg (eds) *Legal Discourse across Cultures and Systems*. Hong Kong: Hong Kong University Press. 275-289.

Frank, Jerome. 1973. *Courts on Trial – Myth and Reality in American Justice*. New jersey: Princeton.

Galdia, Marcus. 2003. "Comparative Law and Legal Translation." *The European Legal Forum* 1: 1-4.

Garner, Bryan. 2001. *Legal Writing in Plain English*. Chicago: The University of Chicago Press.

Garrett, Merrill. 1978. "Word and Sentence Perception." In R. Held, H. Leibowity, and J. Teuber (eds) *Handbook of sensory physiology. Vol VIII, Perception*. Berlin: Springer-Verlag. 611-625.

Garzone, Giuliana. 2002. "Quality and Norms in Interpretation." In G. Garzone and M. Viezzi (eds) *Interpreting in the 21st Century*. Amsterdam and Philadelphia: John Benjamins, 107-119.

Gemar, Jean-Claude. 2006. "What Legal Translation is and is not – Within or Outside the EU." In B. Pozzo and V. Jacometti (eds) *Multilingualism and the Harmonisation of European Law.* Alphen aan den Rijn: Kluwer Law International. 69–77.

Gentile, Adolfo, Uldis Ozolins, and Mary Vasilakakos. 1996. *Liaison Interpreting: A Handbook*. Melbourne: Melbourne University Press.

Gerbner, George. 1956. "Toward a General Model of Communication." *Audiovisual Communication Review* 4(3): 171-199.

Gernsbacher, Morton, and Julie Foertsch. 1999. "Three Models of Discourse Comprehension." In S. Garrod and M. Pickering (eds) *Language Processing.* New York, NY: Psychology Press. 283-299.

Giambruno, Cynthia. 2007. "Interpreters as the Official 'Voice' of the Limited Language Proficient in Judicial Proceedings." *Puentes. Hacia nuevas investigaciones en la mediación intercultural* 7: 69-78.

Gibbons, John. 1999. "Language and the Law." *Annual Review of Applied Linguistics* 19: 156-173.

Gibbons, John. 2001. "Revising the Language of New South Wales Police Procedures: Applied Linguistics in Action."*Applied Linguistics* 22: 4439–69.

Gile, Daniel. 1998. "Norms in Research on Conference Interpreting: A Response to Theo Hermans and Gideon Toury." *Current Issues in Language and Society: Translation and Norms* 5: 99-107.

Giles, Howard, Jennifer Fortman, René Dailey, Valerie Barker, Christopher Hajek, Michelle Chernikoff Anderson, and Nicholas Rule. 2005. "Communication Accommodation: Law Enforcement and the Public." In R. Dailey and B. Le Poire (eds) *Interpersonal Communication Matters: Family, Health, and Community Relations*. New York: Peter Lang. 241-269.

Goddard, Christopher. 2009. "Where Legal Cultures Meet: Translating Confrontation into Coexistence." *Investigationes Linguisticae* 17: 168-205.

Goldflam, Russell. 1995. "Silence in Court! Problems and Prospects in Aboriginal Legal Interpreting." In D. Eades (ed) *Language in Evidence: Issues confronting Aboriginal and Multicultural Australia.* Sydney: University of New South Wales Press. 28-54.

Gonzalez Echevarria, Roberto. 1997. "Is 'Spanglish' a Language?" *The New York Times*, March 28, 1997. http://tinyurl.com/no7w6a3. Accessed May 2008.

Gordon, Peter, and Kimberly Scearce. 1995. "Pronominalization and Discourse Coherence, Discourse Structure and Pronoun Interpretation." *Memory* & *Cognition* 23(3): 313-323.

Grainger, Jonathan, Mathilde Muneaux, Fernand Farioli, and Johannes Ziegler. 2005. "Effects of Phonological and orthographic Neighborhood Density Interact in Visual Word Recognition." *The Quarterly Journal of Experimental Psychology* 58A (6): 981-998.

Grice, Paul. 1991. *Studies in the Way of Words*. Cambridge, MA: Harvard University Press.

Griffin, Patricia, and Stephanie Cole. 2007. *White Paper on Court Interpretation: Fundamental to Access to Justice*. Conference of State Court Administrators. http://tinyurl.com/py9wo59. Accessed August 2009.

Grimshaw, Allen. 1980. "Mishearings, Misunderstandings and other Nonsuccesses in Talk: A Plea for Redress of Speaker-oriented Bias." *Sociological Inquiry* 40:31-74.

Grogger, Jeffrey, and Stephen Trejo. 2002. *Falling Behind or Moving Up? The Intergenerational Progress of Mexican Americans.* San Francisco: Public Policy Institute of California. http://tinyurl.com/oqtxg64. Accessed July 2010.

Guarnero, P. 2005. "Mexicans." In J. Lipson and S. Dibble (eds) *Cultural and Clinical Care*. San Francisco: UCSF Nursing Press. 330–342.

Gumperz, John. 1995. "Mutual Inferencing in Conversation." In I. Markova, C. Graumann, and K. Foppa (eds) *Mutualities in Dialogue*. Cambridge: Cambridge University Press. 101-122.

Gunnarsson, Britt-Louise. 1984. "Functional Comprehensibility of Legislative Texts: Experiments with a Swedish Act of Parliament." *Text* 4: 71-105.

Gunnarsson, Britt-Louise. 2009. *Professional Discourse*. London and New York: Continuum.

Hale, Adrian, and Helen Basides. 2013. *The Keys to Academic English*. South Yarra: Palgrave Macmillan.

Hale, Sandra. 2001. "Excuse me, the Interpreter wants to Speak" - Interpreter Interruptions in the Courtroom: Why do Interpreters Interrupt and what are the Consequences?" *Proceedings of the Critical Link 3 Conference*. Montreal. http://tinyurl.com/5h2cmq. Accessed January 2008.

Hale, Sandra. 2003. "Some Questions Answered About Court Interpreting." *Critical Link Bulletin* 1: 20-24. www.criticallink.org. Accessed January 2008.

Hale, Sandra. 2004. *The Discourse of Court Interpreting: Discourse Practices of the Law, the Witness and the Interpreter*. Amsterdam: John Benjamins.

Hale, Sandra B. 2007: *Community Interpreting*. New York: Palgrave MacMillan.

Hall, Edward. 1959. *The Silent Language*. New York: Doubleday.

Halliday, Michael, Angus McIntosh, and Peter Strevens. 1964. *The Linguistic Sciences and Language Teaching*. Bloomington: Indiana University Press.

Halliday, Michael, and Ruqaiya Hasan. 1976. *Cohesion in English.* London: Longman.

Halliday, Michael, and Ruqaiya Hasan. 1989. *Language, Context, and Text: Aspects of Language in a Social-Semiotic Perspective*. Oxford: Oxford University Press.

Halliday, Michael. 1994. *Introduction to Functional Grammar*. London: Edward Arnold.

Hammera, Mitchell, and Randall Rogan. 2002. "Latino and Indochinese Interpretive Frames in Negotiating Conflict with Law Enforcement: A Focus Group Analysis." *International Journal of Intercultural Relations* 26: 551-575.

Harley, Trevor. 2005. *The Psychology of Language. From Data to Theory.* Hove, UK: Psychology Press.

Harris, Brian. 1990. "Norms in Interpretation." *Target* 2(1): 115-119.

Harris, Sandra. 1984. "Questions as a Mode of Control in Magistrates' Courts." *International Journal of the Sociology of Language* 49: 5-27.

Harvey, Malcom. 2000. "A Beginner's Course in Legal Translation: the Case of Culture-bound Terms." *ASTTI/ETI*. 357-369.

Harvey, Malcom. 2002. "What's so Special about Legal Translation?" *Meta* 47(2): 177-185.

Hatim, Basil and Jeremy Munday. 2004. *Translation. An Advanced Resource Book.* Abington: Routledge.

Hatzidaki, Anna. 2007. "The Process of Comprehension from a Psycholinguistic Approach – Implications for Translation." *Meta* 52(1) 13-21.

Hermans, Theo. 1991. "Translational Norms and Correct Translations." In K. van Leuven-Zwart and T. Naaijkens (eds) *Translation Studies - the State of the Art*. Amsterdam & Atlanta: Rodopi. 155-170.

Hermans, Theo. 1999. *Translation in Systems: Descriptive and Systemic Approaches Explained*. Translation Theories Explained Series 7. Manchester: St. Jerome.

Hewitt, William. 1995. *Court Interpretation: Model Guides for Policy and Practice in the State Courts*. Williamsburg, VA: National Center for State Courts. http://tinyurl.com/qfn9aly. Accessed November 2009.

Hewitt, William, and Robert Lee. 1996. "Beyond the Language Barrier, or 'You Say you were Eating an Orange?'" *State Court Journal* 20(1) 23-31. http://tinyurl.com/5lmcjl. Accessed July 2008.

Hewitt, William, Paula Hannaford, Catherine Gill, and Melissa Cantrell. 1998. *Court Interpreting Services in State and Federal Courts: Reasons and Options for Inter-Court Coordination*. http://tinyurl.com/q2mf2t9. Accessed March 2008.

Heylen, Kris, and Frieda Steurs. 2014. "Translating Legal and Administrative Language: How to Deal with Legal Terms and their Flexible Meaning Potential." *Turjuman. Journal of Translation Studies* 23(2): 96-146.

Hill, Laura, and Joseph Mayes. 2003. *California's Newest Immigrants*. Public Policy Institute of California. http://tinyurl.com/o7k5oaf. Accessed March 2008.

Hislope, Kristi. 2005. "Perceptions of Spanish Heritage and L2 Writing." *Academic Exchange Quarterly* 9(2): 246-250. http://tinyurl.com/6hy6yl. Accessed March 2008.

Hofstede, Geert, and Gert Hofstede. 2005. *Cultures and Organizations*. New York: McGraw-Hill.

Hovland, Debra. 1993. "Errors in Interpretation: Why Plain Error is not Plain." *Law & Inequality* 11: 473-503.

HRSA. 2001. *Quality Health Services for Hispanics: The Cultural Competency Component.* United States Department of Health and Human Services. http://tinyurl.com/oytzmya. Accessed June 2012.

Hualde, José, Antxon Olarrea, and Erin O'Rourke. 2012. *Handbook of Hispanic Linguistics*. Malden, MA & Oxford: Wiley-Blackwell.

Hyland, Richard. 1986. "A Defense of Legal Writing." *University of Pennsylvania Law Review* 134: 599-626.

Hymes, Dell. 1974. *Foundations of Sociolinguistics: An Ethnographic Approach*. Philadelphia: University of Pennsylvania Press.

Hymes, Dell. 1984. "Sociolinguistics: Stability and Consolidation." *International Journal of the Sociology of Language* 45: 39-45

IGA. 2014. *Governor signs into law AB2370: The Interpreter Credential Verification Bill*. Interpreters Guild of America. http://tinyurl.com/oqcgs9m. Accessed January 2015.

INEGI. 2005. *Perfil sociodemográfico de la población hablante de náhuatl*. Instituto Nacional de Estadística, Geografía e Informática. Aguascalientes, México. http://tinyurl.com/q4wrwhv. Accessed November 2012.

Infoplease. 2015. *Hispanic Americans by the Numbers*. http://tinyurl.com/oeynech. Accessed August 2015.

Isaacs, Ellen, and Herbert Clark. 1987. "References in Conversations between Experts and Novices." *Journal of Experimental Psychology* 116: 26-37. http://tinyurl.com/nskawf9. Accessed February 2014.

ISR. 2010. *Language Need and Interpreter Use in California Superior Courts*. Institute for Social Research, California State University, Sacramento. http://tinyurl.com/oq5vwg3. Accessed April 2014.

Jacobsen, Bente. 2002: *Pragmatic Meaning in Court Interpreting: An Empirical Study of Additions in Consecutively-Interpreted Question-Answer Dialogues*. Doctoral Thesis. The Aarhus School of Business.

Jakobson, Roman. 1959/2000. "On Linguistic Aspects of Translation." In L. Venuti (ed) *The Translation Studies Reader*. London: Routledge. 113-118.

James, Anne. 2007. *International Justice Project, Bridging the Gap: Effective Representation of Foreign Nationals in U.S. Criminal Cases*. http://tinyurl.com/pdosf2u. Accessed June 2009.

Jansen, Peter. 1995. "The Role of the Interpreter in Dutch Courtroom Interaction: The Impact of the Situation on Translational Norms." In P. Jansen (ed.) *Selected Papers of the CERA Research Seminars in Translation Studies 1992–1993.* Katholieke Universiteit Leuven. 133-155.

JCNSW. 2015. *Equality before the Law Bench Book*. Judicial Commission of New South Wales. Sydney NSW. http://tinyurl.com/p8lezc7. Accessed May 2015.

Johns, Brendan, Thomas Gruenenfelder, David Pisoni, and Michael Jones. 2012. "Effects of Word Frequency, Contextual Diversity, and Semantic Distinctiveness on Spoken Word Recognition." *The Journal of the Acoustical Society of America* 132(2): 74-80.

Johnson, Eli. 2009. *Academic Language! Academic Literacy!: A Guide for K-12 Educators.* Thousand Oaks, CA: Corwin Press.

Johnson, Stephen. 1993. *Justice in the Balance 2020*. Report of the Commission on the Future of the California Courts. http://tinyurl.com/q6wcrx2. Accessed January 2008.

Johnson, Wendell. 1951. "The Spoken Word and the Great unsaid." *Quarterly Journal of Speech* 32: 419-429.

Johnson-Laird, Philip. 1983. *Mental Models.* Cambridge, MA: Harvard University Press.

Joos, Martin. 1967. *The five Clocks*. New York: Harcourt, Brace, and World.

Jopek-Bosiacka, Anna. 2011. "Defining Law Terms: A Cross-Cultural Perspective." *Research in Language* 9(1): 9-29.

Kintsch, Walter. 1988. "The Role of Knowledge in Discourse Comprehension: A Construction–Integration Model." *Psychological Review* 95:163-182.

Kintsch, Walter. 1994. "The Psychology of Discourse Processing." In M. Gernsbacher (ed) *Handbook of Psycholinguistics.* San Diego: Academic Press. 721-740.

Kintsch, Walter, and Teun van Dijk. 1978. "Toward a Model of Text Comprehension and Production." *Psychological Review* 85: 363-394.

Kirkness, Alan. 1997. "Eurolatin and English Today." *English Today* 13(1): 3-8.

Kocbek, Alenka. 2008. "The Challenges of Intercultural Legal Communication." *International Journal of Euro-Mediterranean Studies* 1(1): 53-71.

Koval, Pablo. 2012. *Medicina para la autoorganización*. http://tinyurl.com/phz4hj5. Accessed September 2014.

Kreeft Payton, Vickie Lewelling, and Paula Winke. 2001. "Spanish for Spanish Speakers: Developing Dual Language Proficiency." *Eric Digest* (ED469209 2001-12-00). http://files.eric.ed.gov/fulltext/ED469209.pdf. Accessed July 2008.

Kuykendall, Gregory, Alicia Amezcua-Rodriguez, and Mark Warren. 2008. "Mitigation Abroad: Preparing a Successful Case for Life for the Foreign National Client." *Hofstra Law Review* 36(3): 989-1018.

La Prensa Gráfica. 2009. *Lumbago o lumbalgia*. http://tinyurl.com/l63hec5. Accessed September 2014.

Lambertini Andreotti, Julia. 2008. *Comprehension of Legal Discourse in Interpreted Judicial Proceedings*. Minor Dissertation, Universitat Rovira i Virgili.

Lasswell, Harold. 1948. "The Structure and Function of Communication in Society." In L. Bryson (ed) *The Communication of Ideas: A Series of Addresses.* New York, NY: The Institute for Religious and Social Studies. 37–51.

Laster, Kathy, and Veronica Taylor. 1994. *Interpreters and the Legal System*. Sydney: The Federation Press.

Latin Post. 2014. *Latinos in America: Hispanic Population Become Largest Ethnic Group in California, 2nd State to see Trend*. http://tinyurl.com/o6d2lgs. Accessed March 2015.

Lee, Jieun. 2009. "When Linguistic and Cultural Differences are not disclosed in Court Interpreting." *Monolingua* 28: 379-401.

Lee, Jieun. 2015. "Court Interpreting." In R. Jourdenais and H. Mikkelson (eds) *The Routledge Handbook of Interpreting*. London and New York: Routledge. 186-201.

LEP. 2015. *Limited English Proficiency*. http://www.lep.gov. Accessed June 2015.

LIIa. Accessed June 2014. "28 U.S. Code § 1827 - Interpreters in Courts of the United States." Cornell University Law School. Legal Information Institute http://tinyurl.com/noqfgyx.

LIIb. Accessed June 2014. "29 CFR 18.604 - Interpreters." Cornell University Law School. Legal Information Institute. http://tinyurl.com/nhcwnq4.

LIIc. Accessed June 2014. "Rule 604. Interpreters." Cornell University Law School. Legal Information Institute. http://tinyurl.com/pv5lo3s.

Lipski, John. 1985. *Linguistic Aspect of Spanish-English Language Switching*. Tempe, AZ: Arizona State University, Center for Latin American Studies.

Lipski, John. 2004. "Is 'Spanglish' the Third Language of the South?: Truth and Fantasy about U. S. Spanish." Paper presented at the *3rd Language Variation in the South (LAVIS III) Conference*, Tuscaloosa, AL.

Lipski, John. 2008. *Varieties of Spanish in the United States*. Washington, D.C.: Georgetown University Press.

Luce, Paul, and David Pisoni. 1998. "Recognizing Spoken Words: The Neighborhood Activation Model." *Ear Hear* 19(1): 1–36.

Lukatela, Georgije, Jelena Moraca, D. Stojnov, M.D. Savic, L. Katz, and M.T. Turvey. 1982. "Grammatical Priming Effects between Pronouns and Inflected Verb Forms." *Psychological Research* 44: 297-311.

MacLeod, Colin, and Kristina Kampe. 1996. "Word Frequency Effects on Recall, Recognition, and Word Fragment Completion Tests." *Journal of Experimental Psychology: Learning, Memory, and Cognition* 22(1): 132-142.

Marcos, Luis, and Murray Alpert. 1980. "Bilingualism: Implications for the Evaluation of Psychopathology." In R. Rieber (ed) *Applied Psycholinguistics and Mental Health*. New York: Plenum Press. 129-138.

Marslen-Wilson, William, and Lorraine Tyler. 1980. "The Temporal Structure of Spoken Language Understanding." *Cognition* 8(1): 1-71.

Marslen-Wilson, William, and Lorraine Tyler. 1987. "Against Modularity." In J. Garfield (ed) *Modularity in Knowledge Representation and Natural Language Understanding.* Cambridge, Mass: MIT. 37-62.

Martin, John, Steven Weller, Angie Lederach, Jeff Yoder, and David A. Price. 2012. *What does the Intersection of Language, Culture, and Immigration Status Mean for Limited English Proficiency Assistance in the State Courts?* Center for Public Policy Studies, Colorado. http://tinyurl.com/qzs97sl. Accessed May 2014.

Martínez, Aurelio. 2013. *Dolor de cintura*. http://www.draurelio.com.mx/?p=791. Accessed June 2015.

Marzocchi, Carlo. 2005. "On Norms and Ethics in the Discourse on Interpreting." *The Interpreters' Newsletter* 13: 87-107.

Mason, Ian. 1999. "Introduction." *The Translator* 5(2): 147-160.

Matthews, Gladys. 2013. *Court Interpreting in the United States Revisited*. Translation and Interpreting in America. http://tinyurl.com/ocean6l. Accessed June 2015.

Mattila, Heikki. 2006. *Comparative Legal Linguistics*. Burlington, VT: Ashgate Publishing Company.

McClelland, James, and Jeffrey Elman. 1986. "The TRACE Model of Speech Perception." *Cognitive Psychology* 18: 1-86.

Melinkoff, David. 1963. *The Language of the Law*. Oregon: Resource Publications.

Melinkoff, David. 1982. *Legal Writing: Sense and Nonsense*. New York, NY: Scribner.

Mendoza-Denton, Norma. 1999. "Sociolinguistics and Linguistic Anthropology of US Latinos." *Annual Review of Anthropology* 28: 375-395.

Messier, Flo. 1999. "Alien Defendants in Criminal Proceedings: Justice Shrugs." *American Criminal Law Review* 36(4): 1395-1419.

Messitte, Peter. 1999. "Common Law v. Civil Law Systems." *Journal of the U.S. Information Agency* 4(2). http://tinyurl.com/pubxtph. Accessed February 2008.

Metsala, Jamie. 1997. "An Examination of Word Frequency and Neighborhood Density in the Development of Spoken-Word Recognition." *Memory and Cognition*. 25(1): 47-56.

Meyer, David, and Roger Schvaneveldt. 1971. "Facilitation in Recognizing Pairs of Words: Evidence of a Dependence between Retrieval Operations." *Journal of Experimental Psychology* 90: 227-234.

Mikkelson, Holly. 1998. "Towards a Redefinition of the Role of the Court Interpreter." *Interpreting* 3(1): 21-45.

Mikkelson, Holly. 2000. *Introduction to Court Interpreting*. Manchester: St. Jerome Publishing.

Mikkelson, Holly. 2008. "Evolving Views of the Court Interpreter's Role: Between Scylla and Charybdis." In C. Valero Garcés and A. Martin (eds) *Crossing Borders in Community Interpreting: Definitions and Dilemmas*. Amsterdam and Philadelphia: John Benjamins.

Mikkelson, Holly, and Hanne Mintz. 1997. "Orientation Workshop for Interpreters of all Languages: How to strike a Balance between the Ideal World and Reality." In S. Carr, R. Roberts, A. Dufour, and D. Steyn (eds) *The Critical Link: Interpreting in the Community*. Amsterdam and Philadelphia: John Benjamins. 55-74.

Moeketsi, Rosemary. 1999. *Discourse in a Multicultural and Multicultural Courtroom: A Court Interpreter's Guide*. Pretoria: J L van Schaik Publishers.

Molinari Marotto, Carlos. 1998. *Introducción a los modelos cognitivos de la comprensión del lenguaje*. Buenos Aires: Eudeba.

Montaño-Harmon, María Rosario. 1991. "Discourse Features of Written Mexican Spanish: Current Research in Contrastive Rhetoric and its Implications." *Hispania*, 74(2): 417–425. http://tinyurl.com/oab3s7r. Accessed May 2014.

Montes-Alcalá, Cecilia. 2009. "Hispanics in the United States: More than Spanglish." *Camino Real* 1: 97-115.

Montz, Craig. 2002. "Trial Objections from Beginning to End: The Handbook for Civil and Criminal Trials." *Pepperdine Law Review* 29(2): 243-318. http://tinyurl.com/poasxa8. Accessed August 2015.

Moore, Joanne. 1999. *Immigrants in Courts*. Seattle: University of Washington Press.

Moore, Joanne. and Judge Ron A. Mamiya. 1999. "Interpreters in Court Proceedings." In J. Moore (ed) *Immigrants in Courts*. Seattle: University of Washington Press. 29-44.

Morris, Ruth. 1989. *The Impact of Court Interpretation on Legal Proceedings*. Unpublished MA Thesis. Hebrew University of Jerusalem.

Morris, Ruth. 1993. "The interlingual Interpreter – Cypher or Intelligent Participant?" *International Journal for the Semiotics of Law* 6(18): 1-21. http://ruthmorris13.googlepages.com/. Accessed June 2007.

Morris, Ruth. 1995. "The Moral Dilemmas of Court Interpreting." *The Translator* 1(1): 25-46.

Morris, Ruth. 1999. "The Gum Syndrome: Predicaments in Court Interpreting." *Forensic Linguistics* 6(1): 6-29. http://ruthmorris13.googlepages.com/. Accessed June 2007.

Moss, Helen, Ruth Ostrin, Lorraine Tyler, and William Marslen-Wilson. 1995. "Accessing Different Types of Lexical Semantic Information: Evidence From Priming." *Journal of Experimental Psychology: Learning, Memory, and Cognition* 21(4): 863-883.

NAJIT. 2013. *The Federal Court Interpreting Program*. Presentation at NAJIT's 34th Annual Conference. National Association of Judiciary Interpreters and Translators. http://tinyurl.com/nan8ygt . Accessed February 2015.

NAJIT. Accessed May 2015. *Frequently Asked Questions*. National Association of Judiciary Interpreters and Translators. http://tinyurl.com/o63r4pg.

Nakane, Ikuko. 2007. "Problems in Communicating the Suspect's Rights in Interpreted Police Interviews." *Applied Linguistics* 28(1): 87-112.

NCSC. 1995. *Model Code of Professional Responsibility for Interpreters in the Judiciary*. National Center for State Courts. http://tinyurl.com/qfn9aly. Accessed June 2015.

NCSC. 2008. *Consortium for State Court Interpreter Certification, Frequently Asked Questions*. National Consortium for State Courts. http://tinyurl.com/pcf2v6e. Accessed June 2015.

NCSC. 2011. *Court Interpreter Oral Examination: Overview*. National Center for State Courts. http://tinyurl.com/nqpkq5p. Accessed March 2015.

NCSC. 2012. *Court Interpreter Written Examination: Overview*. National Center for State Courts. http://tinyurl.com/m3z5d3m. Accessed March 2015.

NCSC. 2013. *A National Call to Action. Access to Justice for Limited English Proficient Litigants: Creating Solutions to Language Barriers in State Courts*. National Center for State Courts. http://tinyurl.com/pqt6469. Accessed March 2015.

NCSC. 2014. *Common Oral Interpreting Exam Performance Deficiencies.* National Center for State Courts. http://tinyurl.com/zoh8van. Accessed March 2015.

Nelson, Gayle, Cindy Lutenbacher, and María Elena López. 2001. "A Cross-cultural Study of Mexico and the United States: Perceived Roles of Teachers." *Journal of Multilingual and Multicultural Development* 22(6): 463-474.

Newcomb, Theodore. 1953. "An Approach to the Study of Communicative Acts." *Psychological Review* 60: 393-404.

Nord, Christiane. 1991. "Skopos, Loyalty, and Translational Conventions." *Target* 3(1): 91-109.

Nord, Christiane. 1997. *Translating as a Purposeful Activity: Functionalist Approaches Explained*. Manchester: St. Jerome.

Nord, Christiane. 1998. "La unidad de traducción en el enfoque funcionalista." *Quaderns* 1: 65-77. http://tinyurl.com/6teqowr. Accessed February 2009.

Nord, Christiane. 2006. "Loyalty and Fidelity in Specialized Translation." *Confluéncias* 4: 29-42.

O'Barr, William. 1981. "The Language of the Law." In C. Ferguson and S. Brice Heath (eds) *Language in the USA*. New York: Cambridge University Press. 386-406.

Olague, Susana. 2003. *Towards New Dialects: Spanglish in the United States*. University of Toronto. http://tinyurl.com/pwlous9. Accessed October 2008.

OMNI. Accessed September 2013. "Toolkit for Conducting Focus Groups." Denver CO: OMNI Institute. http://tinyurl.com/p8fnqog.

Onifer, William, and David Swinney. 1981. "Accessing Lexical Ambiguities during Sentence Comprehension: Effects of Frequency-of-Meaning and Contextual Bias." *Memory and Cognition* 9(3): 225-236.

OOH. 2014. *Occupational Outlook Handbook*. http://tinyurl.com/l26hwzo. Accessed February 2015.

Otheguy, Ricardo, and Nancy Stern. 2010. "On so-called Spanglish." *International Journal of Bilingualism* 15(1) 85–100.

Palerm, Juan, Bobby Vincent, and Kathryn Vincent. 1999. "Mexican Immigrants in Courts." In J. Moore (ed) *Immigrants in Courts*. Seattle: University of Washington Press. 73-97.

Pantoga, Heather. 1999. "Injustice in any Language: The Need for Improved Standards Governing Courtroom Interpretation in Wisconsin." *Marquette Law Review* 82: 601-662.

Pavlenko, Aneta. 2008. "'I'm very not about the Law Part': Nonnative Speakers of English and the Miranda Warnings." *Tesol Quarterly* 42(1): 1-30.

Pejovic, Caslav. 2001. "Civil Law and Common Law: Two Different Paths Leading to the same Goal." *Victoria University of Wellington Law Review* 32(3): 817-841.

Peruginelli, Ginevra. 2009. "Accessing Legal Information Across Boundaries: A New Challenge." *International Journal of Legal Information* 37(3): 276-305.

Pew. 2009a. *Who's Hispanic?* Jeffrey Passel and Paul Taylor for Pew Research Center. http://tinyurl.com/nbkbhnw. Accessed March 2012.

Pew. 2009b. *Hispanics and the Criminal Justice System*. Mark Lopez and Gretchen Livingston for Pew Research Center. http://tinyurl.com/h3lc4km. Accessed March 2012.

Pew. 2010. *Illegal Immigration Backlash Worries, Divides Latinos*. Mark Lopez, Rich Morin and Paul Taylor for Pew Research Center. http://tinyurl.com/jsjlnh4. Accessed May 2012.

Pew. 2012. *Statistical Portrait of Hispanics in the United States*. Anna Brown and Eileen Patten for Pew Research Center. http://tinyurl.com/q2txl7y. Accessed July 2014.

Pew. 2012c. *Census Bureau Considers Changing Its Race/Hispanic Questions.* D'vera Cohn for Pew Research Center. http://tinyurl.com/pk6jmgt. Accessed March 2015.

Pew. 2012d. *When Labels Don't Fit: Hispanics and Their Views of Identity*. Pew Research Center. http://tinyurl.com/8evhk5m. Accessed March 2015.

Pew. 2013a. *A Demographic Portrait of Mexican-Origin Hispanics in the United States*. Pew Research Center. http://tinyurl.com/nluuu4v. Accessed July 2015.

Pew. 2013b. *Between Two Worlds: How Young Latinos Come of Age in America*. Pew Research Center. http://tinyurl.com/kpkw3az. Accessed July 2015.

Pew. 2013c. *The Path not Taken. Two-thirds of Legal Mexican Immigrants are not U.S. Citizens*. Pew Research Center. http://tinyurl.com/hjqkabs. Accessed August 2014.

Pfeiffer Library. 1998. *Communication*. New York: Jossey-Bass/Pfeiffer.

Philipsen, Gerry. 1992. *Speaking Culturally: Explorations in Social Communication*. Albany, NY: State University of New York Press.

Philipsen, Gerry, Lisa Coutu, and Patricia Covarrubias. 2005. "Speech Codes Theory: Revisions, and Response to Criticisms." In W. Gudykunst (ed) *Theorizing about Intercultural Communication*. Thousand Oaks, CA: Sage. 55-68.

Piller, Ingrid. 2007. "Linguistics and Intercultural Communication." *Language and Linguistic Compass* 1(3): 208-226.

Pilleux, Mauricio. 2001. "Competencia comunicativa y análisis del discurso." *Estudios filológicos* 36: 143-152. http://tinyurl.com/5m4858. Accessed March 2008.

PLAIN. Accessed March 2014. "Plain Language." http://www.plainlanguage.gov.

Pöchhacker, Franz. 1992. "The Role of Theory in Simultaneous Interpreting." In C. Dollerup and A. Loddegaard (eds) *Teaching Translation and Interpreting. Training, Talent and Experience*. Amsterdam and Philadelphia: John Benjamins. 211-220.

Pöllabauer, Sonja. 2004. "Interpreting in Asylum Hearings. Issues of Role, Responsibility and Power." *Interpreting* 6(2): 143-180.

Pöllabauer, Sonja. 2006. "During the Interview, the Interpreter will provide a Faithful Translation. The Potentials and Pitfalls of Research Interpreting in Immigration, Asylum, and Police Settings: Methodology and Research Paradigms." *Linguistica Antverpiensia* NS 5: 229-244.

Pommer, Sieglinde. 2008. "Translation as Intercultural Transfer: The Case of Law." *SKASE Journal of Translation and Interpretation* 3(1): 17-21.

Poplack, Shana. 1980. "Sometimes I'll start a Sentence in Spanish y termino en español: Toward a Typology of Code-Switching." *Linguistics* 18: 581-618.

Portes, Alejandro, and Lingxin Hao. 2004. "The Schooling of Children of Immigrants: Contextual Effects on the Educational Attainment of the Second Generation." *Proceedings of the National Academy of Science* 101(33): 11920-11927.

Powell, Martine, and Terry Bartholomew. 2003. "Interviewing and Assessing Clients from different Cultural Backgrounds: Guidelines for all Forensic Professionals." In D. Carson and R.Bull (eds) *Handbook of Psychology in Legal Contexts*. Chichester, UK: John Wiley & Sons Ltd. 625-644.

Pratt, Mary Louise, André Nascimento, and Joanna Pinto. 2013. "Utopías lingüísticas." *Trabalhos em Linguística Aplicada* 52(2): 437-459.

Prometric. 2006. *California Certified Interpreter Oral Performance Evaluation Guide*. http://tinyurl.com/6rg8gr. Accessed May 2007.

Prometric. 2011. *California. Judicial Council of California Administrative Office of the Courts, Candidate Information Bulletin for those taking the Court Interpreter Oral Interpreting*. http://tinyurl.com/o7bmy9v. Accessed May 2015.

Pugh, Kenneth, Karl Rexer, Mira Peter, and Leonard Katz. 1994. "Neighborhood Effects in Visual Word Recognition: Effects of Letter Delay and Nonword Context Difficulty." *Journal of Experimental Psychology: Learning, Memory and Cognition* 20(3): 639-648.

Rearick, Daniel. 2004. "Reaching Out to the Most Insular Minorities: A Proposal for Improving Latino Access to the American Legal System." *Harvard Civil Rights-Civil Liberties Law Review* 39: 543-546.

Reddy, Michael. 1979. "The Conduit Metaphor: A Case of Frame Conflict in our Language about Language." In A. Ortony (ed) *Metaphor and Thought*. Cambridge: Cambridge University Press. 284-324.

Reed, Deborah, Laura Hill, Christopher Jepsen, and Hans Johnson. 2005. *Educational Progress Across Immigrant Generations in California*. Public Policy Institute of California. http://tinyurl.com/ney3pta. Accessed February 2008.

Reyes, Belinda. 2001. *A Portrait of Race and Ethnicity in California*. Public Policy Institute of California. http://tinyurl.com/covxzvd. Accessed January 2008.

Richards, Jack, and Richard Schmidt. 2010. *Longman Dictionary of Language Teaching and Applied Linguistics*. Harlow, UK: Pearson Education Limited.

Richgels, Donald. 1982. "Schema Theory, Linguistic Theory, and Representations of Reading Comprehension." *Journal of Education Research* 76(1): 54-62.

Rigney, Azucena. 1999. "Questioning in Interpreted Testimony." *Forensic Linguistics* 6(1): 83-108.

Rivera, Bernadette, and Diana Rogers-Adkinson. 1997. "Culturally Sensitive Interventions: Social Skills Training with Children and Parents from Culturally and Linguistically diverse Backgrounds." *Intervention in School and Clinic* 33(2): 75-80.

Robbins Collection. 2010. *The Common Law and Civil Law Traditions*. http://tinyurl.com/m6obrze. Accessed May 2015.

Roca, Ana. 2000. *Research on Spanish in the United States: Linguistic Issues and Challenges*. Somerville, MA: Cascadilla Press.

Rogers, Richard, Kimberly Harrison, Daniel Shuman, Kenneth Sewell, and Lisa Hazelwood. 2007. "An Analysis of Miranda Warnings and Waivers: Comprehension and Coverage." *Law and Human Behavior* 31(2): 177-192.

Rogers, Richard, Jill Rogstad, Jennifer Steadham, and Eric Drogin. 2011. "In Plan English: Avoiding Recognized Problems with Miranda Miscomprehension." *Psychology, Public Policy, and Law* 17(2): 264–285.

Roncalli, S. 2001. "L'interpretazione in tribunale in una provincia bilingue: il caso di Bolzano." Unpublished Thesis, Trieste, Sezione di Studi in Lingue Moderne per Interpreti e Traduttori SSLMIT. Università degli studi di Trieste.

Rose, David. 1999. "Culture, Competence and Schooling: Approaches to Literacy Teaching in Indigenous School Education." In F. Christie (ed) *Pedagogy and the Shaping of Consciousness: Linguistic and Social Processes*. London: Continuum. 217-245.

Roy, Cynthia. 1993/2002. "The Problem with Definitions, Descriptions, and the Role Metaphors of Interpreters." In F. Pöchhacker and M. Shlesinger (eds) *The Interpreting Studies Reader*. London: Routledge. 344-353.

Roy, John. 1990. "The Difficulties of Limited-English Proficient Individuals in the Legal Setting." *Annals of the New York Academy of Sciences* 606: 73-83.

Rudvin, Mette. 2007. "Professionalism and Ethics in Community Interpreting: The Impact of Individualist versus Collective Group Identity." *Interpreting* 9(1): 47-69.

Rumelhart, David, and Andrew Ortony. 1977. "The Representation of Knowledge in Memory." In R. Anderson and R. Spiro (eds) *Schooling and the Acquisition of Knowledge.* Hillsdale, NJ: Erlbaum. 99-135.

Russell, Sonia. 2000. "'Let me put it simply...': the Case for a Standard Translation of the Police Caution and its Explanation." *International Journal of Speech Language and the Law* 7(1): 26-48.

Said-Mohand, Aixa. 2011. "The Teaching of Spanish as a Heritage Language: Overview of what we Need to Know as Educators." *Porta Linguarum* 16: 89-104.

Samovar, Larry, Richard Porter, and Edwin McDaniel. 2012. *Intercultural Communication: A Reader*. Boston, MA: Wadsworth.

Salimbene, Franklyn. 1997. "Court Interpreters: Standards of Practice and Standards for Training." *Cornell Journal of Law and Public Policy* 6(3): 645-672.

Sánchez-Muñoz, Ana. 2007. *Register and Style Variation in Speakers of Spanish as a Heritage and as a Second Language*. Doctoral Dissertation. Los Angeles, CA: University of Southern California.

Sánchez-Muñoz, Ana. 2012. "El español como lengua de herencia en los Estados Unidos: retos y consideraciones pedagógicas." *Desde Macondo* 5:1-16.

Sandrini, Peter. 1996. "Comparative Analysis of Legal Terms: Equivalence Revisited." In C. Galinski and K. Schmitz (eds) *Terminology and Knowledge Engineering*. Frankfurt: Indeks-Verlag. 342-351.

Sandrini, Peter. 1999. "Legal Terminology. Some Aspects for a New Methodology." *Hermes Journal of Linguistics* 22: 101-112.

Sandrini, Peter. 2009. "The Parameters of Multilingual Legal Communication in a Globalized World." *Comparative Legilinguistics. International Journal for Legal Communication* 1: 34-48.

Sandrini, Peter. 2014. "Multinational Legal Terminology in a Paper Dictionary?" In M. Aodha (ed) *Legal Lexicography: A Comparative Perspective*. London: Ashgate Publishing. 141-152.

Šarčević, Susan. 1997. *New Approach to Legal Translation*. The Hague: Kluwer Law International.

Scarcella, Robin. 1990. *Teaching Language Minority Students in the Multicultural Classroom*. New Jersey: Prentice Hall Regents.

Schäffner, Christina. 1998. "The Concept of Norms in Translation Studies." *Current Issues in Language and Society* 5(1-2): 1-9.

Schäffner, Christina. 2010. "Norms of Translation." In Y. Gambier and L. van Doorslaer (eds) *Handbook of Translation Studies*. 235–244.

Schauber, Ann. 2001. *No See Ums: Hidden Aspects to Communicating with your Mexican Workers*. Proceedings of the 5th Western Dairy Management Conference. Las Vegas, NV. http://tinyurl.com/qy8zfne. Accessed March 2014.

Schjoldager, Anne. 2002. "An Exploratory Study of Translational Norms in Simultaneous Interpreting: Methodological Reflections." In F. Pöchhacker and M. Shlesinger (eds) *The Interpreting Studies Reader*. London: Routledge. 300-311.

Schleppegrell, Mary. 2004. *The Language of Schooling: A Functional Linguistics Perspective*. Mahwah, NJ: Lawrence Erlbaum.

Schramm, Wilbur. 1954. *The Process and Effects of Mass Communication*. Urbana, IL: University of Illinois Press.

Scollon, Ron, and Suzanne Wong Scollon. 1995. *Intercultural Communication: a Discourse Approach*. Oxford: Blackwell Publishers Inc.

Searle, John. 1979. "Metaphor." In A. Ortony (ed.), *Metaphor and Thought*. Cambridge, UK: Cambridge University Press. 92-123.

Seleskovitch, Danica. 1989. *The Interpreter*. Paris: Didier.

Shannon, Claude, and Warren Weaver. 1949. *The Mathematical Theory of Communication*. Urbana, IL: University of Illinois Press.

Shen, Zhifa. 2013. "The Effects of Vocabulary Knowledge and Dictionary Use on EFL Reading Performance." *English Language Teaching* 6(6): 77-85.

Shepard, Randall. 2007. "Access to Justice for People who do not speak English." *Indiana Law Review* 40(4): 643-657.

Shlesinger, Miriam. 1989. "Extending the Theory of Translation to Interpretation: Norms as a Case in Point." *Target* 1(1): 111-115.

Shlesinger, Miriam. 1991. "Interpreter Latitude vs. Due Process. Simultaneous and Consecutive Interpretation in Multilingual Trials." In S. Tirkkonen-Condit (ed) *Empirical Research in Translation and Intercultural Studies.* 147-155.

Shlesinger, Miriam. 1995. "Stranger in Paradigms: What Lies Ahead for Simultaneous Interpreting Research?" *Target* 7(1): 7-28.

Shlesinger, Miriam. 1999. "Norms, Strategies and Constraints: How do we tell them Apart?" In A. Lugrís and A. Fernández Ocampo (eds) *Anovar/Anosar estudios de traducción e interpretación*. Vigo: Universidade de Vigo. 65-77.

Shlesinger, Miriam. 2010. "The 'True Interpreter' Revisited: On (im)partiality and (in)consistency in Court Interpreting." In M. Blasco Mayor and A. Jiménez Ivars (eds) *Interpreting Naturally*. New York: Peter Lang. 195-216.

Shuy, Robert. 1997. "Ten Unanswered Language Questions about Miranda." *Forensic Linguistics* 4: 2175-95.

Shuy, Roger. 2005. *Creating Language Crimes*. New York: Oxford University Press.

Shuy, Roger. 2007. "Language in the American Courtroom." *Language and Linguistics Compass* 1(1-2): 100-114.

Silva-Corvalán, Carmen. 1991. "Spanish Language Attrition in a Contact Situation with English." In H. Seliger and R. Vago (eds) *First Language Attrition*. Cambridge, UK: Cambridge University Press. 151-171.

Silva-Corvalán, Carmen. 1994. *Language Contact and Change: Spanish in Los Angeles*. Oxford: Oxford University Press.

Silva-Corvalán, Carmen. 2001. *Sociolingüística y pragmática del español*. Washington, D.C.: Georgetown University Press.

Simonnæs, Ingrid. 2013. "Legal Translation and 'Traditional' Comparative Law – Similarities and Differences." *Linguistica Antverpiensia* 12: 147-160.

Siviero, F. 2003. "Interpretazione in tribunale: problemi organizzativi ed elaborazioni Deontologiche." Unpublished Thesis, Trieste, SSLMIT. Università degli studi di Trieste.

Snell-Hornby, Mary. 1988. *Translation Studies: An Integrated Approach*. Amsterdam and Philadelphia: John Benjamins.

Sorokin, Ellen. 2001. "'Spanglish' Speakers mix Home Languages." *The Washington Times*. http://tinyurl.com/ncjlyp4. Accessed March 2014.

Stamps, Katherine, and Stephanie Bohon. 2006. "Educational Attainment in New and Established Latino Metropolitan Destinations." *Social Science Quarterly* 87(5): 1225-1240.

Stavans, Ilan. 2000. *The Gravitas of Spanglish*. The Chronicle of Higher Education. http://tinyurl.com/q4unqaz. Accessed April 2008.

Stephens, Cheryl. 2000. *An Introduction to Plain Language*. Plain Language Association International. http://tinyurl.com/66uf3o. Accessed February 2008.

Stern, Peter, and Lucia Ballard. 2013. *Lost in Translation: Dealing with Interpretation Issues in International Litigation.* Association of Corporate Counsel. http://tinyurl.com/ofhekql. Accessed March 2014.

Sternberg, Robert, and Janet Powell. 1983. "Comprehending Verbal Comprehension." *American Psychologist* 38, 878-893.

Stubbs, Michael. 1996. *Text and Corpus Analysis*. Oxford: Blackwell.

Swinney, David. 1982. "The Structure and Time-Course of Information Interaction during Speech Comprehension: Lexical Segmentation, Access, and Interpretation." In J. Mehler, T. Walker, and M. Garrett (eds) *Perspectives on Mental Representation*. Hillsdale, NJ: Erlbaum Associates Publishers. 151-166.

Swinney, David, and David Hakes. 1976. "Effects of Prior Context upon Lexical Access during Sentence Comprehension." *Journal of Verbal Learning and Verbal Behavior* 15: 681-689.

Swinney, David, and Tracy Love. 2002. "Context Effects on Lexical Processing during Auditory Sentence Comprehension." In F. Witruk, A. Friederici and T. Lachmann (eds) *Basic Functions of Language, Reading and Reading Disability.* Boston: Kluwer Academic Publishers. 25-40.

Tabossi, Patricia. 1991. "Understanding Words in Context." In G. Simpson (ed) *Understanding Word and Sentence*. Amsterdam: North-Holland. 1-22.

Take Part. 2014. *Like It's 1849: Latinos Are the Majority in California*. http://tinyurl.com/nl655o8. Accessed September 2015.

Tanenhaus, Michael, and John Trueswell. 1995. "Sentence Comprehension." In J. Miller and P. Eimas (eds) *Speech, Language, and Communication*. San Diego: Academic Press. 217-262.

Tannen, Deborah. 1984. "The Pragmatics of Cross-Cultural Communication." *Applied Linguistics* 5(3): 189-95.

Tate, Graham, and Granville Turner. 2002. "The Code and the Culture: Sign Language Interpreting – in Search of the New Breeds Ethics." In F. Pöchhacker and M. Shlesinger (eds) *The Interpreting Studies Reader*. London: Routledge. 372-383.

The Leadership Conference. 2015. *Reasons Behind Inaccuracies in the Census*. http://tinyurl.com/q9l9avv. Accessed September 2015.

The Washington Times. 2014. *Spanish-Language Obamacare Website is written in 'Spanglish'*. http://tinyurl.com/mkjap8c. Accessed August 2015.

Tiersma, Peter. 1993. "Reforming the Language of Jury Instructions." *Hofstra Law Review* 22: 37-78.

Tiersma, Peter. 1999. *Legal Language*. Chicago: University of Chicago Press.

Ting-Toomey, Stella. 1999. *Communicating Across Cultures*. New York: Guiford Press.

Toury, Gideon. 1980. *In Search of a Theory of Translation*. Tel Aviv: The Porter Institute for Poetics and Semiotics.

Toury, Gideon. 1995. *Descriptive Translation Studies and Beyond*. Amsterdam and Philadelphia: John Benjamins.

Toury, Gideon. 1998. "A Handful of Paragraphs on 'Translation' and 'Norms.'" *Current Issues in language and society* 5(1-2): 10-32.

Trabing, Eta. 2002. *Introduction to Court Interpreting*. Pensacola, FL: Berkana, Inc.

Traynor, Roger. 1970. *The Riddle of Harmless Error*. Columbus: Ohio State University Press.

Triandis, Harry, Gerardo Marín, Judith Lisansky, and Hector Betancourt. 1984. "Simpatía as a Cultural Script of Hispanics." *Journal of Personality and Social Psychology* 47: 1363-1375.

Trudgill, Peter. 1992. *Introducing Language and Society*. London: Penguin.

U.S. Census Bureau. 2014. *Quick Facts for California*. http://tinyurl.com/qxh429f. Accessed September 2015.

U.S. Census Bureau. Accessed September 2013. "About Hispanic Origin." http://tinyurl.com/pdb9fgg.

U.S. Census Bureau. 2015. *Five-Year American Community Survey. Table DP02: Selected Social Characteristics in the United States*. http://tinyurl.com/nz7dpmq. Accessed September 2015.

UCLA. 2002. *Guidelines on Heritage Language Instruction. The Steering Committee of the UC Consortium for Language Learning & Teaching*. University of California, Los Angeles. http://tinyurl.com/qdu8fyc. Accessed May 2008.

Ur, Penny. 1984. *Teaching Listening Comprehension*. Cambridge: Cambridge University Press.

Ure, Jean. 1982. "Introduction: Approaches to the Study of Register Range." *International Journal of the Sociology of Language* 35: 5–23.

USDJ. 2004. *Executive Order 13166: Limited English Proficiency Resource Document: Tips and Tools from the Field.* Civil Rights Division. United States Department of Justice. http://tinyurl.com/6f48ro. Accessed November 2007.

USDJ. 2015a. *Title VI Statute, 42 U.S.C §§ 2000d - 2000d-7*. United States Department of Justice. http://tinyurl.com/leaxlfr. Accessed October 2015.

USDJ. 2015b. *Federal Coordination and Compliance Section*. United States Department of Justice. http://tinyurl.com/njbasyd. Accessed October 2015.

USGPO. 2010. *Public Law 111–274*. United States Government Publishing Office. http://tinyurl.com/ 3mwzjwn. Accessed May 2014.

Valdés, Guadalupe. 2000. "Bilingualism and Language Use among Mexican Americans." In S. McKay and S. Wong (eds) *New Immigrants in the United States*. Cambridge University Press. 99-136.

Valdés, Guadalupe, and Michelle Geoffrion-Vinci. 1998. "Chicano Spanish: The Problem of the 'Underdeveloped' Code in Bilingual Repertoires." *Modern Language Journal* 82(4) 473-501.

Van Dijk, Teun, and Walter Kintsch. 1983. *Strategies of Discourse Comprehension.* New York: Academic Press.

Van Dijk, Teun. 1989. "Structures of Discourse and Structures of Power." In J. Anderson (ed) *Communication Yearbook 12*. Newbury Park, CA: Sage Publications. 18-59.

Van Dijk, Teun. 1997. *Discourse as Social Interaction*. London: Sage Publications.

Van Dijk, Teun. 1999. "Context Models in Discourse Processing." In H. van Oostendorp and S. Goldman (eds) *The Construction of Mental Representations during Reading*. Mahwah, NJ: Lawrence Erlbaum Associates. 123-148.

Ventola, Eija. 1995. "Generic and Register Qualities of Texts and their Realization." In P. Fries and M. Gregory (eds) *Discourse in Society: Systemic Functional Perspectives*. New Jersey: Ablex Publishing Corporation. 3-28.

Vermeer, Hans. 1989. "Skopos and Commission in Translational Action." In L. Venuti (ed) *The Translation Studies Reader*. New York: Routledge. 227-238.

Vernon, McCay, and Joan Coley. 1978. "Violation of Constitutional Rights: The Language Impaired Person and the Miranda Warnings." *Journal of Rehabilitation of the Deaf* 11(4): 1.8.

Wadensjö, Cecilia. 1993. "The Double Role of a Dialogue Interpreter." In F. Pöchhacker and M. Shlesinger (eds) *The Interpreting Studies Reader*. London: Routledge. 354-371.

Wadensjö, Cecilia. 1995. "Dialogue Interpreting and the Distribution of Responsibility."*Hermes, Journal of Linguistics* 14: 111-129.

Wadensjö, Cecilia. 1998. *Interpreting as Interaction*. London and New York: Longman.

Westley, Bruce, and Malcom MacLean. 1957. "A Conceptual Model for Communications Research." *Journalism Quarterly* 34:31-38.

White, James. 1990. *Justice as Translation. An Essay in Cultural and Legal Criticism*. Chicago: The University of Chicago Press.

WHP. 2000. *Diccionario del Náhuatl*. Wired Humanities Projects. http://tinyurl.com/o92yl3d. Accessed August 2014.

Zethsen, Karen. 2009. "Intralingual Translation: An Attempt at Description." *Meta* 54(4): 795-812.

Zolin, Frank. 1981. *Los Angeles Superior Court Interpreters Manual*. Executive Office, Superior Court, Los Angeles County.

UNIVERSITAT ROVIRA I VIRGILI
COMPREHENSION OF LEGAL DISCOURSE IN INTERPRETER-MEDIATED JUDICIAL PROCEEDINGS
Julia Lambertini Andreotti

Appendix 1. Consent form - English

Intercultural Studies Group, Universitat Rovira i Virgili
Tarragona, Spain

Consent to Participate in a Research Study:
Comprehension of Legal Discourse in Interpreter-Mediated Judicial Proceedings

You are invited to participate in a research study conducted by Julia Lambertini Andreotti. This research focuses on the treatment of legal language used during judicial proceedings. Approximately 50 individuals will participate in the study, and each individual's participation will last between 10 minutes and 3 hours. All tests and activities will be recorded.

The purpose of this research is to investigate the comprehension of legal discourse in interpreted judicial proceedings. Your participation may involve taking part in an interview, a short English into Spanish translation exercise, a short listening comprehension test, or a discussion in a focus group.

All your responses will be confidential (in the sense that your name will not appear in any public records or publications) and only Julia Lambertini Andreotti and her research assistants will have access to these data. The data will be used over the next three years, although they will be retained indefinitely as records. If a report of this study is published, or the results are presented at a professional conference, no identifiable information will be provided that could relate the results to your name.

Participation in this study is voluntary. You may choose not to participate, and you may withdraw at any time. In addition, you may choose not to answer any questions with which you are not comfortable. There are no risks, benefits, or compensation associated to participation in this study. All documentation and recordings are the property of the researcher.

You are free to ask questions concerning the procedure. If you would like more information about this research, you can contact Julia Lambertini Andreotti at jlatran@att.net. All questions about your rights as a research subject should be directed toward the current chair of the Ethics Committee, Dr. Anthony Pym, at anthony.pym@urv.cat.

I have read and I understand the above. I have been offered a copy of this informed consent form.

_____ _____
Participant's Signature Date

_____
Participant's Printed Name

I have explained and defined in detail the research procedure in which the participant has agreed to participate, and have offered the participant a copy of this informed consent form.

_____ _____
Investigator's Signature Date

Julia Lambertini Andreotti

Appendix 2. Consent form - Spanish

Intercultural Studies Group, Universitat Rovira i Virgili
Tarragona, España

Consentimiento para participar en un estudio de investigación:
Comprensión del discurso jurídico en procedimientos judiciales interpretados al español

Se le invita a participar en un estudio de investigación a cargo de Julia Lambertini Andreotti. El propósito de este estudio es investigar la comprensión del lenguaje jurídico en los procedimientos judiciales en los que hay intérpretes. Participarán alrededor de 50 personas en el estudio, y la participación de cada persona durará entre treinta minutos y una hora. Su participación puede incluir un ejercicio de comprensión auditiva o un diálogo grupal sobre la comprensión de cierto texto jurídico en español.

Todas sus respuestas son confidenciales, es decir, su nombre no aparecerá en ningún documento ni en ninguna publicación, y solo Julia Lambertini Andreotti y sus asistentes tendrán acceso a los datos. Sus respuestas se usarán durante los próximos tres años pero se conservarán para siempre. Si se publica un informe de este estudio, o si los resultados se presentan en un congreso profesional, no se proporcionará información que pueda relacionar los resultados con su nombre.

La participación en el estudio es voluntaria. Puede decidir no participar, y puede abandonar el estudio en cualquier momento. Asimismo, puede decidir no responder ninguna pregunta con la que no se sienta cómodo. Este estudio no tiene riesgos, beneficios, ni compensación alguna. Toda la documentación y las grabaciones son propiedad de la investigadora.

Si desea obtener más información, puede comunicarse con Julia Lambertini Andreotti (jlatran@att.net). Todas las preguntas sobre sus derechos como participante en una investigación se deben dirigir al presidente del Comité de Ética, Dr. Anthony Pym, (anthony.pym@urv.cat).

He leído y entiendo este documento, del cual se me ha ofrecido una copia.

_____ _____
Firma del participante Fecha

_____
Nombre del participante

Le he explicado el procedimiento del estudio en detalle al firmante, quien ha decidido participar, y le he ofrecido una copia de este formulario de consentimiento con conocimiento previo.

_____ _____
Firma de la investigadora Fecha

Julia Lambertini Andreotti

Appendix 3. Pilot study. Listening comprehension test

Pilot study - English speakers - Question 1

1. A witness who is willfully false in one material aspect of his or her testimony is to be distrusted in others. You may reject the whole testimony of a witness who willfully has testified falsely as to a material point, unless, from all the evidence, you believe the probability of truth favors his or her testimony in other particulars. Question: what should you do when a witness is willfully false in one material aspect of his or her testimony?	
Participant 1	Well, I consider them to be a liar
Participant 2	I wouldn't believe them

Pilot study - English speakers - Question 2

2. Circumstantial evidence is evidence that, if found to be true, proves a fact from which an inference of the existence of another fact may be drawn. A factual inference is a deduction that may logically and reasonably be drawn from one or more facts established by the evidence. Question: What is circumstantial evidence?	
Participant 1	It's not exactly scientific, it's not proven, it's... we have this evidence and you're supposed to make a judgment based on this but it might be leading into something else without actually being factual
Participant 2	I'm not exactly sure how to phrase it

Pilot study - English speakers - Question 3

3. "Preponderance of the evidence" means evidence that has more convincing force than that opposed to it. If the evidence is so evenly balanced that you are unable to say that the evidence on either side of an issue preponderates, your finding on that issue must be against the party who had the burden of proving it. Question: What is preponderance of the evidence?	
Participant 1	No idea
Participant 2	Evidence that you would feel more certain of being true

Pilot study - English speakers - Question 4

4. The defendant further alleges that it was his perception that his attorney had disclosed privileged information to co-counsel, before the case was severed, that later led him to enter into a guilty plea. Question: What does the defendant allege?	
Participant 1	He thinks that his lawyer told another lawyer the information
Participant 2	That his attorney led him to believe something that he later regretted agreeing to

Pilot study - English speakers - Question 5

5. Since the defendant's explanation as to the behavior of the parties is not supported by the sworn statement of any witnesses, it scarcely rises to the level of clear and convincing evidence. Question: Why does the defendant's explanation not seem believable?	
Participant 1	What was the first part? I don't know
Participant 2	Because the evidence did not seem clear

Pilot study - Spanish speakers group 1 (original register) - Question 1

1. Si un testigo declara voluntariamente en falso en un aspecto esencial de su testimonio, se debe desconfiar de él en otros. Usted puede rechazar todo el testimonio de un testigo que ha declarado voluntariamente en falso sobre un punto importante, a menos que al conocer todas las pruebas, usted considere que la probabilidad de que sea verdad favorece su testimonio en otros puntos. Question: ¿Qué debe hacer cuando un testigo declara voluntariamente de manera falsa en un aspecto esencial de su testimonio?

P 1	¿Qué debo de hacer? Yo digo que [*unintelligible*] No, pues la verdad no no... está muy difícil... muy enredado *What should I do? I'd say that* [unintelligible] *No, well, honestly no no... it's very difficult… very confusing*
P 2	Qué debo hacer... primeramente no voy a confiar en lo que está atestiguando- porque no lo conozco... y puede ser... que lo que está diciendo que sea falso... que no sea concreto lo que esté diciendo... entonces yo tengo que asegurarme primero... si realmente es verdadero lo que está diciendo y posteriormente seguir *What should I do... first of all I am not going to trust what he is testifying to- because I don't know him… and it could be… that what he is saying is false… or maybe what he is saying isn't concrete… so I have to make sure first… if what he is saying is really true and then continue*

Pilot study - Spanish speakers group 1 (original register) - Question 2

2. Las pruebas circunstanciales son pruebas que, de determinarse que son verdaderas, prueban un hecho del cual puede efectuarse una inferencia de la existencia de otro hecho. Una inferencia de hechos es una deducción que puede efectuarse lógica y razonablemente de uno o más hechos establecidos por las pruebas. Question: ¿Qué son las pruebas circunstanciales?

P 1	No no le... no no le entiendo nada no... está... está enredado, sabe *No I do not… I do not understand it at all no… it's… it's confusing, you know*
P 2	Eh yo pienso que son las que se presentan al momento o… las que vieron... o algo concreto *Er, I think they are the ones that are presented on the spot or… the ones [plural pronoun] saw… or something concrete*

Pilot study - Spanish speakers group 1 (original register) - Question 3

3. "Preponderancia de la prueba" significa prueba que tiene más fuerza de convicción que la que se le opone. Si la prueba está tan uniformemente equilibrada que usted no puede decir que la prueba de ninguna de las partes prepondera, su decisión sobre ese punto debe ser en contra de la parte que tenía la carga de probarla. Question: ¿Qué es preponderancia de la prueba?

P 1	La palabra prepondera no, no... *The word preponderates, no, no...*
P 2	Pues lo que... propone, nada más, ¿no? Lo que yo entiendo es decir lo que... lo que más o menos... proponen ellos, algo así *Well what… [singular pronoun] proposes, that's all, right? What I understand, I mean, what...what more or less... they propose, something like that*

Pilot study - Spanish speakers group 1 (original register) - Question 4

4. El acusado alega, además, que su percepción de que su abogado había divulgado información privilegiada al co-abogado antes de que el caso fuese separado, fue lo que luego lo llevó a darse culpable. Question: ¿Qué alega el acusado?

P 1	No sé que alega. No, no sé nada *I don't know what he alleges. No, I don't know anything*
P 2	¿Pues en este caso qué puede alegar?... si si hubo intercambio no, de... del abogado o sea de como quien dice se adelantó, algo así le entiendo yo *Well, in this case what can he allege?… if if there was an exchange, right? of… the attorney I mean of, you might say he acted too quickly, that's more or less what I get out of it*

Pilot study - Spanish speakers group 1 (original register) - Question 5

5. Puesto que la explicación del acusado en cuanto al comportamiento de las partes no está apoyada por la declaración jurada de ningún testigo, dista mucho de alcanzar el nivel requerido para constituir una prueba clara y convincente. Question: ¿Por qué no parece creíble la explicación del acusado?

P 1 No, no pues no, no .. no sé qué nada
No no, well, no no... I don't know what anything

P 2 Porque está manejado primeramente... por- por ejemplo... con pruebas de que posiblemente sean ciertas o no. Luego... eh... está manejado por los abogados... es la palabra de él contra dos o tres personas más, entonces es bien difícil, muy difícil
Because it is handled firstly… by- for example… with evidence that is possibly true or not. Then… er… it is handled by the attorneys… it's his word against two or three more people, so it's very difficult, very difficult

Pilot study - Spanish speakers group 2 (simplified register) - Question 1

1. Si usted decide que un testigo mintió a propósito sobre algo importante, usted debe considerar no creer nada que ese testigo diga. Por otro lado, si usted piensa que el testigo mintió sobre algunas cosas pero dijo la verdad sobre otras, usted puede aceptar la parte que cree que es verdad y puede ignorar el resto. Question: ¿Qué debe hacer usted si un testigo miente adrede sobre algo importante?

P 1 A propósito mm no sé... sólo que... no, no sé
On purpose hmm I don't know… I only know... no, I don't know

P 2 Tratar de que diga la verdad, lo correcto... eh por ejemplo si dice la mitad de palabras- o sea tratar de que explique lo que fue sucedido, un hecho
Try to get him to tell the truth, the right thing… er for example if he says half of the words- I mean try to get him to explain what was happened, an event

Pilot study - Spanish speakers group 2 (simplified register) - Question 2

2. Algunas pruebas demuestran algo de forma directa, como por ejemplo la declaración de un testigo que vio un avión volando en el cielo. Algunas pruebas demuestran algo de forma indirecta, como por ejemplo la declaración de un testigo que vio sólo el humo blanco que a veces dejan los aviones. Estas pruebas indirectas a veces se llaman "pruebas circunstanciales". En cualquiera de los casos, la declaración del testigo demuestra que un avión voló por el cielo. Question: ¿Qué son las pruebas circunstanciales?

P 1 Las pruebas... de eso... no, fíjese que no le entendí eso [giggle]
The evidence... of that… no, you know what, I did not understand you [giggle]

P 2 Circunstanciales... pues... si vio el avión volar, tiene que decir que lo vio. Si no lo vio volar o sea si vio un humo, no tiene que decir nada si... si fue un avión porque no puede decir un avión puede ser otra cosa. O sea si tuvo que haber visto un avión, tiene que ser el avión
Circumstantial… well… if he saw the plane fly, he has to say he saw it. If he did not see it fly I mean if he saw a smoke, he does not have to say anything if… if it was a plane because he can't say a plane it can be something else. I mean if he had to have seen a plane, it has to be the plane

Pilot study - Spanish speakers group 2 (simplified register) - Question 3

3. Una de las partes debe convencerlo con las pruebas que presenta en el tribunal, de que es más probable que lo que esa parte tiene que probar sea cierto que falso. Esto se llama "obligación de probar". Question: ¿De qué tiene que convencerlo una de las partes?

P 1 De una parte esa... yo digo que... tal vez... probar, ¿no? O algo
Of one party that... I'd say that… maybe… prove, right? Or something

P 2 Eh... pues si es falso o si no tiene la culpa tiene que decir pues yo no fui, pero si tiene la culpa tiene que aceptar la culpabilidad que haya hecho
Er… well if it's false or if he's not guilty he has to say well, it wasn't me, but if he's guilty he has to accept the guilt he had done

Pilot study - Spanish speakers group 2 (simplified register) - Question 4

4. El acusado también dice que se declaró culpable porque le pareció que su abogado le había revelado información confidencial al otro abogado antes de que se separe el caso. Question: ¿Qué dice el acusado?	
P 1	¿El acusado? No, no sé nada... no sé *The defendant? No, I don't know anything… I don't know*
P 2	Eh... pues ahí yo no se que decir *Er… now there I don't know what to say*

Pilot study - Spanish speakers group 2 (simplified register) - Question 5

5. La explicación del acusado no parece una prueba clara ni convincente porque lo que dijo sobre la conducta de las partes no coincide con lo que dijeron los testigos bajo juramento. Question: ¿Por qué no parece convincente la explicación del acusado?	
P 1	[giggle] No sé *[giggle] I don't know*
P 2	Porque en este caso tiene que haber muchas... muchas cosas que a veces son falsas o ciertas... y por eso se siente como decir la verdad o no *Because in this case there have to be many… many things that sometimes are false or true… and that's why it feels like telling the truth or not*

Appendix 4. Pilot study. Interviews with interpreters

Pilot study - Interpreters' interviews - Question 1

Are you familiar with the meaning of the term "register" as related to language? How would you define it in your own words?	
P 1	I believe I do. I believe it is when you are... speaking, and I'm going to resort to our work in court, if there is a witness on the stand and that witness is talking in their register and they use slang expressions...
P 2	I believe so. Well, perhaps low register and high register might be... low register is a simpler way to convey the same meaning that a greater number of members of the population can comprehend it, and a high register not necessarily but might possible mean that a person needs to have had many years of some specialized education to fully comprehend something.
P 3	Yes, I do. I believe you're referring to leaving the language or word or phrase as is, with the meaning of the actual word or phrase.
P 4	Yes, I do. The intellectual level, level of education, of both parties, of the party speaking... yeah, the level... you can't define it but you know it when you see it. The registry... [sic] I can give you examples easier than I can define it verbally, there is if I'm talking, there is street talking, there is polite, there is formal, and there is extremely formal, the level of formality, that's the best I can put it.
P 5	Yes, I do. I think it's maybe for lack of a better term, I'd say it's the level in which a statement is made, and by level, I'm not sure its very well defined, uh, in terms of whether it's uh... let's say a person who has better education would be on a higher register level, and a person who is just talking with his friends casually, would have a different level or register of expressing themselves. I think it's more related to maybe the setting and circumstances that the statement is made. but I mean it does have some bearings on education as well. That in general I would say a person who is more educated is able to use a higher register.

Pilot study - Interpreters' interviews - Question 2

Are you aware of any rule or standard regarding how to handle register during interpreting? How would you describe it in your own words?	
P 1	Yes. We are supposed to interpret in that same register. In other words, if they use an expression in slang, we are supposed to find something as close as possible in that expression and use it in English.
P 2	Just informally from having attended workshops and listened to colleagues, but I'm not aware of any particular existing rule, no. Well I have my own way that I try to do things and I always aim for the solution that has the greatest possibility, in my opinion, of being understood. I use synonyms as often as I can squeeze them in when there may be a misunderstanding, and I seem to have a little radar that lights up in my brain when I think that what I'm saying can be understood in more than one particular way, so I'm always searching for clarity as far as when others are listening to me.
P 3	I think there is a standard, not a rule. The standard is that you should always leave the register untouched, that the meaning of the word should always be interpreted in the same register, the same meaning has to be conveyed.
P 4	I am self made, I just know. You keep it. You maintain it.
P 5	Yes, I am. I understand that you have to do your best to adhere to the register in the source language, I am not a hundred percent sure but I would say it's more of a message that is conveyed. At least in my experience when I learned to become an interpreter but also I know that the code of ethics in California says that you are not to embellish or take away from the original that I would say implies, you are not supposed to change the register.

Pilot study - Interpreters' interviews - Question 3

Are you familiar with the reasons for interpreters not to change the register during interpreting?	
P 1	We are supposed to keep the register because it is important for the person getting the interpretation into English, probably the attorney or the judge, to know what the exact register of the answer or conversation is, or for example if there is a person who is not very educated, it is important that that comes across in the interpretation. I believe... we were told we are not supposed to change the register, we were trained that way. And it is something that we have always been told, we were basically told to do it.
P 2	I can't tell you off the top of my head right now. It made sense at the time that I heard it but I can't regurgitate the words back to you right now.
P 3	No, I'm not. I do wonder and I probably think because I'm an interpreter, I'm not supposed to explain the meaning of words but just leave something in the same way as its being said. Changing the register would be the same as explaining.
P 4	Because otherwise you're basically changing the environment. If there were no interpreter, and the two people came from different levels of environment, the person who you're interpreting for that wouldn't have an interpreter would have said, "What do you mean?" So you're giving your guys the same chance. Basically it's up to him to ask for an explanation, not up to you to explain it. Without a translation the register will be maintained unless somebody asks for an explanation or please rephrase it. So I'm not supposed to be there.
P 5	Because you need to be as faithful as possible to the source. Because we are the mouths and ears of people who don't speak English so we need to render into any language, something that would be as close to the source as possible. Because these are legal matters, and the expectation is that many of these words have a very... most of the words if not all, in court, have a very important meaning to these people's life in cases in court so you need to be very close and careful of being faithful to the source.

Pilot study - Interpreters' interviews - Question 4

Have you ever received any training on the register/style of legal language?	
P 1	When I went to UCLA to take the court interpretation examination, I was told that we were supposed to keep the register and we did practice an exercise, using the same register, but as far as I remember, that is the full training that we received. I don't remember receiving anything more extensive than that.
P 2	I'm one of those who learned from the school of life.
P 3	No, I haven't. The only thing that I received training in is in vocabulary and basic interpreting skills.
P 4	Never, but I love playing with words, keeping registry [sic] and maintaining a person sounding like their native language so they don't look translated and sound stupid when you read it for example, that's what keeps me not getting bored to death about it.
P 5	No, no classes on that, but you know it's very interesting that you ask this because it's kind of a given, because I don't question this all that much. And I'm not sure I shouldn't, or interpreters shouldn't, but in general, it's a very general concept of always being faithful or trying to be as faithful as possible.

Pilot study - Interpreters' interviews - Question 5

Do you ever find yourself in situations in which you feel the register may not be quite appropriate for the Spanish speaker to understand?	
P 1	Oh yes, many times.
P 2	I think it may have happened but right now I cannot think of any examples.
P 3	Oh yes, very much so.
P 4	All the time. Both ways actually. Attorneys have a lot of trouble dealing with some of the people that I interpret for into English, they never went to school and attorneys are so close minded they don't get that the person doesn't know... because the level of education is too low for them to distinguish registry [sic] and level of formality and they use the home language in every situation, everywhere. So they don't look for the appropriate word, they don't feel the difference of registry [sic] or environment.
P 5	Yes.

Pilot study - Interpreters' interviews - Question 6

What do you do in those cases? Do you ever change the register?	
P 1	If it is in a formal setting, again I'm referring to a courtroom, and it is a hearing or trial before a judge, I do not change the register, the attorney who is asking questions is supposed to find out through his questions what is going on if it doesn't feel right.
P 2	If given the choice of two different words that in my opinion mean the same thing I might have a bias towards saying the simpler one. But I do not try to oversimplify a text, I still try to sound as if I was the, for example the judge speaking to the defendant.
P 3	Unfortunately, or I shouldn't say unfortunately, I just interpret the way it's being said. I do not change the register. I wish I would but I have never done it, except in an informal setting. If I am in an informal setting such as a deposition prep[aration], I often find myself telling the attorney that I believe the witness is not understanding because of the register being used. I wouldn't do that in a formal setting, I would feel intimidated to do so because I would be scared of someone telling me "You're just the interpreter and your job is to interpret."
P 4	Yeah if they want to hire me as an expert, I can do that too but as long as I'm pretending not to be there I'll maintain the register. As an interpreter supposedly you're a mouthpiece, you're not supposed to put your own bend onto things.
P 5	No, no, I feel that I need to be faithful to the register. Well, my voice is not being heard but I am on the record. I try, not sure to what degree I'm being successful, try to remain faithful to the same register I hear.

Pilot study - Interpreters' interviews - Question 7

Are there circumstances in which you can tell that a Spanish-speaking witness or defendant does not understand what he or she is hearing? If so, how can you tell?	
P 1	Yes. Well, the person might ask me directly, they might answer something different and I might realize through the answer that they did not understand what was asked of them, they might look at me with a puzzled look on their face, or they might just turn to me and not say anything, because of the way they look at me I realize they do not understand.
P 2	It may have happened, and when I realized that I may have said a word that caused the deponent to go in a different direction, then I interrupt the proceedings and I say "Excuse me. I believe the interpreter may have misspoken."
P 3	That happens quite often, yes. Many times you can tell by facial expressions, many times body language, but mainly I would have to say when the answer is not responsive and you definitely know the person is not understanding you.
P 4	These are people who you ask "What's your name?" and they look at their prisoner's bracelet to tell you their name, so that's the starting point. "Uh?" is the most common answer I ever get in a courtroom. A lot of people I deal with don't even have that many words in their vocabulary. "Uh" means, "¿Qué dijo?" [*what did he say?*] not even "I didn't understand," but "I didn't even get what it's about." They always look puzzled!
P 5	Yes, body language, also when a certain motion or hearing, I interpret the whole motion, and let's say the judge rules against the defendant and then they come back into custody and it's the second that he has when he gets up, he asks me "Am I gonna be released from jail or not?" So that obviously means that he didn't understand the outcome or what was going on.

Pilot study - Interpreters' interviews - Question 8

Are there circumstances in which a Spanish-speaking witness or defendant may state they understand when you clearly know or later find out that they don't?	
P 1	Yes. That happens too. They tend to say yes when you realize that probably they did not understand what was just said.
P 2	Yeah, it could be fear perhaps if they speak up they will make the judge angry and get a harsher sentence.
P 3	Yes, and that happens and I think sometimes the witness feels intimidated, embarrassed, they don't want to look dumb in front of people and they will say yes just to say yes.
P 4	Yes. They rarely say they don't. For many years, I've wondered why not... they assume it's legal and they're not even supposed to understand, that's my conclusion because I've been wondering why they don't. But I wonder the same thing when I see new interpreters sitting there and I know the guy is sitting at the table not getting a word of it. If you have a kid and you see the look of the first time they hear a word and they go "Huh?" well you gotta know like a mother knows what the kid means, you just know when people get it or not. For years I'm waiting for someone to turn around and say "What the hell are they talking about?" 'cause I've never heard it yet.
P 5	Yeah, that happens.

Pilot study - Interpreters' interviews - Question 9

And in those circumstances do you do anything about it or do you let it go?	
P 1	Again, it depends where I am. If I am in an informal setting where I might have the opportunity of talking to the attorney and telling them that I have the feeling that the person did not understand or does not understand what is going on, I will do that. Or I might just tell the attorney directly, "Would you mind if I explain what you just said in simpler terms, because I think that that way he'll probably grasp the concept better." The reaction to that request has always been a positive one. They have always told me "Please go ahead, please do, do whatever you think you need to do, of course, be my guest..."
P 2	I don't know if the person is honestly understanding or not. I'm not a mind reader so if the person says that he or she does understand then I have to accept their word, I cannot just go into the brain and say, "But did you really understand a word or phrase?" That's not my job.
P 3	-
P 4	It depends on the circumstances. If I'm in a deposition or in a non-jury environment at some point I will interrupt and say "The interpreter believes that..." at some point I will just say you know, there's three languages going on. If you're in front of a jury, unless it really gets beyond... also it depends on how smart the attorneys are. I mean, at some point if you can make it obvious to the attorney by answering whatever nonsense that the person is saying and making it sound as nonsense, even using your body language to the attorneys so they inquire and clear it up, but when the attorneys are pretty dumb too and they are not getting that the person is not getting it no matter what your body language is, at some point you have to interrupt, and say... [During simultaneous] I might simplify, I wouldn't use a lower register language, but I would kick the convoluted part if I think it's gotta be clearer. I didn't do it for years because I figured, like I said, I'm supposed to be invisible and I was hoping someone would say, "What did he say?" But nobody ever did. So I figure the whole point of not affecting the outcome is lost if the person is not gonna ask the question, they could be talking Chinese and it wouldn't make a difference. At first I didn't because I was hoping... he would say, "What did you say?" I didn't understand that, but it never happened, so over the years I started finding ways of not changing too much and at the same time, un-convoluting it, I know its not a word but it makes sense. "Is there any particular reason why we cannot start your deposition now?" into "Can we start your deposition" or "Why can we not?" I just started taking away the unnecessary words that were convoluted without changing the register of the verb or anything, but I did it because I figured I could have been speaking Chinese and the person was not gonna react so I might as well get him something.
P 5	I must say that when I get into those situations I try to interpret the best that I can again, keeping you know... usually it's also the pace is so crazy that you just try to hold onto... and continue interpreting and keeping up with the pace. And sometimes if I have a chance I could even tell the person, "So do you understand?" and they say "Yes," and I say "That's a good thing because I don't." Just to make a joke about it.

Pilot study - Interpreters' interviews - Unsolicited information - 1

Unsolicited information - Role and invisibility	
P 2	I think an interpreter should be as invisible as possible... I love it when people say something like, "Oh I never thought that I could communicate with this person directly, but it was almost as if you weren't even there!..." That's why I often have to say, "Could you please address the person directly, just pretend that I'm a telephone that happens to breathe..." I'd rather be more of an invisible language person involved with transferring meaning from one language to another, than be in the headlines due to some words that I chose to say... or that somebody would seize the opportunity to try to twist my words around.
P 4	I think you should be [visible]. But people don't want you there. That's the bottom line. Because attorneys are fairly paranoid and they assume that the moment you have an opinion your opinion means leaning for or against sides and it has nothing to do with the language... So I'm not supposed to be there.

Pilot study - Interpreters' interviews - Unsolicited information - 2

Unsolicited information - Formal vs. informal settings	
P 1	As far as I know, when I am in a formal setting and by formal setting I mean in a courtroom during a hearing or a trial, I am supposed to keep the same register when interpreting from English into Spanish. If it is in a formal setting... and it is a hearing or trial before a judge, I do not change the register, the attorney who is asking questions is supposed to find out through his questions what is going on if it doesn't feel right. I think that the role should be the same, it's just not as easy to do in a formal setting.
P 2	The place that's the most informal where I have to be less worried about is when I'm not on the record, obviously I'm less concerned about upsetting the proceedings if I am in a setting such as a jail interview because then I think I'm more of a facilitator and the only record being done is the probation officer taking notes. I'm more at liberty to be an explainer and a clarifier if there is no record being done and I'm most constricted when a record is being done in a high profile trial when the parties may seize the opportunities to attack the testimony and say, the interpreter caused this to be said, or the interpreter stated this and that, or another expert has said the interpreter didn't say this or that, made appeals, and people might be trying to blame me for something just because they're trying to win a case on appeal or something like that. I'd rather blend into the woodwork than be the central star or the bad guy in something and be blamed for words that were said the wrong way. When the only party listening to me is the defendant in Spanish and not going on the record, to me there is no difference. It would be mentally too exhausting to have one set of rules going in one direction and one set of rules in the other. I don't have any different rules, I like to believe I work the same in both directions.
P 3	If I am in an informal setting such as a deposition prep[aration], I often find myself telling the attorney that I believe the witness is not understanding because of the register being used. I wouldn't do that in a formal setting. I would feel intimidated to do so because I would be scared of someone telling me you're just the interpreter and your job is to interpret
P 4	Not on the record. I do it in the interview and I'll tell attorneys that's what I'm doing because we're not getting through... because then the record will reflect something that didn't really happen. Let's just say the person being interpreted from Spanish into English has a really low informal register that would be really embarrassing in that sort of setting. If I fix it, I put on the record something that didn't happen or maybe something that happened. I'm changing what the person naturally said, on the record, yes off the record might not make a big difference but the record should reflect what actually happened because the credibility of a person, let's say of a person with very low level of education, if I fix it, then he sounds less credible when things don't make sense at some point. In simultaneous I may simplify the words where you can maintain formality without being stuffy, let me put it this way, having a choice of two words I would use the most common word. I wouldn't get into paraphrasing or explanations or really bring it down to that person, if he needs to ask he needs to ask. But I would bring it down to two choices of the word. I'm not gonna say I really want to change it to the level of a first-grade student, but there are a few words that are legalese for example and you can find a common English word as an equivalent that you can translate and still be formal without being technical. So the concepts sometimes are too complicated for this person, which obviously there's nothing I can do about that, if you can simplify you simplify. In informal settings, I think even in front of a jury if you get really, really bad that communication is completely being distorted you would have to interrupt and talk to a judge, but that never happened. What you can do or the possibilities of your role are different in an informal or a formal setting because of reality. If I'm locked up with fifty or sixty people and the person and you have to be yelling and screaming at the top of your lungs and the person is not getting it and is not hearing and at some point the attorney turns to you and you say "Ok, can I just ask him that sentence please?" Like "Have you ever been on probation? can I just ask him 'Have you ever been arrested, so it's a simple start?'" So I do stuff like that. But if it's an interview and the acoustics are horrible and I can't do that in a formal... yeah I think in an informal setting everyone gets a little more informal, me too. In a formal setting I try to use, as best as I can, my own body language when I'm getting nonsensical answers so the attorney realizes that yeah, I know that what I said made no sense, so maybe they didn't understand your question, you know the shrug? the interpreter shrug? But sometimes attorneys don't get it so you need to interrupt, but usually you hope the attorney will clarify himself. basically your level of formality is comparable to the level of formality around you, so how much are you going to fudge with?
P 5	If I'm interpreting on the record I am concerned that I try to be in my definition, faithful to the source and it really doesn't matter into which language I'm going, but if I'm interpreting in a more informal setting, especially during an attorney client interview, I really want to make sure the message is conveyed, and I actually do tell the attorney, "I think that your client isn't understanding." On the record, many times it doesn't [get conveyed]. [In informal settings] I actually take it upon myself to make sure the messages are conveyed back and forth, into English or Spanish. And that's why I tamper a little bit with the register, according to my subjection, it's very subjective, I think that oh they're not understanding many times and they are, in either language.

Appendix 5. Pilot study. Interviews with attorneys

Pilot study - Attorneys' interviews - Question 1

Do you feel you can speak the same way when you work with Spanish speakers and English speakers?	
P 1	I feel like sometimes I speak louder, the language is the same.
P 2	Unfortunately, yes (laughs).
P 3	Yes.

Pilot study - Attorneys' interviews - Question 2

Could you remember or identify a time when you changed the way you speak to Spanish speakers?	
P 1	Yes.
P 2	When interpreters suggest I may be using difficult words or syntax.
P 3	I've only been asked to slow down. Sometimes I speak too fast that even the interpreters are having a hard time keeping up.

Pilot study - Attorneys' interviews - Question 3

Do interpreters often suggest that a non-English speaker may not be understanding a question?	
P 1	Not often.
P 2	It's definitely not frequent.
P 3	Once in a blue moon, very, very rarely.

Pilot study - Attorneys' interviews - Question 4

Do you welcome interpreters' suggestions regarding non-English speakers' lack of comprehension?	
P 1	I welcome it if the client is not understanding I want to know that, definitely.
P 2	I definitely welcome it.
P 3	Yes, absolutely. Because I need to make sure that the communication between my client and I is absolutely clear. We are dealing with serious matters and it might involve somebody's freedom, he needs to understand every word I say, and if the interpreter feels like he is not understanding it based on the way he answered the question, I will work with him to try and rephrase or whatever we can do. [So you do not feel that the interpreter might be stepping out of his or her role?] Never.

Pilot study - Attorneys' interviews - Question 5

Do you find more instances of misunderstandings or miscommunication when working with Spanish-speaking clients? If so, what do you attribute these to?	
P 1	Maybe a bit more with Spanish. Spanish speakers they often have less education in my experience, the average level of education is primary school.
P 2	Yes. Lack of knowledge of the language and the process.
P 3	No, I'd say they're about equal, honestly.

Pilot study - Attorneys' interviews - Question 6

When the interpreter comes on board, do you feel you can continue the line of conversation the same way as with an English-speaking client?	
P 1	Yes.
P 2	Yes.
P 3	That's correct.

Pilot study - Attorneys' interviews - Characterizations

Characterizations – Interpreter interventions	
P 2	I definitely welcome it. Because I'm not arrogant enough to think that I have the ability to communicate to someone whose idiomatic experience may be different than my own... [when interpreters] talk to me, [and say] "Look, you speak in very complex phrases, your ideas are very much at a well-educated level and you're trying to talk to someone who is a very simple person without even the rudimentary essences of first or second or third year education, and their life experiences are so simple that they really can't grasp what you say. And your sentences are very complicated and very elaborate and your points are very complex, but you're not being heard." And when I've been told that... I stop and I try to figure out what it is I'm doing and I try to break it down so that my client can understand, and one of the things I did notice, especially from those experiences, is that it went from a hugely blank look on the client's face to someone who was animated and interested in what I had to say, as opposed to a zoned-out zombie who is sitting there, probably who feels and experiences being talked to, or talked at. The client has transformed into someone who is being respected and listened to and willing to listen back. I think that the fact that the interpreter is bridging the world of English speaker and the Spanish speaker, for example, that the translator is able to understand that the translation is impeded and that there is a duty and it is an affirmative duty to say "Look, may the interpreter inquire? I don't think the use of the language as defined or spoken is something the client is going to hear, so can it be perhaps, do you have some other suggestions for how to communicate it?" And leave it to the speaker to try, and if that doesn't work then suggest, for example, if you speak in shorter sentences or less complex ideas or you try to break it down, so it's not telling somebody the content, rather suggesting the methodology. That's I think where an interpreter could have a duty, if you will, to assist.

Pilot study - Attorneys' interviews - Unsolicited information

Unsolicited information	
P 2	I think a highly efficient interpreter is someone who acts as an advocate for the client. My general experience has been that the interpreters are almost conduits, that they are just the vessels for speech, they listen to the words that outpour in the translation, and given that I don't have the capacity to know Spanish at this point, I don't know necessarily whether what I'm saying or intending is being communicated to the client. One of the things of effective interpreters that I noticed is that they actually have a dual function, one of which is not only to be a conduit for my words and a vessel for my words that come in and out translated into the language, but also they have the ability to stop me and say "You are using this language, (or) using this syntax (or) using this context, but in the context of the client, it's not being processed." I think the role of the interpreter is not somebody who just comes in and zones out and the language comes in one ear and out the mouth, but rather someone who is able to absorb and process the experience not only of the person trying to communicate, but also of the person who is sitting there, receiving the translation. I think that the interpreter's job is to not only be aware of the words and to accurately translate it but also to sense internally, on a non-verbal level, what the person who is receiving the translation is experiencing. The person who is overwhelmed by the process, let's take the example I gave of the person without a formal education and very rudimentary life experiences, really not someone enmeshed in the society as a functioning part of it, but rather someone on the periphery, that the effective translator would be someone who is watching the verbal responses of the client as the translation is going by, listening and processing, is the client able to process this? Are they a part of the process? Is their facial expression such that they have totally zoned out and they are wanting to be some place else or do they really feel part of the process? And language that's translated should have that effect of being inclusive. You have to understand that the person being translated doesn't want to appear stupid and they may feel humiliated to ask for help, so in that way the translator can assist by interceding and saying this process may need to be reduced in a certain level.

Appendix 6. Focus group 1 - Transcription summary

About the interpreter's role

[Submitted to the group for discussion] "The role of the interpreter is to allow a non-English speaking defendant or witness to participate in judicial proceedings" (CAJC 2005: 5). What are your thoughts about this statement?

- Facilitate that participation, not allow it, because we don't make that call. I mean, if you're gonna get picky about the language.
- Not only that, but I dislike the use of *allow* because that could also be, we could do summary interpretation and allow them to participate. We could be telling them, "And isn't that a really nice suit that the prosecutor has on?" this is how I'm participating. To me, it's not a specific enough or broad enough description of what it is that we, I think, together, know is our function and our role. Because just to allow is not sufficient.

[Submitted to the group for discussion] Reasons for providing an interpreter: "To place non-English speaking participants in legal proceedings on an equal footing with those who understand English" (CAJC 2013a: 3). What are your thoughts about this statement?

- It's good, if you insert: "people who understand English at their same level or register," I think.
- If they're equal register, yes.
- If he has a good interpreter, I feel like I do my job to do the best possible to give him that opportunity.
- Not always. I think many times they are not on an equal footing regardless of how good the interpreter is, because they don't all necessarily understand everything we're saying.
- Yeah, but that's not our role.
- I have one thing to add that even... I try to do this but I don't know if we all accomplish it, but I think that even if you are the best interpreter in this room or whatever, if you don't bring in the cultural liaison to it, it's impossible. It doesn't matter how well you do word for word normalizing, and the only way to give equal footing is to bring the both worlds together. And that's I think what we talk about, is one thing you can do.
- You know, keep in mind that here it says to the extent reasonably possible. There's only so much we can do, there are defendants who have a very limited vocabulary, and even if you try to do your best to interpret for them in a clear manner that they can understand, they won't. And there are English speakers who don't know the words. There was... one time I had this English defendant plead "no concept," and everybody laughed, and the judge said, "That's the most honest answer that I've heard all day." They don't even know what's going on. So, you know, yes, we help them get on an equal footing, to the extent reasonably possible.
- I also believe that we have a big problem because we are interpreting in California, United States, under the penal code of the U.S. But we are interpreting for Spanish speakers that most of them grew up and lived in Mexico, Guatemala, Honduras, that had followed a complete different penal code and system. I mean, in Mexico you are guilty until proven innocent. In here, you are innocent until proven guilty. So when I interpret, many times in court when the judges ask an arraignment question, the judge goes, "And how do you plead to the charges?" and then the defendant looks at you and says, "So I can just say not guilty?" "Of course!" "Really? Not guilty, that means you are not guilty and that's it, I'm going home?" "No, no, wait a minute. Now we have to go through the process of trial." "What do you mean trial? I

already said not guilty" and he put not guilty! So those are concepts that are completely different. So I mean, we are talking of completely different systems, so we can only, I think, interpret to the extent that we are kind of like transforming an American Penal Code, and...

- Also, I think that we tend to conflate our function with that of the attorney, which I find happens way too often, particularly in non-Spanish languages. We know we have a closer understanding of our function. To me, clearly stated, I need to be a clear conduit of information into that language, of what's coming here is coming to you. It is not my function and it should not be because I don't have the degree in law to explain these concepts to my client.

Moderator - Can we maybe consider other alternatives between verbatim legal register and explaining the law?

- We know how to, I think... to have the clarity with the defendant or the witness, we should choose those concepts which have the broadest use in the cultures that are still specific to what we want to say, rather than take it upon ourselves to say "This person's not going to understand what I'm saying," so I therefore use a different concept.
- I just have one thing to add, that also when we comment on these things that it's important to keep in mind that what we all do is so broad, and I have a feeling that sometimes we're sticking to what we do, for example, in arraignment court, which is strict interpreting that we don't have too much contact and we just have to say what we hear and good luck. And there's other types of work we do, if you interview, if you assist an agency, where the information that is passed on has a completely different level of importance because when the judge is saying what he has to say, and this guy's going to answer, everything's already prepped. He's going to answer if it's a serious... if it's a misdemeanor or up, the attorney's already been coaching him so basically we can explain it later or we can walk outside and say, "Señor, esto es lo que pasa..." [Sir, this is what is going on]
- We're drifting away from something very important, which is education. And the defendants that we work with, if they come here, they have what, first grade education?

[Submitted to the group for discussion] "Official court interpreters act strictly in the interest of the court they serve" (Code of Professional Responsibility of the Official Interpreters of the United States Courts, Canon 1, in Dueñas González et al. 2012: 1303). What are your thoughts about this statement?

- No, absolutely not.
- No.
- That's completely against... let's raise our hands if we actually do this...

About the language register

[Submitted to the group for discussion] The code of ethics states that interpreters should conserve the language register. Before you started practicing and received this code to follow, were you familiar with the concept of language register?

- The only reason I knew it was because my father was an anthropologist with a particular interest in linguistics.
- No [General answer]
- The term *register* perhaps was not familiar to me, but once it was defined, "Oh, I know that," so I didn't have to learn the register, I just knew what it was instinctively.
- Ok, but then we all learn in the code, in the Model for Professional Standards, that we are supposed to keep the register.
- But that's a reality that is never the case.

- Yeah, 'cause I was just thinking about what [Participant's name] just said about instinctively, and I think that I agree with that, but I don't know if it has a lot to do with instinct, but it has to do with each of our cultural and intellectual experience which, in this particular room, seems to be pretty even, but it is not true across the board for all other colleagues. And then when you leave something up for interpretation, you throw it out there, like *register*, if someone doesn't have it in them to decipher what exactly that means, 'cause we all do that when we're studying, like you said, you do it alone, nobody teaches you this...
- It's something that I think everybody has, to be able to determine what the register is. But they just don't... it's not as important in everyday life as it is in this particular profession.
- But I'm saying the opposite. I'm saying it is not instinct. I'm saying it's implicit education that we all bring to the table because we all say this career is technically two years, I mean, one or two depending on if you're going to school when you have 25 jobs on the side... but it takes one to two years as a whole because, I think I speak for everybody, we all brought to the table everything else. I mean, the proficiency in both languages, the education, university degrees from other countries, so we have a whole bunch of stuff there, and then we specialize for 2 years or a year.
- What I was gonna say eventually like, we do go to school to learn the techniques of interpreting, and we learn certain phrases that we use, and then later it just dawns on us, it comes in naturally in that your personal touch comes into play. "Well, I'm not changing the meaning but if I use this other word... " And it does develop, and it takes more years to get to that comfort zone.
- But I agree that it is an instinctive—and later trained—thing, but it is an instinctive thing. As kids, we know if someone's talking hoity-toity, or we know if somebody's talking street. Those are two different registers to say the same thing but we can hear the difference between the registers. We can tell the difference between our parents' register when they're dealing with us, and our parents' register when they are dealing with their friends. It's a different level of language, and those levels of language are registers.
- But that's- and I'm not being picky about it, I'm just gonna say this... I think it's learned, it's not an instinct, you learn it when your parents say... When I'm talking to my son and he knows he's in trouble, I speak to him one way and when we're playing it's a different way, I'm teaching him that, so why is it important? Because when you talk about register and you bring it to the table when you're working, and you're dealing with people from a completely different level of cultural and social education than where you come from, you need to adjust to that. Because for the most part, you're not only dealing with people who have not been educated, school-wise, but you're dealing with people who have not been exposed to parents. We see the sad realities of people that have been raised by cows basically, and I'm not being facetious. I'm not lying, not exaggerating. So what I mean is like, they might not be able to tell the distinction...
- There is one question, and I'm leaving the court system a little bit, but during depositions, to me, there is a key question that nobody, I mean, I don't even know why they ask that question, to me it's stupid. The question that I really don't understand is "How many years of education did you finish?" That's a key question and it comes within the first five minutes of a deposition. Most of the people that I'm interpreting for are gonna say, "Oh I didn't go to school," or "Sixth grade in Mexico," "Third grade in Mexico," "I don't know how to read or write." I mean, that's a very common response when you are dealing with... and after that the attorney continues asking these questions that are like, incomprehensible, that I look at him and I'm like, "Ok, didn't he just tell you that he didn't go to school? Are you fucking kidding me or what?"

[Submitted to the group for discussion] What do you think are the reasons for this standard to leave the original register unchanged?

- I... this was my first guess, and I think it's proven out when I first came into interpreting, it's because again, I am not the one who decides what will be asked of this person or how this person's gonna answer. If I were to change the register to any large degree, then I am taking it upon myself to be this person's spokesperson, not their interpreter, and to me, there's a huge difference between being the interpreter and being the spokesperson. I am not counsel, I am not the judge, I am not the defendant, I am the conduit of information for this person, of the concept. And the concepts must be given at the same level of nuance as they came out. To me, that's why you preserve register.
- Yeah, to stay true to the translation and the message.
- Yeah, to the translation, the source, and the message.
- Also there is a ceremonial quality in language, because language is not just words, it's also communication. What you're communicating it's the institution which needs to be delivered at a particular level. Other than, if you do not do that then the institution diminishes in value. There's a certain ceremonial aspect of legal language, and I think that that needs to be preserved, as well as whatever communication to the person that you are interpreting for, or the people that are inputting, it shows either lack of respect, or respect, or whatever it is that the person is trying to communicate. So there's more than just the words; there's an entire structure and a symbolic structure and... all of that.

[Submitted to the group for discussion] There are examples about register variation that would not be permissible: "For instance, if the attorney asks, 'What did you observe the subject to do subsequently?' you should not say in the target language, 'What did you see him do next?'" (CAJC 2013a: 7). What do you think would be the difference or the consequences if we say "next" instead of "subsequently"?

-Well, here's the problem with language. There's some words where in one language they're perfectly common. "Renunciar" in Spanish is a completely different register from "renounce" in English, so we don't have parity of cognates. You go to different registers sometimes with the same word, with a cognate word. So that's something for which have to watch out for. So, "subsiguientemente" is not quite the same as "subsequently," so you also have to worry about parity of cognates when you're thinking about register.
- Well no, we found that even from the English common law to most Mexican Napoleonic system, most Hispanic Napoleonic systems, we do not have a parity of concepts, period.

[Submitted to the group for discussion] "Many languages have 'regionalisms,' or differences in usage. For instance, a word that may be understood to mean something in Spanish for someone from Cuba may not be so understood by someone from Mexico. In addition, because there may be languages which do not have an appropriate direct interpretation of some courtroom or legal terms and the interpreter should be so aware and be able to provide the most appropriate interpretation. The interpreter should likely make the recipient aware of the issue and the interpreter and recipient can then work to develop a consistent and appropriate set of descriptions of these terms in that language that can be used again, when appropriate" (U.S. Department of Justice 2002). What are your thoughts about this statement?

- I have a comment concerning this order. It almost like, it trumps everything else. It sort of gives the interpreter permission to do what we're supposed to do.
- I'm gonna start reading this order before every freaking deposition.

- You know what? That's not a bad idea, to take it.

About the hand and the arm and the foot and the leg

[This discussion ensued spontaneusly among participants]

- I disqualified myself at a deposition when the defense attorney didn't allow me to inquire from the witness, and at that point I told the defense attorney that the interpreter wasn't able to continue interpreting, and would have to disqualify herself. So he of course said, "What are you talking about?" And I said "Well, you're not allowing me to inquire from the witness and I'm quite sure that if I just interpret what he's saying I might be mistaken, the interpreter might be mistaken, so I am not able to continue." So he said "Ok fine, inquire from the witness." It was quite obvious to me that, because the gentleman was from Mexico, and he kept referring to his *mano* [hand], I pretty much knew that he was referring to the entire arm, especially when he's pointing to the entire arm throughout the entire deposition so I couldn't just say *mano*, I had to go with *arm*. So, but the reason why I'm saying it is because as soon as I said "My entire arm hurts" or "My right arm hurts" he said "You see? That's why I didn't want you to inquire." And there is a reason behind that, *no le conviene* [it's detrimental for him] because this gentleman has been to many medical appointments where he's been asked by the examiners "What's your problem?" And he said *mano* and they've been concentrating on the *mano*. And right now when the qualified or certified interpreter just said on the record that *mano* actually means *arm*, his claim is valid.

Moderator - Following what we just heard, how do you usually handle the *mano* and *brazo* situation?

- I always ask.
- Always inquire.
- I always inquire and I offer an explanation on the record.
- Eighty percent of the time I inquire.
- Always do.
- But I think that goes into what we talked about, because we normalize translation. You know that that person is saying the word *pie* [foot] like it's common, maybe you go to a different Spanish-speaking country and they won't use it in the same way, but we all know by now that in that culture, *pie* is referring to any part of the leg. And there are even people who refer to the parts of their body with the terms of an animal's parts of the body.
- I guess I'm alone here because I say *foot*, and I say...
- It's incorrect.
- But every single time the attorney has inquired and every single time it has been clarified, but I just say *foot* and I just say *hand*, and because they're pointing then the attorney always says "Ok you say *hand*, but you're..."
- They don't always point.
- But we know that there's a communication issue, because you know that the way, if you say back to them *mano*, like translating, in their head they are still hearing *brazo*. So it's an implicit communication issue and you're aware of this.
- And for medical records, these are body parts that are either gonna be examined or not, this is a person that doesn't have... I mean, most people don't understand that the arm is made out of the forearm, your elbow...
- Yes I know, but all this time we have been assuming that it is the attorney's responsibility to clarify...
- No, I don't think so. [Group agreement]

- The attorneys don't always know, and many times they are not even listening. The thing is, if the guy means the arm and you say *hand* because he says *mano*, not only he's not getting compensation, but he's not getting treatment either.
- Exactly.
- Especially when we already know that that's a term that is used in that context.
- In our professional experience, we have learned that contextually this is the use for that term. So when I know that a person is most likely speaking of an arm or a leg when they say *mano* o *pie*, then I would say "May I inquire?" And I would say "Dice la mano de la muñeca para abajo o todo el brazo, cuando dice mano?" [When you say *hand*, do you mean the hand from the wrist down or the whole arm?]
- Or you can even inquire without even leading, because you can say, "Señora, cuando usa la palabra *mano*…" [Madam, when you use the word *hand*]
- That's the way I do it.
- You can even say "Esta es la mano, este es el brazo, what do you mean?" [This is the hand, this is the arm, what do you mean?]
- *Pie* es lo que está en el zapato [Foot is what goes in the shoe]
- I always ask "To you, what is a *mano*?" and he says "Esto es la mano" [This is the hand]. Ok.
- One of the things that I would occasionally do is state "The interpreter would like to state that in some parts of Mexico a *foot* means *pierna* y la *mano*... " and then it's up to them what they wanna do, without me inquiring.
- That's what I do too.
- Another reason why that's important is if you're doing it in front of the jury, there will always be some juror there who knows the word *mano* and if you say *arm* he will doubt everything else you say...
- You're just throwing everything back into the attorney to clarify.
- But that is a different environment in which you have a... there's the formality, as you said, there is a way "The interpreter would like to state on the record that culturally, when the person is saying *hand*..." or you may ask permission to inquire. So it's a different way of approaching it for the same reason, we want to make sure that it's understood.
- And *cintura* [waist] too. My grandmother says, I mean, I hear... I'm not trying to be anecdotal but I have my 87 year old grandmother visiting and just to bring it back to cultural, the conversation, and she uses terms to refer to her body especially that we hear in our clients all the time and it's cultural, and it has to do with education level, la *cintura, me duele todo el cuerpo* [the waist, my whole body hurts] and her nose is the only part that hurts, that's a matter of... it's a way to express herself and she's not lying, and you have to take that into account when you bring it to the table, and you now have a different culture and a different language that you're speaking, that you have to normalize all of that, not just the words.
- Because as pointed out, a person's veracity might be determined by the use [of words].
- So as an interpreter, I take it upon myself to be that person. I don't solve the problem because it's not my place but I do make the room aware of that fact. It doesn't matter if it's worker's comp or of it's a proffer session with the AUSA's. I take them out or I say "Stop for a minute" and I offer an explanation, "Culturally this may be happening, and this happened, you do whatever you want with that," but that's my job because I see that the communication... sometimes attorneys ask a question and they get an answer they consider non-responsive, and I love it when they say "Is it something that doesn't have a, there's no interpretation for that term?" "No, there is a translation, you guys just don't know how to ask questions, that's your problem."

[Submitted to the group for discussion] Professional standards: "For instance, expert testimony as to whether a non-English speaker has clearly understood a police officer's questions as uttered in the foreign language is beyond an interpreter's expertise. A psychologist might be better suited to provide this kind of testimony" (CAJC 2013a: 37). My question to you is this: Do you know or can you tell when Spanish speakers do not understand? How can you tell?

- Yes. [General answer]
- By the look on his face. By the blank look on his face.
- A deer in headlights.
- By the answer.
- There is all kinds of body language and signals that the person emits, and the answer.
- So in other words, this is saying that the interpreter should not testify as to the comprehension of the person you're interpreting for, but the psychologist may come over here and say "No, he didn't understand the interpreter."
- So it requires a psychologist to come and say that versus an interpreter, basically that's all there is.
- But we, as interpreters, are interpreting not only language, we're also interpreting the person. The communication of the person listening to this, we're interpreting their reaction, we're interpreting that in our mind, not through words, but…
- Yeah, but you cannot testify whether the defendant understood or not.
- I agree with that.
- No, no, but I don't think it's accurate to say that we can never tell if they've understood, we can often tell if they understood. I know we can't read their minds but we often can tell.
- I think we can agree that we can always tell when the person didn't understand, we know that. We're just not always sure that he did. Because he may answer, he may give an answer that indicates comprehension when he didn't, but when he gives an answer that indicates lack of comprehension, we know at that point that he's not understanding what was said. We're always pretty sure that he didn't...
- We will always know, we will always be able to tell when they didn't get it, but there will always be a question of whether they did.
- Still, I don't think that's my role whatsoever. I will never, ever...
- We're not technically allowed to say hey, he didn't get it.
- I say that with defense attorneys when I'm interviewing a defendant, you know, and he's going pa-pa-pa-pa, and the other is going da-da-da, and at the end I look at the defense counsel and go, "You do understand that he didn't get a word, right?" "What do you mean by that?"
- But that's the role of his counsel. The party's counsel. That means they're not paying attention.
- I was thinking in keeping the register, in federal court the families of the defendants get to write letters to the judge. These letters are translated and the letters sometimes are from people that have very very basic level of education, and even trying to keep that register is sometimes as hard as translating a highly technical thing. So the funny thing about this is that even if you lower it as much as you can, as much as my possibility, unless you start writing *hey dawg*, that kind of thing, because it's a humble Spanish, it's not an improper Spanish, it's a humble... when I read it in English, it still represents somebody that this person is not.
- Exactly, but when you bring that to the interpretation and what we're talking about, and knowing if somebody's comprehending, I keep in mind that the attorneys, the judge, everybody, even if we're trying to do the best job possible, they're still hearing you and they're seeing you, you're not invisible. So, we have that ability and that subtlety to tell if somebody's not getting it, like she said, the face, the reaction, the answer, it goes through us as

true as you wanna be to it, it's still filtered, even if we don't want it to be filtered, it still is sometimes, so we know when they didn't understand and I say it, "I think they're not getting it." But you can say that when you're interviewing with an attorney, you can't say that to the jury or to a judge, you do what you can.

- You can't.
- It often comes out as a non sequitur, the answers that they answer, *nada que ver* [totally unrelated].

About the language register

[Submitted to the group for discussion] "Therefore, among the range of possible equivalents that conserve the register, meaning, and style of the original message, the interpreter should select the most transparent and meaningful option most likely to be comprehended by the listener" (Dueñas González et al. 2012: 18). So therefore, among the possible equivalents of the same register, do you find we have a range of possibilities to choose from?

- No, if you're going to keep the register, not a lot.
- Here's the thing. I think for us, if we're using, *frases de cajón* [set phrases], if we're taking them as a solidified, codified, written in stone, this is how it must be used, then we don't have too many. But if we go into understanding what the concept is in English and realize that it doesn't have parity in the legal terminology in Spanish, then we can render the concept as a concept phrase. But it's the same thing that we did with *convicción* y *convincente*? [conviction and convincing] Both words in the register have parity, simply choose the one that people are most likely to have heard and understand. And I think we can do that when the concept is completely conserved.
- For example, interpreting the Miranda rights, "los derechos que le garantiza la Constitución" [the rights guaranteed by the Constitution] would be something that somebody would understand. "Los derechos constitucionales" [Constitutional rights] sounds obscure, but just changing it a little but, you're not changing the phrase...
- What I'm saying is that we've been doing that throughout our profession I think, and we don't really realize that we're making it easier. We are modifying things without changing the original.

Moderator - With that in mind then, once again, what do you think the difference or the consequences would be if we used "next" instead of "subsequently"?

- I think it makes a difference but it's a positive difference. Because if we're sure the word is a synonym and we maintain the register, if you say next instead of subsequently, the person may answer the question, and it's posed in the way it was asked. But if you say subsequently and they don't understand that term, it may cause them to say "No entiendo" [I don't understand], which, in turn, may cause the attorney to say, "Oh, so you don't understand what I'm asking you?" And I've seen that happen where it turns around the tone and it makes it seem like he's playing dumb and poor guy just doesn't understand the term, and it's like, "Which part of subsequently don't you understand? Or you understood it before..."
- Rarely have I met a defendant who will be truthful and say "I don't understand."
- Those are very few and far between that are assertive.
- Most of the time, we know, they just say "Sí sí, yeah, I do understand."
- Lately I found myself in court, more and more frustrated, wondering why there isn't a movement amongst judges and attorneys to make the language simple for everyone to understand, because I see a lot of English-speaking defendants and I can see that they have no idea what's going on. I'm like, can you not see that the words that you are using are completely incomprehensible to these people?

- But all the codes and all the laws are written in that language, they have to change the whole written legal system.

Moderator - What about when you are not in court? When you are with an attorney and a client, what happens? Do you still go strictly by the book and conserve the register?

- No, I don't. It depends what the situation is.
- Then you interrupt the lawyer.
- If the attorney is coaching his client, if for example the client's gonna go in and enter a plea of guilty the next day in a federal court, the attorney very specifically tells the client the questions the judge is gonna ask him. I keep the register there, absolutely, because he is structuring it in such a way that he will be knowing what he's gonna hear.
- Looking out for him, yeah.
- However, if I see the deer-in-headlights look on the defendant, with most of the attorneys I go, "Those are the words... I don't think he's understanding the concept." "Oh, ok." If the attorney's simply talking to the client, and we know attorneys, they use double negatives, and this is just the way they speak, we're not gonna retrain them. I will simplify, and we'll go that way.
- Even attorneys may lower their register when talking informally to their clients, therefore that makes our job a lot easier.
- And we have a freedom to say "Hey, you know, come on, can you change the word? Because I don't think... change the register." I mean, I feel comfortable with the attorneys that I work with, and they know that.
- Well, there are concepts in court like, "Do you waive your right to a preliminary hearing?" I mean, who understands that? And especially when the judges are going, "You know, you have the right to a preliminary hearing to be set in ten days from the day that you were arraigned, now if you waive you give up your right to that preliminary hearing... " and here I am [very fast] "Usted tiene el derecho a una audiencia preliminar en diez días del día que lo instruimos de cargos y si usted quiere renunciar al derecho... " Who understands that? Well, I leave it exactly the same and the man's face is like uhm, and the attorney says "Say yes" and they say "Yes."
- But I wanna say that the comments and the quotes that you have shared are very revealing to me and actually very liberating as well, because I feel that it's empowering what we are already doing, which is a tendency to want to help people, and both sides, to be understood.

Appendix 7. Focus group 2 - Transcription summary

Sentence 1. Si un testigo declara intencionalmente en falso en un aspecto importante de su testimonio, se debe desconfiar del resto de su declaración. *[A witness who is willfully false in one material aspect of his or her testimony is to be distrusted in others.]*

- What about *declara intencionalmente en falso* [is willfully false], we can say *miente* [lies]
- An American would never use the term *lie* because it is not good manners. For us *mentir* [lying] does not have that connotation. If I were thinking in Spanish and not translating I could say *miente*... but in English we do not say *you are lying*
- In Clinton's case they said everything but *lie*, Americans do not say it in public but we do
- It's not a matter of manners, what happens is with *you are lying* is you are provoking, it's a call to war, that is why they don't say it like that
- I agree that *mentir* in Spanish does not have the more offensive force it has in English...
- Instead of *se debe desconfiar* [is to be distrusted] say *no se debe confiar* [is not to be trusted]
- Sometimes [in court] they say they have a choice [to trust or not], discard the rest and believe one part and not the other
- *No tendría que confiar* [you should not/would not have to trust]
- The *is to be* gives us the possibility of doing it [trusting], so we could easily say that, because that is what it really means
- To me it's an order
- I always hear it as *se puede desconfiar* [you may distrust]
- It's a *should*, not a *must*
- But *tendría* [should/would] means that he must and doesn't do it
- *Se ha de desconfiar* [is to be distrusted]
- For a sixth grader, unless the person is from Spain, *se ha* would not be understood
- I was going to say that, it is correct but a higher register than the other options offered
- I would say *puede ponerse en duda* [it may be doubted]
- *Pueden desconfiar* [you may distrust], the judge is telling the jurors
- *No tienen por qué creer* [there is no reason for you to believe]
- *No tienen por qué creer* looks good, perfect
- They are not obligated

Final version: Si un testigo <u>miente</u> en una parte importante de su testimonio, <u>no tienen por qué</u> creer el resto de su declaración. *[If a witness <u>lies</u> in one material aspect of his or her testimony, <u>there is no reason for you to believe</u> the rest of his or her testimony]*

Sentence 2. Las pruebas indirectas son pruebas que, de determinarse que son verdaderas, prueban un hecho del cual se puede inferir la existencia de otro hecho. *[Circumstantial evidence is evidence that, if found to be true, proves a fact from which an inference of the existence of another fact may be drawn.]*

- Instead of *de determinarse* [if found] let's change to *si se cree* [if believed]
- It is not a matter of believing
- Circumstantial evidence shows something, from there it can be deduced
- Instead of *inferir* [to infer] I feel they wouldn't understand, I would say *deducir* [to deduce]

- Or *se puede concluir* [it can be concluded]
- There is a lot of metalanguage here that you cannot really lower the register that much
- Can *de determinarse que son verdaderas* [if found to be true] be moved to another place in the sentence, because it is rather interrupting the definition in the middle of the sentence
- If they turn out to be true, circumstantial evidence...
- It is a rather complex concept
- Circumstantial evidence is evidence that... the repetition, the redundancy sometimes is necessary
- If circumstantial evidence is true... I would not repeat evidence
- We cannot begin with *if*... we have to begin with *circumstantial evidence*
- At the end of the sentence it does not look clear, I do experiments with my audience and in these cases I use inflexions, we should use pauses
- We should leave it where it is
- I would change *inferir* [to infer/draw] to *deducir* [to deduce]
- It cannot be lowered much there, for the person to understand this it must be explained, it's the only way, that is why the judges made the new instructions giving examples, to show that register could not be lowered. That is why I'm saying because precisely the syntax, when you try to explain it it becomes an academic definition, and with sixth graders or less, or an IQ of... as it is being shown now that many defendants have an IQ of around 70, they cannot get it. One must concentrate to change it, even
- *Decide* [to decide] looks very similar to *determina* [to determine]
- *Concluir* [to conclude] to them means *to finish*
- Se puede *deducir* [it can be deduced]

Final version: Las pruebas indirectas son pruebas que, si se decide que son verdaderas, demuestran un hecho del cual se puede deducir la existencia de otro hecho. *[Circumstantial evidence is evidence that, if it is decided they are true, they prove a fact from which the existence of another fact can be deduced]*.

Sentence 3. "Preponderancia de la prueba" se refiere a la prueba que tiene más fuerza de convicción que la prueba contraria. *["Preponderance of the evidence" means evidence that has more convincing force than that opposed to it.]*

- It is clear, it doesn't make much sense to change it
- I would like a different word for *convicción* [conviction/convincing force]
- That it is more convincing
- *Es más convincente* [it is more convincing] I believe it's easier to understand
- *La prueba más convincente* [the most convincing evidence], period, not than the opposite
- Well no, I understand the comparison
- No, more convincing is not the same... more capacity to convince
- The one that has more force than the one opposed to it, remember the scale, which has more weight than which, then we cannot leave *la contraria* [the one opposed to it] out
- But this refers to the most convincing evidence, I believe it is redundant, in Spanish redundancy is grammatically incorrect, but not in English. It is obvious in Spanish that it is more convincing than another, what are the options, more convincing than the other one, there is no other option
- In English it is obvious too, this can be applied in any language

- We have to say it because it is comparing, it is obvious for people who know, but for those who never heard it...
- In English they speak convolutedly and it sounds well, not in Spanish
- If we say *preponderance of the evidence means the most convincing evidence* it is understood exactly the same, and the idea is to simplify
- To simplify does not mean to change the idea, the problem is *preponderance* makes no sense in itself if we do not mention two sets of evidence, outside a comparison
- One on each side, the strongest wins
- That it's more *convincente* [more convincing]?
- Yes, that is much more clearer than *fuerza de convicción* [convincing force], because for a lot of people who understand English will think of *convicción* as in *to convict*
- And what do you think of *preponderance*?
- We cannot change that one
- Preeminence... superiority... dominant...
- Or the evidence *que tiene más peso* [that has more weight]
- I say graphic language is what makes people understand, the simplest people work with a more graphic language, and the *weight* is graphic so they can understand the idea

Final version: La prueba que tiene más peso es la prueba que es más convincente que la prueba que demuestra lo contrario. *[The evidence that has more weight is the evidence that is more convincing than the evidence that proves the opposite.]*

Sentence 4. El acusado además alega que a él le pareció que su abogado le había divulgado información confidencial a su colega en el caso antes de que se separara el caso, y eso lo llevó a declararse culpable. *[The defendant further alleges that it was his perception that his attorney had disclosed privileged information to co-counsel, before the case was severed, that later led him to enter into a guilty plea.]*

- I would change *divulgar* [to disclose] to *dio información* [gave information]
- Also *alega* [alleges] can be changed to *afirma* [affirms] or *dice* [says]
- We could turn it around and say *the defendant pled guilty because*...
- I think *later* is important, do you feel it changes without it?
- I would say it as it is or *posteriormente* [subsequently] or *después* [after]
- But it is obvious that it was later, it cannot be before he found out about the disclosure
- No, in English *later* may mean some time has passed
- We can work it out differently, he ended up pleading guilty because he thought... he ended up deciding to plead guilty... a way to change it and say the same thing
- *Y por eso se declaró* [and that is why he pled]

[Group agreement]

- My problem is with *caso* [case] when in legal it's *causa* [case], *se separaron las causas* [the cases were severed]
- I never say *caso*, ever... in fifteen years nobody asked me or didn't understand
- I would say *caso* because you can say *fue un caso difícil* [it was a difficult case] but *causa número xxx* [case number xxx], in general and colloquial form you say *caso*, in the OJ Simpson case nobody said *causa*
- But there are two different concepts
- But in this case it's about the *causas* that were severed and not the *caso*
- You may think I'm crazy but I would use *caso* the first time and *causa* the second time

- The second one must be plural
- Nobody talks to me about *causa* no matter how many times I use it, we want to make this simpler? I agree the first one is *caso* and the second one *causas*, but in my humble opinion people watch *Caso cerrado* [Closed Case] and *La corte del pueblo* [People's Court] [TV programs]

Final version: El acusado además dice que a él le pareció que su abogado le había dado información confidencial a su colega en el caso antes de que se separaran las causas, y por eso se declaró culpable. *[The defendant also says that he believed his attorney had given confidential information to his colleague in the case before the cases were severed, and that is why he pled guilty]*

Sentence 5. Ya que la explicación del acusado en cuanto al comportamiento de las partes no está corroborada por la declaración jurada de ningún testigo, no alcanza a ser una prueba clara y convincente. *[Since the defendant's explanation as to the behavior of the parties is not supported by the sworn statement of any witnesses, it scarcely rises to the level of clear and convincing evidence.]*

- If we change *ya que* [since] to *como* [since/given that] they will understand you sooner
- What about if we start from the end, the defendant's explanation is not clear and convincing because...
- Exactly
- Some time ago I had a woman from Bolivia testifying and she said *bueno, lo pueden corroborar* [well, you can corroborate it] and the prosecutor jumped to the roof thinking she had been coached to testify because she couldn't understand that *corroborar* were standard
- In Spanish it's a standard word, maybe not in English
- We can also change *en cuanto a* [as to the]... to *sobre* [about]

Final version: La explicación del acusado sobre el comportamiento de las partes no llega a ser una prueba clara y convincente porque no está corroborada por la declaración jurada de ningún testigo. *[The defendant's explanation as to the behavior of the parties scarcely rises to the level of clear and convincing evidence because it is not supported by the sworn statement of any witness.]* [Sentence inversion]

Additional comments offered by participants:

- I am not concerned about them not understanding the term *preponderancia* [preponderance] because that is the reason it is explained, the idea is that it is not understood in English either and that is why an explanation is given, the problem is if they still don't understand when you finish giving the definition
- But of course, you find a way to say it, anyone understands *the evidence that has more weight*
- But if we had a word for *preponderance* that everyone understood, we wouldn't have to explain anything, because there is no word that can be understood in English and in Spanish
- We have to understand something, there are concepts that are more abstract than others and cannot be simplified, and even if you write everything for a sixth grader, it's like explaining drugs to a 4 year old, so some things can be simplified and others cannot.

Appendix 8. Main study. Listening comprehension test

Main study - English speakers - Question 1

A witness who is willfully false in one material aspect of his or her testimony is to be distrusted in others. Question: What should you do when a witness is willfully false in one material aspect of his or her testimony, or, why would you not believe him?		
P 1	2	When the witness is willfully false in his or her testimony
P 2	2	So a witness who is willfully false in the answers they should not be trusted after they are caught in the first lie all the testimony is skewed
P 3	2	Eh... once a witness has been false or willfully -meaning they... they did it knowingly, they should be distrusted in all other... in other or whatever it was, interviews [giggle]
P 4	2	When a witness is willfully false
P 5	2	A witness should be distrusted if they give a false statement
P 6	2	When he is willfully false
P 7	2	You should disregard their whole testimony unless you see that they... that there's reasons to override it based on their credibility or something, otherwise you should disregard their whole testimony
P 8	2	Well definitely cast disparaging credibility on anything that he was saying later, is what I would proposition. If he's dishonest about one thing, he very well may be about others. His credibility would be impaired
P 9	2	[You should] distrust him when he is lying or falsifying evidence
P 10	1	You are allowed to discount all of their testimony, if you so choose

Main study - English speakers - Question 2

"Preponderance of the evidence" means evidence that has more convincing force than that opposed to it. Question: What is preponderance of the evidence?		
P 1	2	It's evidence that has more force than that that is opposed to it?
P 2	2	It's more evidence than the opposite, wait wait let me figure how to phrase this, I know what it means... It means the majority of the evidence points in one direction as opposed to the other direction
P 3	2	Er... preponderance of the evidence is evidence that is more powerful than the other side of the story
P 4	1	Preponderance has more convincing force behind it
P 5	1	Preponderance means... it's evidence that has more proof than other evidence
P 6	0	It's the one that has... I would say more convincing form
P 7	0	If it's more to the person who's testifying then there has to be more to it, if it's exactly equal then you go against them but otherwise you go in their favor
P 8	2	Well, an overwhelming amount of evidence which would indicate, that would sway a decision one way or the other
P 9	0	Something that is proven evidence that is shown to the court
P 10	2	Preponderance of the evidence is adequate evidence that there is more evidence that would lead to the conclusion that evidence against, in other words, is not evenly balanced, but there's... the majority of the evidence would lead you to rule in the part of the person that has the burden of proof

Main study - English speakers - Question 3

Circumstantial evidence is evidence that, if found to be true, proves a fact from which an inference of the existence of another fact may be drawn. Question: What is circumstantial evidence?

P 1	1	It's evidence that proves a fact
P 2	2	If this then that, it's an inference, so if this is true then that is true, it's not direct evidence, it's supposing that this is true then we can assume that that is true
P 3	0	Er... circumstantial evidence is when there is a fact that was er... proven to be true, but before it was like more of a hypothesis?
P 4	0	Circumstantial evidence proves that there is an inference to be drawn that [giggle]... I don't know
P 5	1	Circumstantial evidence is evidence that can have a bearing on something else
P 6	1	It is evidence that proves another fact, I would think
P 7	0	Evidence that can be inferred from what's presented to you during the case
P 8	2	Well it's like, if a equals b then b equals c, if you're using that as an analogy, it's like for example, the fire was set... it was an arson fire. If it was determined, it was determined, if it could be proven that it was set at a certain time, that the person had flammable stuff on his person, he had some incinerary* type of device to ignite the flammable stuff, and he was the only person in that area, that's circumstantial. He wasn't seen doing it, but it's rock solid
P 9	0	Something that is proven in court or has proof of actual evidence
P 10	1	It's evidence that can lead to inferential conclusions

Main study - English speakers - Question 4

The defendant further alleges that it was his perception that his attorney had disclosed privileged information to co-counsel, before the case was severed, that later led him to enter into a guilty plea. Question: What does the defendant allege?

P 1	1	That his attorney released information to co-counsel?
P 2	2	That his attorney-client privilege was violated and therefore he thought that it was more evident than the other side or somebody else did more than they did, and then he plead guilty figuring that his chances were less, but mostly that his attorney-client privilege was violated
P 3	1	That he perceives that his attorney shared information that should have been between the two of them to the co-counsel and therefore it affected how he pleaded
P 4	1	The defendant alleges that his attorney had disclosed privileged information prior to the case being severed
P 5	0	The defendant alleges that his lawyer talked to other counsel because the -the case was dismissed
P 6	2	The defendant says that he pled guilty because the co-counsel... his attorney gave the co-counsel, you know, confidential information before the case went in... was separated
P 7	0	I guess I didn't get that question
P 8	0	I guess I'm now confused by it
P 9	0	The defendant is saying that he was guilty of whatever he was accused of before going to court
P 10	1	That his or her attorney shared information with co-counsel that was probably inappropriate before the defendant agreed to a particular plea

Main study - English speakers – Question 5

Since the defendant's explanation as to the behavior of the parties is not supported by the sworn statement of any witnesses, it scarcely rises to the level of clear and convincing evidence. Question: Why does the defendant's explanation scarcely rise to the level of clear and convincing evidence?

P 1	0	The defendant's behavior is not supported by... the... party or witnesses?
P 2	2	Because there is no witness testimony to support it
P 3	2	Because the statements don't corroborate with er... the witnesses' accounts
P 4	2	Because it's not supported by the sworn evidence
P 5	0	The uhm... the statements are not supported by the actions of people from the sworn statements
P 6	2	Well, it's not supported by the witnesses' statements
P 7	2	Because there's no sworn testimony to support it
P 8	1	Because it's not supported by substantial evidence, substantiated evidence
P 9	1	Basically he is testifying something that is incorrect and isn't proven by other -other witnesses
P 10	0	Because it doesn't rise to the level of credibility required by the courts

Main study - Spanish speakers group 1 (original register) - Question 1

Si un testigo declara intencionalmente en falso en un aspecto importante de su testimonio, se debe desconfiar del resto de su declaración. Question: ¿Qué debe hacer cuando un testigo declara intencionalmente en falso en un aspecto importante de su testimonio, o por qué no le creería?
(A witness who is willfully false in one material aspect of his or her testimony is to be distrusted in others. Question: What should you do when a witness is willfully false in one material aspect of his or her testimony, or, why would you not believe him?)

P 11	0	Pues si yo sé la verdad, eh... la digo, eh... y también -también le digo a la corte que él está diciendo -que está diciendo información falsa *Well, if I know the truth, er... I say it, er... and also -I also tell the court that he is saying -that he is saying false information*
P 12	0	Pues, decir que está mintiendo, que no... que es falso todo lo que él está diciendo *Well, say he is lying, that not... that everything he is saying is false*
P 13	0	Pues si yo fuera el testigo, pues decir la verdad. Sea buena o sea mala pero siempre con la verdad enfrente *Well if I were the witness, well, tell the truth. Whether good or bad but always with the truth up front*
P 14	0	Pues a veces culpable *Well, sometimes guilty*
P 15	0	Como- como- como dijo que -de alguien que -diga eh eh... pues... pues no sé [giggle] *Like, like, like [Pronoun] said that -about someone who -say er er... well... I don't know [giggle]*
P 16	2	Ok... no confiar en él *Ok... not trust him*
P 17	0	¿Tal vez cambiar de persona? *Maybe switching persons?*
P 18	0	Entonces lo que tendría yo que hacer es este que... pedir más explicación, por qué razón me está -está haciendo eso *Then what I would have to do is, er, to... to ask for more explanation, why is -is [Singular pronoun] doing that to me*
P 19	0	Pues quedar callado *Well, remain silent*
P 20	0	Es malo dar una una información falsa y yo pienso que... que esa persona no merece estar ahí en la corte *It is bad to give false information and I think that... that person does not deserve to be there in court*

Main study - Spanish speakers group 1 (original register) - Question 2

"Preponderancia de la prueba" se refiere a la prueba que tiene más fuerza de convicción que la prueba contraria. Question: ¿Qué es la preponderancia de la prueba? *("Preponderance of the evidence" means evidence that has more convincing force than that opposed to it. Question: What is preponderance of the evidence?)*		
P 11	0	Ese sí no sé que es pre- ... eso no sé qué es *That one I really don't know what it is pre-... I don't know what that is*
P 12	0	Esa no la entendí nada. Perdón *That one I didn't understand anything. I'm sorry*
P 13	0	No *No*
P 14	0	Pues que sea verdad lo que uno está haciendo *Well, that it be true what one is doing*
P 15	0	La prepodancia* de la prueba es... ay no sabría decirle *Prepodance* of the evidence is... oh my I wouldn't know*
P 16	0	La pronderancia* de la prueba es la prueba en sí la que te está acusando a ti, no? *Pronderance* of the evidence is the evidence itself the one that is accusing you, isn't it?*
P 17	0	¿Exagerarla? *To exaggerate it?*
P 18	0	Ah pues la palabra prepolderancia* para mí viene siendo como -como que -o sea que me están -cómo le dijera la palabra... que me están acusando o sea me están haciendo algo... que no es correcto con este... más... cómo le dijera usted... no se me viene a la mente cómo es la palabra que usamos nosotros... Algo como como que están -como que me quieren como - cómo es la palabra -decirle que me están poniendo en el mismo lugar, con -con -cómo le dicen la palabra... alevosía *Ah well the word prepolderance* for me would be like -like -I mean, they're -what's the word I could use here... that they are accusing me I mean they are doing something to me... that is not correct with er... more... now how can I say this... it doesn't come to mind what the word is that we use... Something like, like they are -like they want me to, like - what is the word -tell you that they are putting me in the same place, with -with -what is the word... malice aforethought*
P 19	0	La prod- la proderancia*? Esa sí, esa palabra no la entiendo *The prod -the proderance*? Now that one, that word I don't understand*
P 20	0	Tampoco lo entiendo *I don't understand it either*

Main study - Spanish speakers group 1 (original register) - Question 3

Las pruebas indirectas son pruebas que, de determinarse que son verdaderas, prueban un hecho del cual se puede inferir la existencia de otro hecho. Question: ¿Qué son las pruebas indirectas? *(Circumstantial evidence is evidence that, if found to be true, proves a fact from which an inference of the existence of another fact may be drawn. Question: What is circumstantial evidence?)*		
P 11	0	Que no son verdaderas. Necesitan confirma-este... investigar si son verdaderas *That they are not true. They need to confir- er... investigate if they are true*
P 12	0	Que nada más lo está diciendo y que no, por decir, no tiene ninguna evidencia *That he's just saying that and he doesn't, say, he doesn't have any evidence*
P 13	0	Eso no lo entiendo *That I don't understand*
P 14	0	¿Indirectas? Como que a veces no eh... no es verdad, o a veces son verdades *Circumstantial? Like sometimes it's not er... it's not true, or sometimes they are truths*
P 15	0	Uhm las pruebas indirectas son... ay no sé no sabría decirle *Hmm circumstantial evidence is... oh my, I couldn't tell you*
P 16	0	Pruebas indirectas son aquellas que eh... te inculpan algo, que te inculpan a ti en algo *Circumstantial evidence is the one that er... accuse you something, that accuse you of something*
P 17	0	Es como presentar... eh cosas falsas...uhm... que no vengan al caso *It's like showing... er false things... er... that aren't related*
P 18	0	Las indirectas para mí son las que le hacen a uno, que le están poniendo pruebas que no son correctas, verdad? O sea, es es indirecto, que no es algo que es falso *The circumstantial ones [indirect] to me is the kind that is done to one, like when they are showing evidence that is not correct, right? That is, it's, it's circumstantial [indirect], that it's not something that is false*
P 19	0	Este... pues es como juzgar mal y también quedar callado *Er... well it's like misjudging and also remaining silent*
P 20	0	No lo oí bien bien *I didn't really hear it well*

Main study - Spanish speakers group 1 (original register) - Question 4

El acusado además alega que a él le pareció que su abogado le había divulgado información confidencial a su colega en el caso antes de que se separara el caso, y eso lo llevó a declararse culpable. Question: ¿Qué alega el acusado?
(The defendant further alleges that it was his perception that his attorney had disclosed privileged information to co-counsel, before the case was severed, that later led him to enter into a guilty plea. Question: What does the defendant allege?)

P 11	1	Que este... eh... su abogado no lo defendió como debió de haber hecho, porque eh... porque le dio información al otro -al abogado, al otro abogado que no debía de haber hecho *That er... er... his attorney didn't defend him as he should have done, because er... because he gave information to the other -to the attorney, to the other attorney that he should not have done*
P 12	0	Que su abogado le dijo lo que él había declarado, por decir, al otro licenciado de la otra persona *That his attorney told him what he had testified, in other words, to the other attorney of the other person*
P 13	0	Pues que alguien le dijo de que... que estaban... que había denunciado falsamente entonces fue acusado culpable *Well that someone told him that... that they were... that [Pronoun] had made a false report so he was found guilty*
P 14	0	Pues que a veces no es verdad lo que ellos nos dicen pero es por no tener papeles nos echamos nosotros la culpa *Well, it's that sometimes what they tell us is not true but it's because of not having papers we blame ourselves*
P 15	0	El que él es eh... como diré... es en falso, en falso su testimonio, algo así *It's that he is er... how could I say... it's false, his testimony is false, something like that*
P 16	0	El acusado alega que es inocente *The defendant alleges he is innocent*
P 17	0	Que el abogado, su abogado le comunicó otras palabras al otro abogado, de la parte, digamos, contraria *That the attorney, his attorney communicated other words to the other attorney, from the, let's say, opposing party*
P 18	0	Que -que le dio información a su defensor, no? Y que -que el defensor le había dado -habíamos este... había este dado - dado la información a otra persona, no? *That -that [Pronoun] gave information to his defense attorney, right? And that -that the defense attorney had given - we had, er... had er given -given the information to another person, right?*
P 19	0	A divulgar y con el otro este aboga- abogado, esa parte tampoco la entendí *To disclose and with the other er attorn- attorney, that part I didn't understand either*
P 20	0	Que divulgó una información al abogado y no debería de haber sido eso *That [Pronoun] disclosed some information to the attorney and it shouldn't have been that*

Main study - Spanish speakers group 1 (original register) - Question 5

Ya que la explicación del acusado en cuanto al comportamiento de las partes no está corroborada por la declaración jurada de ningún testigo, no alcanza a ser una prueba clara y convincente. Question: ¿Por qué la explicación del acusado no alcanza a ser una prueba clara y convincente?
(Since the defendant's explanation as to the behavior of the parties is not supported by the sworn statement of any witnesses, it scarcely rises to the level of clear and convincing evidence. Question: Why does the defendant's explanation not seem to be clear and convincing evidence?)

P 11	0	Uhm... no le entendí a la pregunta *Er... I didn't understand the question*
P 12	0	Porque no -no tiene pruebas y no no le son válidas, nada más yo pienso, lo que él está diciendo *Because he doesn't -doesn't have evidence and no they are not valid / admissible to him, nothing else, I think, what he is saying*
P 13	0	Porque no ha sido sincero siempre, siempre hay mentira, hay verdad, y pues están confundidos *Because he hasn't always been honest, there are always lies, there is truth, and, well, they are confused*
P 14	0	Porque a veces decimos y a veces no -no creen lo que uno haga y a veces por medio de no tener documentos nos echamos la culpa aunque no sea verdad *Because sometimes we say and sometimes they don't -don't believe what one does and sometimes through not having documents we blame ourselves even if it's not true*
P 15	0	Pues me imagino que no se explicó bien, es todo *Well I imagine he didn't explain himself well, that's all*
P 16	0	Digo porque es... su... su declaración fue malinterpretada en todo eso *I say because it's... his... his testimony was misinterpreted in all that*
P 17	0	Porque la acusación que las personas le dieron no con... no conjunta con la de él, están equivocados, la parte de cómo le diré, la acusadora *Because the accusation that the people gave him does not ma-... does not match his, they are mistaken, the party, how should I say, the accusing party*
P 18	0	Uhm es tal vez será porque -porque su -su defensor lo haiga* confundido en su declaración *Hmm it is maybe it is because -because his -his defense attorney may have confused him in his testimony*
P 19	0	Tampoco esa parte no la entendí *That part I didn't understand either*
P 20	0	Porque no había ningún testigo para estar al lado de él y se tuvo que dar culpable por eso, porque no tenía testigos *Because there was no witness to be by his side and he had to plead guilty because of that, because he had no witnesses*

Main study - Spanish speakers group 2 (simplified register) - Question 1

Si un testigo miente en una parte importante de su testimonio, no tienen por qué creer el resto de su declaración. Question: ¿ En qué caso o por qué no creería la declaración de un testigo?
(If a witness lies in one material aspect of his or her testimony, there is no reason for you to believe the rest of his or her testimony. Question: When or why would you not believe a witness' testimony?)

P 21	1	Si un testigo mien-miente en la primera declaración no tienen que er seguir oyéndolo? *If a witness lie- lies in the first testimony [Pronoun] don't have to, er- continue listening to him?*
P 22	2	Porque está mintiendo *Because he is lying*
P 23	2	En ninguna porque está mintiendo desde un principio *None because he is lying from the start*
P 24	2	Porque está mintiendo? *Because he is lying?*
P 25	2	Porque al empezar ya estaba mintiendo *Because he was already lying from the start*
P 26	2	Si un testigo miente en alguna parte de su declaración... ¿en qué situación yo no lo creería? Pues yo creo que no le creería en ninguna situación *If a witness lies in some part of his testimony... in what situation I would not believe him? Well I think I would not believe him in any situation*
P 27	2	Nunca porque está diciendo mentiras desde el principio *Never, because he is telling lies from the beginning*
P 28	2	Cuando sé que está mintiendo *When I know he is lying*
P 29	2	No pues ya con el solo hecho de que está mintiendo, para nada *No well just the mere fact that he is lying, not at all*
P 30	2	Si la eh... cómo se llama... si ya mintió desde un principio, pues va a mentir hasta el final *If the, er... what is it called... if he already lied from the start, well he will lie until the end*

Main study - Spanish speakers group 2 (simplified register) - Question 2

La prueba que tiene más peso es la prueba que es más convincente que la prueba que demuestra lo contrario. Question: ¿Cuál es la prueba que tiene más peso?
(The evidence that has more weight is the evidence that is more convincing than the evidence that proves the opposite. Question: Which is the evidence that has more weight?)

P 21	1	La prueba más convincente *The most convincing evidence*
P 22	0	La prueba que tiene más peso... ¿La verdad? No sé *The evidence that has more weight... honestly? I don't know*
P 23	1	¿La prueba más convincente? *The most convincing evidence?*
P 24	1	¿La que se escuchó más convincente? *The one that sounded most convincing?*
P 25	0	Sí es la misma, sí es la misma, porque es la... eh es -es- él no se basa a una -a una, [daughter's interruption] pérame m'ija, a una... es que no -no se interroga algo más específico, es la misma prueba, es la misma prueba porque él no dice otra. *Yes it's the same, yes it's the same, because it's the... er it's -it's - he doesn't rely to a -on a [daughter's interruption] hold on sweetheart, to a... it's that no -nothing more specific is questioned, it's the same evidence, it's the same evidence because he does not say any other*
P 26	1	La prueba que es más convincente... es la que tiene más peso *The evidence that is most convincing... is the one that has more weight*
P 27	1	La prueba convincente *The convincing evidence*
P 28	1	¿Eh, la prueba que- más convincente? *Er, the evidence that- most convincing*?
P 29	1	La que es más convincente *The one that is most convincing*
P 30	1	La prueba convincente *The convincing evidence*

Main study - Spanish speakers group 2 (simplified register) - Question 3

Las pruebas indirectas son pruebas que, si se decide que son verdaderas, demuestran un hecho del cual se puede deducir la existencia de otro hecho. Question: ¿Qué son las pruebas indirectas? *(Circumstantial evidence is evidence that, if it is decided they are true, they prove a fact from which the existence of another fact can be deduced. Question: What is circumstantial evidence?)*		
P 21	0	Las pruebas indirectas son las... [giggle] ... sorry *Circumstantial evidence is... [giggle] ... sorry*
P 22	0	Las pruebas indirectas es que le están preguntando como, con otra persona, no están preguntándole al... no están agarrando pruebas suficientes para ver si no hay otro medio, otra manera u otra persona que está juntando pruebas *Circumstantial evidence is that they are asking him like -with another person, they are not asking... they are not getting enough evidence to see if there might be other means, another way or another person who is gathering evidence*
P 23	0	La pruebas que aseguran... lo que es el... ¿el caso? *The evidence that establish... what it is the... the case?*
P 24	0	Las indirectas son las que se prueban que son verdaderas y de ahí se deduce eh que... que es...¿es buena prueba? *The circumstantial ones are the ones that are proven true and from there it can be inferred er that... that it is... good evidence?*
P 25	0	Ok, aquí dice que... haz de cuenta como la prueba no ocupa al... como traer a alguien, no? O sea eh -si ya tiene una prueba grande ahí ya se va a quedar, no ocupa más hechos *Ok, here it says that... let's say as the evidence does not need the... like bringing somebody in, right? That is er -if [Pronoun] has major evidence there it's going to stay,[Pronoun] does not need any more facts*
P 26	1	Pruebas indirectas... Las pruebas indirectas son las que pueden demostrar un hecho con otro hecho *Circumstantial evidence... Circumstantial evidence is the kind that can prove a fact with another fact*
P 27	0	Preguntas son respuestas verdaderas *Questions are true answers*
P 28	0	¿La que tiene más peso? *The one that has more weight*?
P 29	0	No, no sé [giggle] ... Que salen de lo indirecto y que entonces qué son -qué realmente -cuales son las pruebas realmente valoradas, no? o verdaderas... ahí es donde un juego de palabras que complica la situación, verdad? *No, I don't know [giggle] ... That they are drawn from circumstance and then what are they -what really -which is the truly valued evidence, right? Or true... that is where a play on words that complicates the situation, right?*
P 30	0	Yo creo que son pues, mentiras, ¿verdad? *I believe they are well, lies, right?*

Main study - Spanish speakers group 2 (simplified register) - Question 4

El acusado además dice que a él le pareció que su abogado le había dado información confidencial a su colega en el caso antes de que se separaran las causas, y por eso se declaró culpable. Question: ¿Qué dice el acusado? *(The defendant also says that he believed his attorney had given confidential information to his colleague in the case before the cases were severed, and that is why he pled guilty. Question: What does the defendant say?)*		
P 21	0	El acusado dice que le dio información er confidencial antes que -antes que separara de su colega *The defendant says that [Pronoun] gave, uh, confidential information before -before separating from his colleague*
P 22	1	Como que el... el su abogado del muchacho le dio información a... a su colega y por eso él se hizo como culpable porque- como que hubo un algo ahí... malo *Like he... he his attorney of the young man gave information to... to his colleague and that's why he pled like guilty because -like there was a something there... wrong*
P 23	0	Que él eh... no le dio las respuestas correctas desde un principio -que... que... el mismo abogado le dijo que uhm... ay! *That he er... didn't give him the correct answers from the beginning -that... that... the same attorney told him that hmm... Geez!*
P 24	0	Que su abogado le dijo que se... declarara culpable? Uhm... no sé. Es todo [giggle] *That his attorney told him to... plead guilty? Er... I don't know. That is all [giggle]*
P 25	0	Él le dijo información al -al otro al -al que... al como quien dice al contrario -al contrario de... del abogado, o sea, del abogado sí *He told information to -to the other one to -to the... to, so to speak, to the opposing -the opposing of -of the attorney, I mean, of the attorney, yes*
P 26	0	El acusado dice que su abogado le dio información confidencial antes de que empezara el caso *The defendant says that his attorney gave [Pronoun] confidential information before the case started*
P 27	0	Que le dio las- que le dio las- ¿cómo se dice? las pruebas? solamente eso, que él le dio las pruebas *That [Pronoun] gave [Pronoun] the -that [Pronoun] gave [Pronoun] the -what is it called? The evidence? Just that, that he gave [Pronoun] the evidence*
P 28	1	¿Que su abogado le dio información a su colega? *That his attorney gave information to his colleague*?
P 29	1	Que le dio a su colega información y que no sé qué son las... hay otra palabra que no sé qué es, cómo se escribe, buen no sé hay otra no -no le entendí bien, y por eso es que se había declarado él culpable *That [Pronoun] gave information to his colleague and that I don't know what are... there is another word that I don't know what it is, how it is spelled, well I don't know there is another one not -I didn't understand it well, and that is why he had pled guilty*
P 30	1	Que le había dado eh... información antes a su colega y por eso se declaró culpable *That [Pronoun] had given [Pronoun] er ... information to his colleague earlier and that is why he pled guilty*

Main study - Spanish speakers group 2 (simplified register) - Question 5

La explicación del acusado sobre el comportamiento de las partes no llega a ser una prueba clara y convincente porque no está corroborada por la declaración jurada de ningún testigo. Question: ¿Por qué la explicación del acusado no llega a ser una prueba clara y convincente? *(The defendant's explanation as to the behavior of the parties scarcely rises to the level of clear and convincing evidence because it is not supported by the sworn statement of any witness. Question: Why isn't the defendant's explanation clear and convincing evidence?)*		
P 21	0	Porque no está coloborando* y no este... no está coloborando* y no es convincente *Because [Pronoun] is not colloborating* and not er... is not colloborating* and it is not convincing*
P 22	0	¿La verdad? no sé *Honestly? I don't know*
P 23	2	¿Porque no está corroborada por los testigos? *Because it is not corroborated by the witnesses*?
P 24	2	¿Porque no está corroborada por ningún testigo? *Because it is not corroborated by any witness*?
P 25	0	Híjole no sé... eso sí no sé, creo que no sé, no -no -no sé *Darn, I don't know ... that I don't know, I believe I don't know, no -no -I don't know*
P 26	0	OK la información corraborada* no puede ser... no puede ser clara porque no está corraborada*... y no puede ser convincente *Ok corraborated* information cannot be... cannot be clear because it is not corraborated*... and cannot be convincing*
P 27	0	Porque no está bien eh... elaborada *Because it is not well, er... elaborated*
P 28	0	Porque no tienen pruebas *Because they have no evidence*
P 29	1	Creo que dice que no está corroborada, ¿no? No sé así le entiendo yo *I believe he says that it is not corroborated, right? I don't know, that is how I understand it*
P 30	0	Porque no la dijo eh... no fue verdad, no fue clara, la pues, lo que él declaró, ¿verdad? *Because [Pronoun] didn't say it er... it was not true, it was not clear, the, well, what he testified, right*?

Appendix 9. Main study. Interviews with interpreters

Main study - Interpreters' interviews - Question 1

Demographics (SSC: Spanish-speaking country; L/A: Learning and/or acquisition)				
	Place of Birth	Schooling	Spanish L/A	English L/A
P 1	SSC	SSC	SSC	SSC/US
P 2	US	SSC/US	SSC/US	SSC/US
P 3	US	US	SSC	US
P 4	US	US	SSC/US	US
P 5	SSC	SSC	SSC	SSC
P 6	SSC	SSC/US	SSC	US
P 7	US	US	US	US
P 8	US	SSC	SSC	US
P 9	US	US	US	SSC/US
P 10	SSC	SSC	SSC	SSC/US

Main study - Interpreters' interviews - Question 2

Certifications held - Attempts at examinations before passing				
	California State Court Interpreter Exam		Federal Court Interpreter Exam	
	Written	Oral	Written	Oral
P 1	1	1	1	2
P 2	1	2	-	-
P 3	1	4	1	2
P 4	1	2	1	1
P 5	2	2	1	2
P 6	5	4	3	1
P 7	5	5	2	-
P 8	1	1	1	1
P 9	1	1	2	2
P 10	1	3	1	1

Main study - Interpreters' interviews – Question 3

Training	
P 1	Private instruction
P 2	Interpreting program
P 3	Interpreting program, Private instruction
P 4	Private instruction
P 5	Interpreting program
P 6	Interpreting program
P 7	Interpreting program, Private instruction
P 8	None
P 9	Interpreting program
P 10	Interpreting program

Main study - Interpreters' interviews - Question 4

How would you define the term "language register" in your own words?	
P 1	I guess it would be the level of sophistication, the level of difficulty, or the level... I dunno whether I can talk about the register as an isolated thing. I would have to think. The level at which a person will understand or... a level with which a person is more familiarized, perhaps?... I still feel that if I'm interpreting for the defendant it is not as... I mean, I'm not going to start distorting the English version but to me it is more important, more crucial, more significant or more important, to keep the exact same register when you're interpreting from Spanish into English. Because that will convey to the judge, and I'm talking now about court.
P 2	I'm familiar with the term, I don't understand the question though. I believe what you're asking me is, or maybe the definition that I would have is that we need to keep a register when we are interpreting. I'm thinking keeping the syntax, the... you know, I'm having a hard time answering that question.
P 3	Cultural and educational sophistication of a word.
P 4	Register reflects a level of speech as well as a kind of tone or attitude towards the interlocutor. It's both of those things.
P 5	In my own words I would say the register is the level in terms of how educated a word is. How literate the word sounds. A lower register word is more commonly used within people of lower education, higher register is used hopefully by professionals and people who have to address things in a more high-register way.
P 6	The register... the way I interpret register would be, depending if we are in a courtroom setting, the legalese would be a high register. So somebody with a little more education may be able to understand it better. If a person doesn't have a lot of formal training, they may speak a different register, a lower register, so it's... we work with both registers, or any type of register, but that's mostly how I understand. If a person may speak a low register means that they may be not familiar with the subject matter I'm talking about.
P 7	To me it just means that you have to maintain the same level of speech as the speaker. So if it's an attorney usually their register is higher, a more educated vocabulary. And you have to maintain the register.
P 8	I mean, it means that you are trying to put whatever you hear in the same context as used in the original language. In the court's language, ok? I am going to... I mean, if somebody in Spanish says in a sex case, the victim comes and because of the social economic background that she had, educational background and such, she comes and tells me, or she looks up from the witness stand, she says, *"Me comió"* (he ate me), ok, it's not the same as saying *"Me hizo el amor"* (he made love to me), right?
P 9	Well, to me, language register is really a factor of formal education. And to me, that's one of the factors to consider, the amount of formal education, if there's less or more. And there's another factor that comes into it which I would say formal vs. informal. That to me is register. Also you could consider things like polite vs. rude. These can all play into register. I'm saying that all three of those things, the term and what a register is of a person who's speaking; their level of formal education, whether they intend to be rude or polite or cut you out, you know what I'm saying, rude or polite. And also register is also a factor of, what was the third thing I said? formal education, whether you want to be rude or polite, and register can also have to do with the words you select and depending on the formality or informality of the situation you are in. If you're in a bar, having a few *copas* (drinks), you're probably gonna use a different register or word selections than in court.
P 10	It means the level of correctness or politeness that is associated to that word. Like the socioeconomical level and all those things.

Main study - Interpreters' interviews - Question 5

Have you ever received any training on register, register manipulation, or the features of legal language before beginning to practice?	
P 1	No. If I received a class, it was after. I did a lot of self-teaching. And then when it came to legal, I checked all the most common and potential ways to translate or interpret a legal term into Spanish. I did try to have a collection so that at the time, when you're actually in the setting of where you're interpreting... all of them have to be correct, and try to find the one that will be easier to understand by the person. But it was all my own at the time.
P 2	No. All I received was vocabulary.
P 3	No and no.
P 4	I don't think I have received specific training on the issue of register, no. Training in the features of legal language? I'm mostly self-trained in that area.
P 5	No. I was only told that there is a register that has to be kept, but not how to raise it or lower it or any kind of hands-on exercises.
P 6	I don't believe I have.
P 7	No.
P 8	We had to take a seminar on ethics when we first came to LA. Everybody, before we started working in courts at the time, we had to go through, not that I'm gonna say it's enough, I believe it was a four or six-hour training kind of thing where they explained all this. And then they gave it to you in writing as well.
P 9	I don't remember actually getting anything that specific, no.
P 10	Not specifically.

Main study - Interpreters' interviews - Question 6

Based on your opinion or your professional knowledge, why do you think it's important to maintain the original register when interpreting from Spanish into English?

P 1	Everything I've always heard or read is after. When it comes to, whether it's the defendant or a witness, the main thought I have always had from what I've heard are the experts, I wanna call the experts, those who were the instructors, was simply so that the judge, the jurors, the attorneys, they got to hear not only the meaning that the person is conveying through his testimony, but also the level of sophistication, the level of education, the level of how well rounded the person may be or not.
P 2	Well, I believe as communicators, as interpreters, our duty is to make the person sound... I'm not going to use the word *exact*, but as close to what they would sound in his or her native language. That would be the reason.
P 3	So that third parties can evaluate the person's testimony accurately.
P 4	The reason is the attorney, just as the defendant has... in order for the full conveyance of all the language, both register content and substance and lexicon and everything to be effective, all of those elements have to be there. Whether it's coming from the attorney to the witness, or the witness back to the attorney. Also, it's for the benefit of the jury in a jury trial, so that the jury will appreciate the actual level or grasp the language level of expression, vocabulary, and also rhetorical intent of the witness. For sure, it's the same principles.
P 5	You would change many things by changing the register. You would change the real meaning of what the person is trying... you would convey a different meaning, you would not convey the level of education of the person, you would not convey maybe the area where the person comes from. I'm talking about embellishing and changing the word so the person doesn't sound so uneducated.
P 6	As we were trained to do, the register from Spanish into English is for the Court to ascertain the speaker's education and sophistication.
P 7	Because it's very important to get the message relayed in the... with the same level of speech that the speaker is speaking in, and especially when it comes from Spanish into English because oftentimes we run into a lot of cases when they are saying, let's say, gang-related terminology or slang-related terminology, or insulting kind of language. You want to make sure that you relay it in the same rude level that it's in, *"Le di un chingazo"* (I smacked/hit him) or, just, the simple terminology that they use. Yeah, and it's important because the people listening and the jury have to understand the severity of the language that the person is using. The level of the language. And it's important in getting the message relayed.
P 8	I'm talking about as far as the reaction of the jury. So the jury has to have the same expression in English because that is gonna tell them where this victim is coming from. It's like if this happens in LA with an English-speaking victim, it's not the same having, no disrespect to anybody, but somebody with a third grade education, as somebody who is a graduate student from USC, both of whom suffered the same, were victims of the same crime, they are not going to put it to the jury in the same words. So you cannot tell them, the jury, "Look, this victim has this level of education" because it's not my place to do it, but by her own words, she is gonna convey that. And I have to go between. Well, I mean, because you have to put the jury or the judge or the court officers or anybody on the same level that they would be if the witness or whomever is on the witness stand would put it if she was speaking English at the same level. If a witness spoke English, he wouldn't be cleaning up his act. If he comes and blurts four-letter words and this and that and the other, the jury or the judge or everybody would understand exactly where that person is coming from. And I don't see why it should change just because a person is not English speaking.
P 9	But the reason why we do it into English is because in a courtroom situation, English is the language of the record. And to not maintain the register is to present something that doesn't exist. If you do not maintain the register, you are not giving a true rendition of what this person's character or personage is like. For instance, if a guy has a third grade education you can't make him sound like Harry Potter. You have to, to the best of your abilities, maintain the register [so the jury and the judge get] not just a clear picture, but a true picture.
P 10	Because that's the register used by the court, the attorneys, the people, and that's the one that they understand and feel more comfortable with. And it's also for fairness, for everybody who listens to your interpretation, they have to listen to it on the same level as whatever language they're using, whatever words, cuss words. But honestly, to tell you the truth, I think it applies to both, I think it goes both ways. I think it's clarity and fairness, those are the main reasons.

Main study - Interpreters' interviews – Question 7

Based on your opinion or your professional knowledge, why do you think it's important to maintain the original register when interpreting from English into Spanish?

P 1	I think that when it comes to that, and I am going to tell you at this stage in my career, I am not going to be worried to say this because I know that many of my colleagues will agree with me. I have been guilty of, when I have a defendant next to me, and I am interpreting into Spanish, I have often looked for the easiest. As long as I was not distorting, I looked for the easiest. I think it is so that it's at the same playing field, footing, as a person who, in the same exact situation, lack of education, lack of sophistication, lack of training, lack of being exposed to judicial terminology, does not need an interpreter, speaks perfect English, but has to listen to this jargon which they are not accustomed to listening to. So then both of them, the Spanish speaker and the English speaking person are at the same level.
P 2	I believe [it's the same] for both [directions] [From previous question: "To make the person sound... I'm not going to use the word exact, but as close to what they would sound in his or her native language"]. [Why do you think it's important?] I don't think it is. I do it because I have to.
P 3	So that the party's witness, or defendant, can have the same experience as an English speaking person would have.
P 4	Because in approximating or even duplicating register, in approximating register, interpreters deliver to the witness or defendant the full rhetorical and substantive content that the attorney wants to convey.
P 5	You would be violating your code of ethics by basically explaining or dumbing down the language to the person that doesn't understand legalese. If the person doesn't understand the legal term or the way the judge or the attorneys are speaking, although we may go in circles, there's ways an interpreter should go and rules an interpreter should follow without changing the registers. It's not my place to either use a lower register word or explain what the word means, even if I see the person does not understand. I don't know if I was ever taught strictly why, other than saying that it's a violation because you're changing things, and you're supposed to go as verbatim as possible. I don't think I was ever given a reason other than you cannot change things because you could change meaning, the person could see you maybe as an advocate, or someone that's trying... the district attorney may be bilingual and can figure out that you are not saying what you're supposed to say, part of the jurors may be bilingual and understand. Other than that I really don't know.
P 6	Well, I'm just assuming in the argument if we change it to make it easier to understand to the other speaker, in my case the Spanish speaker, then we're assisting in their understanding, whereas if the Court were to speak to an English speaker, that English speaker doesn't have the luxury of somebody explaining to him or telling him what the Court's meaning.
P 7	Just because you have to maintain the register. And I know a lot of times they don't understand, but it's really not my job, it's the person asking the questions to make sure that they are understanding. I think it's just, I just think that they do it because they don't feel that it's our responsibility to take it upon ourselves to lower the register because to them it's extremely important that we remain as neutral parties and we relay the message and that's all we do. Regardless of what level of speech the person is using, they feel that it's not our place to lower it... [we would stop being neutral] because we are taking it upon ourselves to make it easier for the listener to understand when a lot of times there's a strategy that they use with certain vocabulary. There's always a strategy, especially by the person asking the question. And you can't interrupt that, you know, basically we're transparent, we don't exist.
P 8	Because the same reason. If the defendant spoke English and if he didn't understand what's going on, he would ask his attorney. So you expect the defendant, I mean, you're not gonna give the person for whom you're interpreting into Spanish, whispering mode if need be, although I try to use wire equipment because it's less of a strain on my neck and my voice. But if he doesn't understand something, he has lost. I am not there to explain what they are trying to tell him. I'm there to convey exactly what they are saying at the same register, the same way. And it's the only way around.
P 9	More than likely he's not gonna understand half the crap you're saying if you maintain the register, but you maintain it because it is a true and accurate rendition of what these people are saying. You have to maintain the register to the best of your abilities. If he doesn't understand something, if a judge sits there and says something like "Sir, if you're so impecunious as to afford your own representation," I can't change that, "*Si no tiene dinero para pagar"* (if you don't have money to pay), that's not the same register, see what I'm saying?... It is not, as a judicial interpreter, you should not change that because then you are interceding, and you're trying not to intercede. But if you sit there and say, well, you really gotta maintain the register here, you know, if I have to choose something I always choose to maintain the most accurate meaning.
P 10	Also because going from English into Spanish for instance, another reason it's really important is fairness. If a guy who is American, born and raised here, he listens to those words and that's what he hears. Even if he doesn't understand the high register, that's what it is. So the same goes to Spanish speakers, even if we're using terms that are like, *resquicio legal* for *loophole*, whatever, and then it is their job to ask, or it is their job to ask the attorney and then we interpret. I have a hard time with the register sometimes, but anyway, that's fine.

Main study - Interpreters' interviews – Question 8

Does your interpreting style vary according to the setting? In what way(s)?

P 1 I am much more careful in the courtroom because... I'm not worried about if they hear me, I'm more worried about the fact that... they need to understand the whole thing. One word, unless it's a crucial key word, is not gonna cause a miscarriage of justice. But I just concentrate on this thing, I want to make sure to the whole... because usually, it's the whole concept, more than one legal term, more than one legal concept in the whole paragraph. So if the guy is not going to get it, I want the judge and the attorney to deal with that. What happens is, say we're having an interview, maybe I don't change the register, but what I do is I interpret exactly what the attorney says, and then I say, "Señor," and then I say, using other words, like two words, I say, "This means, blah blah" so I tell the attorney, "I just told him blah blah" and he'll say "Ok ok no problem." That's what I'm saying, I use my judgment. I am very very careful. There have been times when an attorney can say, "Oh I don't want so and so coming to interview at the jail anymore because she says things that I never said" and so if I'm going to... it's not like every other word I'm coming up with a second explanation. I'm more likely to tell the attorney, "I'm sorry but you know what? I don't think he got what you said" and let him...

P 2 Yes, I feel more freedom when... particularly when I'm off the record, I feel more freedom for example if the witness is not understanding what I am saying, and it is obvious to me that he or she is not understanding, I feel the liberty, the freedom of interrupting and telling the attorney that I believe the witness is not understanding me. On the record or in court I just don't want to... I want to be as invisible as possible and just there as a communicator, and I don't want my feelings or my opinions to be recorded or to become part of the record.

P 3 Absolutely. It affects the way I handle the register, I may feel more freedom to lower or request to lower the register.

P 4 The setting can, it'd be disingenuous of me to say that the setting has no effect. The setting does have an effect, yes it does. Well, if you're going to talk about all kinds of events, let's start with a depo prep. A depo prep has no court reporter on hand, and is unusual in all the interpreting events in that the formality of... the rigidity of interpreting high register exactly as-is is loosened somewhat, and a different kind of bond is created between the interpreter and the attorney. And so, in a depo prep an interpreter can, and I sometimes do, become something like an aid to the attorney to convey language that is difficult on its face in a way that will be understandable, comprehensible, to the defendant. In other words, I can change the language, the register, a little bit to make sure that the point has gotten across. In a depo prep, that's because no one has taken any oath, there's no court reporter, and I've told the attorney outright, "I'm going to work with you here and when the language is difficult I'm going to let you know, and I'm going to ask for your permission, I'm gonna say it in a way that he'll get it." That's in a depo prep. In a sworn deposition, that possibility is off the table. [And in court] it's off the table, out the door. The record is a decisive factor, and for instance, not only the record all the time, another influential factor in a setting might be a lock-up interview. A lock-up interview resembles a depo prep in a certain way, but falls sort of halfway between the courtroom setting for the record and the far looser depo prep. Especially if one has a lot of cases to get through and there's a lot of people in the lock-up, the attorney has a heavy caseload, has certain charges to read, and information to convey to the defendant. There is frankly no time to create a kind of loose, linguistic bond and loosen everything up and make sure everything gets across. In that case, you may do a little bit of loosening but mostly you're gonna go verbatim.

P 5 You do. In depositions there's a little bit more leeway and you may interrupt, you address yourself in third person, and you say "This is the interpreter for the record, counsel if I may would you like to rephrase the question, your client is not understanding, or is not being responsive of the question," because they look at me like "What are you telling them?" And another problem I have a lot is with objections. If my witness is not prepped, by the attorney and I don't have a chance to prep him with permission of the attorney, the witness will not know what the objection is and that creates a lot of problems too. And there's specific circumstances in which time is of the essence and there's a lot of factors that determine my changing in doing things the way I would do if I'm on the record, if I'm in front of a judge, if I'm in front of an attorney. If I am just having an attorney-client conference in a hallway or a private room and there is no one else listening to me, and I need that person, that person was giving testimony and said something that could compromise the case, and the attorney tells me, interpreter please do this quickly, he needs to understand right away, what are the consequences of his plea. And I start by using my, the same register the attorney is using, the person is not understanding, I switch. I switch to a lower register so the person has the right to understand what is really going on, and what is happening, and what he should say according to what's informed to him by his counsel. I don't think I'm less of an interpreter because I say *corte* (court) instead of *tribunal* (court). I think that's a matter of insecurity on the interpreter's side who feels like he or she is less because he or she is using a more adequate language that can adapt to the person you're interpreting for. Ok so there's not only I wouldn't do it on the record because the judge is listening, there might be bilingual jurors that are highly educated and they might feel like I'm dumbing down the language and using a lower register, like I said, I would do it in a one-on-one situation with counsel and defendants. I would also not do it in front of a colleague, especially if I do not know the person. You are subject to criticism and opinions and people saying that you may not even know the word and that's why you're using a lower register word, which may be the case for some individuals but not for everyone. But they will criticize you, that's not the correct word, and I would say 80

percent of interpreters do.

P 6 Yes it is. It does affect my interpretation style. Sometimes I feel more freedom to maybe adjust the register and make comprehension easier. In fact, I may just say the word that comes to mind, the word that I was trying to say, and then I may add a couple of words, making sure that the message has been conveyed.

P 7 Yeah, again, I only lower the register when I get the impression that, well, let me rephrase that. Nine times out of ten the person asking the questions will realize that something's amiss. So they'll usually interrupt the session, and they'll say "Ok help me out, can you give me any suggestions?" And at that point I will tell them, "You need to lower the register, that may work." And the same thing goes like, when you're doing an interview, you have a little bit more freedom cause you're not on the record. So I will use the same register that the speaker will use but at that point, same thing. It's the kind of situation where if they're not understanding the register, I'll tell them.

P 8 It depends not only on the setting, but on the level at which I know that I can work with certain attorneys. I am going to go on record saying this. There are times and I have worked with attorneys, I have worked with them over and over again. And there are attorneys who have told me, "Just put it in your words, I want him to understand what's going on, I don't want him just to hear words." Especially in a jail interview.

P 9 Yeah, you have a little more leeway to focus on communicating and maintaining meaning. The way it changes is, since it's not a formal situation, what's most important is accuracy and meaning and understanding. When you're in a, quite frankly, the interview process is the most important process in the whole judicial system. The interview process is the process from which everything else is gonna be decided. Everything else that you decide on this case, if you're a defense lawyer, am I gonna fight it, am I gonna try and go with the deal, am I gonna stall it and do more investigation? All of that will come out of your interviews. Same for DA's, is this a good witness? Should I lower the level from misdemeanor or raise it from misdemeanor to felony? The precision and meaningful communication is most important during the interview process. That's what I strive for even more than register. In formal settings I keep very close to the syntactical structures, and put every little utterance in there, uh, um, well uh, well um. In informal settings I have the ability to relax and create a more natural language structure... in simultaneous I can lag behind more, in consecutive come up with the most natural, native way of expressing the communication. Striving for meaning and precision is all about keeping in mind the shades of meaning, don't always jump for the first thing that comes to mind for the word or phrase. Allow the context a moment to sink in.

P 10 I'm very careful with things I do on the record and off the record. So off the record I can tell the attorney, I think that this is happening, and you know... or even when it comes to their speed, they're going too fast or the register's too high or the person has poor cognitive skills, I tell them. Usually in court, the thing is that in court there's more decorum. I think there's a little bit more fear because there's a judge sitting there. I think that's one of the reasons, there's a little bit of fear too, there's more decorum, especially in federal court. Fear that they're going to think that you are an argumentative, difficult interpreter. Especially in federal court. In state court no but in federal court yeah, it's like oh my gosh.

Main study - Interpreters' interviews – Question 9

Is there any setting or situation in which you may feel comfortable to adjust the language register?

P 1 When interpreting from English into Spanish comments made by an attorney to his or her client, during an interview or conference, not during a court hearing, I maintain the register used by the attorney, and depending on the circumstances, I add a couple of words to make it easier for the person to understand. When I do this, I always let the attorney know. It is never legal advice, only information. Also, I often ask, "¿*Comprende*?" (Do you understand?) This gives the person a chance to ask questions and the attorney a chance to clarify, to simplify, to communicate better. It is a way to educate attorneys. In a trial or a motions hearing when interpreting the oral arguments by attorneys and comments or rulings by the judge, we are dealing with more complex concepts, it isn't just having to interpret technical or legal words into Spanish that the defendant might not understand. With legal terms, it is what it is. I concentrate on speaking as coherently and clearly as possible. If I think that a statement, while expressed well by an attorney, is confusing or difficult, I do my best to make it easier to understand, yes... I may add a couple of words to clarify or I may use an easier word. However, this depends on the pace of the hearing, how much time I have, because I do my best not to fall behind, not to skip anything. Sometimes, at the end of a hearing, I say to the defendant "Sir, if you are not clear on some of the things he discussed during this hearing, let your attorney know."

P 2 I never do.

P 3 In court I would not feel comfortable to do so because it needs to be exactly what the attorney meant to ask and vice versa, exactly what the witness meant to say so everyone can evaluate their demeanors, their education, their sophistication, all of that is relevant and needs to be exactly how it was supposed to be said. During the whispered part of the trial I do not keep the same register, because it's impractical, because I can't speak that many words by so many people so quickly at that level, because they're not doing it for our benefit. They're not trying to help the interpretation. And also I find the defendant or the witness is very confused by all of the speaking, so I lower the register and I tend to summarize in order to make sure they understand what's happening.

P 4 In prep[aration]s, and I would add to that. Because of the nature of the language itself, the register in a depo prep, this is why I enjoy them, tends to find after a few minutes, tends to settle, where comprehension will be the most fluid. So, register in a depo prep soon finds a comfortable place to be and you don't have register problems after a short time in a depo prep. If you have time in a lock-up interview, register will also find a comfortable groove, so to speak, and you won't have anymore problems with register, if the attorney understands where the language should be in order to make him or herself understood, register ceases to be a problem. Register will find a way because in conveying an answer to an attorney to a question that was framed in register that was too high, it will be clear to the attorney from the answer, which will be confused and off-target, that the attorney has to change the register. The answers themselves, the language itself will drive that, that's why I say it will find itself. And also, outside the courtroom, a pretrial conference, whose purpose is really for you to get a sense of the person's language, or Spanish in my case. The attorney will ask a few questions and usually that is very loose and informal language..

P 5 There are very few instances in which I feel comfortable [to change it], and that would be for example if I'm in the hallway, if there is an attorney-client conference, or in a room where its just the attorney, the person I'm interpreting for and me. In any of the other more formal settings I don't feel comfortable because I know if there is... not because I don't think it shouldn't be done, but because of the repercussions. The repercussions could be that if another fellow interpreter hears me or sees me doing that, that person is going to tell the world that I'm not following the code of ethics, or if there is a bilingual attorney that may want to do some harm may report me to a supervisor, if maybe because of that explanation there was an answer that his client was not supposed to understand, or complex, and there could be a lot of repercussions, I'm sure they would feel pretty strong about it. In the whispered part [of the trial] that is really hard, it's hard because you are in such a fast-paced rhythm, that to add stress trying to find a more suitable word may become a little too much for me.

P 6 I do change the register for the sake of making sure my listener understands. I do it for the defendant, in private settings, and even at the witness stand. My choice of words does not necessarily change the meaning, nor do I consider it changing the register when I simply use more common terms or a different word to make myself understood. That's the difference between a new interpreter and a seasoned one, you develop a common sense approach to interpreting, it becomes more intuitive. Lastly, the more comfortable you are in the delivery the less you'll be questioned as to your choices.

P 7 I only lower the register when the attorney does.

P 8 Yes, sometimes we have much more clarity, so to speak, to, not necessarily change anything but to bend the register a little bit to get through to this person's level. What I do is I normally put it to the attorney in English in the register I'm gonna use in Spanish before I put it to the person. I ask, "Do you think this would be something you would want to tell him?" I'm not talking with the witness, I am not in the courtroom, I'm in a one-on-one with the attorney.

P 9 [Follows from previous response, "So you always maintain the register?"] Unfortunately, yes. My thing is that if I'm in a hearing, I maintain the register in any direction, in any situation. If there's confusion, it's up to them how they're gonna explain it to this poor guy. So you've got a judge or a lawyer with 21 years of formal higher education trying to explain to a 3rd grader what's going on, and they just don't see it. They just don't see how to make it understandable, other than using the register and vocabulary that they learned in law

	school or university.
P 10	Yes, I have lowered the register in court, on my own, sometimes, if I see that an attorney is careless and has left and won't bother explaining in lay terms what is taking place. When that happens, sometimes I discuss it with the attorney. I tell them "You know what, I think that your client is having a really hard time understanding, harder than normal, and if it's ok I'm going to lower the register, I'm going to use..." actually they should do it. Sometimes they don't even know how to do it. But sometimes I've done that, and the attorneys are ok with it, because sometimes they don't understand. I have never done it in open court.

Main study - Interpreters' interviews – Question 10

What is the general educational attainment level you find in the Spanish speakers you interpret for?	
P 1	From what I hear is 6th grade.
P 2	6th grade.
P 3	6th grade.
P 4	I'd be willing to bet that in all the people I interpret for the average comes up to something like 7th or 8th grade.
P 5	In general, if they finish, elementary school, around 6th grade.
P 6	I would say 50% of the people I interpret for have an elementary level of education, primary school.
P 7	Elementary, 6th grade usually.
P 8	In my experience, I believe the vast majority of people we interpret for have an educational level of 6th grade, elementary school if they come from Mexico.
P 9	I would say here in the southwest, among the immigrant population, 6th grade.
P 10	Grade school. Like 6th grade, I think that's the majority.

Main study - Interpreters' interviews – Question 11

Do you ever find yourself in a situation in which you may feel that the register may not be the most appropriate for the Spanish speaker you are interpreting for?

P 1 Yes. To me, the top thing is we're communicators. And if we're gonna be communicators, what I have done is kept the register but before we started I have told the person, "Sir, I am here to interpret for you. If there's something you cannot understand, even if I can tell you did not understand, there's nothing I can do. So if you do not understand, when the judge says did you understand? You need to say yes when you do, and no when you don't, and then you might want to say, I need to talk to my attorney. Because once the question comes to you, and I have to interpret what the judge is saying..." I try to do it as often as I can. Because I know and I tell them from the get go, "I cannot give you legal advice, I'm an interpreter. So if you don't get it, you need to express that."

P 2 Absolutely. I find that I would say eight out of ten times. In court I feel it's just a whole bunch of terminology that defendants, because in court it is criminal, they're not understanding but I don't really know if they would understand the term in their native language, Spanish. I find that if attorneys would keep their register down, if they would say, they could use other words, people would be able to understand much much better.

P 3 Yes.

P 4 Many times, yes. Of course I do. Many times. When you interpret objections and then the argument about objections, if the judge accepts it, for a defendant in a trial, you are running no more or no less the same risk that you would run in having an English speaking witness listen to them. The witness or defendant may or may not have the comprehension or the grasp of the language. That is not your job to make judgment about that. Your job is to get it to them. In those cases I interpret, unfortunately, I interpret however they are, and I say little tricks, eye contact with the attorneys, for the most part. Also, subtle body language, but in either case a largely involuntary reaction on my part. For example, the failure of a witness or deponent to capture a question that as an interpreter I have conveyed with confidence, will cause me to catch my breath, raise my head suddenly, hesitate... in short, it will show that the question hasn't been well understood, has failed, or was pitched at the wrong register, and I will let the attorney see that. I'll stare back a little longer, let the frustration show just a bit in my face, something like that. This, of course, only conveys failure but not the reason for the failure. The only way I have ever found to dispassionately and harmlessly convey to an attorney that the register is too high is by keeping my eyes on the attorney for the first several words of my interpretation of his question and, additionally, rendering my interpretation somewhat slowly and deliberately and perhaps in a slightly louder and more emphatic voice than I really need. This conveys a bit of doubt or incredulity on my part without compromising communication with the witness, or the jury, in the least. It's just a way to convey to the attorney that, somewhat to my surprise, I am being asked to formulate high-register language.

P 5 Many times. It varies according to the situation. In some instances the ultimate change of the register takes a lot longer, because there is a cycle that starts let's say I'm in a deposition and even if I try to change the register the attorney may understand, "Interpreter, that's not what I said, just tell the deponent exactly what I said" and I say it and the person doesn't understand, then finally the attorney understands that I need to lower the register.
[When] you need to read the advisement of rights... at a speed that you run out of saliva... they have no clue whatsoever. And not only that, when they go before the judge, the judge says, "Ok, would you like me to read you your indicated sentence?" And then you interpret. They don't understand the interpretation for *indicated sentence*. And they look at me like, "¿Y qué quiere decir eso?" (And what does that mean?) So I look at the judge and say "What does that mean?" blah blah blah. "Oh no, but I wanna plead guilty." Ok so you need to go back into the audience, sit down, and read all the advisement of rights again, which is a two-page sight translation... [Do they ever ask what it means, or ask for a repetition?] No. There's a mix of embarrassment, self consciousness, and I don't know, there's a big temptation to tell them "Do you really understand what's going on here?" but it's like opening a can of worms.

P 6 In my own estimation, I may think that the person listening to me may not understand what I'm saying. I try to simplify, within the scope I may use easier terms to understand because there's more than one word that can explain the same meaning.

P 7 Oh yeah, definitely. There's times though that in the deposition the register is too high and the witnesses can't decipher it, period. Eventually as the session proceeds the person asking the question is going to stop and ask, ok, they'll interrupt the session and say, "Ok, what's going on? why isn't he getting it?" And at that point is when I will say, "Perhaps counsel may want to lower the register."

P 8 I might feel that way, but that's not my call. It may very well be, I might think about it, but we don't have much time to think, as you probably know. I do think that many times they go way over a witness' head. But that's not for me to do anything about, I mean, everybody's going to notice if the witness has a look of bewilderment on his or her face. They're probably not going to answer correctly, or if they do, you know, lucky, but that's not for me to decide. I can be in situations where I thought, I mean, and I'm not trying to belittle anybody, but it is easier for me to grasp what the educational level of a witness is than for the attorney asking the questions or the judge or anybody, and I can pretty much tell that the witness is not understanding what is being said. But I mean, there are several things that can happen at that juncture. Either he or she, the witness is going to give a totally off-the-wall answer or they're gonna ask, "What do you mean? I don't

	understand."
P 9	Yeah, I'd say that's about 70% of the time or more. I would say yes. That's the minimum. Quite frankly, if I were to sit there with the numbers it might be higher but just off the top of my head, 70% of people, the register in court isn't appropriate for them to understand clearly.
P 10	Yes. Sometimes I discuss it with the attorney. I am no expert in cognitive skills, but I know, I mean I can tell when a person has poor cognitive skills. And sometimes it doesn't even have to do with how many years of education. Sometimes they went to 6th grade and they're pretty good at understanding, or they went to high school and they're terrible. So sometimes it's not, I don't know what it is, what the term is, cognitive skills. But I know there are certain people who are horrible, they don't get it. They don't understand even just a simple sentence.

Main study - Interpreters' interviews – Question 12

Are there circumstances in which you can tell that the Spanish speaker is not understanding what is being said? What are the signs?

P 1 Yes. To me it's like, I hate to say this, the look in the face, the expression in the face, they are hanging their head or the whole demeanor... and then, depending on the answer they give... the thing that I do, is often the judge or the attorney will say, "Do you understand that blah blah" and they look down or look around. So I always, I do not think there's anything wrong with that, I always, I say "Do you understand?" at the beginning, and I say "¿*Entiende? ¿Comprende*?" (Do you understand?) Because that opens the door for the person to say "Yes, I do" or "No, I don't" because I don't think I am committing any unethical... you know, by doing that... But then you get the ones that you could be talking like you're talking to a 5 year old and you can tell that, you know... you can tell that they don't understand you.

P 2 Yes. Ok, their face of confusion. That they're answering something totally different than what was asked. Basically the face, the body language.

P 3 Yes. I would say facial gestures primarily and then non-responsive answers.

P 4 Yes. There is a hesitancy that comes from a lack of understanding where the person will halt a lot and stammer, and start to try to answer, and give clear evidence to the fact that they don't know how to grapple what the question you've asked. So that's one of the signs. Another sign is the person tells you they don't understand. And in a deposition, they're told to tell you that. Another sign is when the person tries to speak at a higher register than they're really capable of handling well to conceal the fact, and this is often a matter of dignity and pride, to conceal the fact that they're embarrassed that they don't have the language skills to cope with the situation. [Body language or facial expressions] are part of the vocabulary of communication and so sure, they have something to do, usually it's in the face, sometimes in the fidgeting of the hands. Usually it's a blank expression, you know? A kind of expression that says, "I don't know what to do with what I just heard."

P 5 Yes. They start talking to me directly. You can tell by the look in their eyes, the look of despair, they get nervous, sometimes you can see their heart, you can see the palpitations through their shirt, they get nervous, they start rubbing their hands because they get sweaty, they don't respond to the question. Like, where are you? And they understand, how are you?
[During the whispered part of the trial] I'm listening to what the judge is saying, I am familiar with that lingo, if it's fast, even if I see that the person... and it has happened to me, you can tell, you look at their faces and you can see that they have no idea of what the judge or the attorney are talking about. But it's not a matter of one or two words, its sometimes the whole thing. For example, ok "Objection your honor," if they were not prepped, they don't even know what an objection is, and it has happened to me, they interrupt, and I'm interpreting and they stop me in the middle of interpreting the objection, and they start talking to me asking me what an objection means, that they don't understand, the judge stops to tell me "Interpreter, tell the witness to stop talking because there is an objection," so it's like I would need to go back again explain what an objection is, and then the judge may perfectly say "Ok interpreter, interpret the question," by that time I forgot the question.

P 6 Yes. There is hesitation in their answers. They may ask more questions or they may not, they may look away, they may look down, they may say yes too many times.

P 7 Oh, yeah. First of all, when you're dealing with a very tense situation like a deposition, the person that is providing the testimony is already in a very uncomfortable position. All eyes are on them, so they feel the need to respond even though they don't understand. They just look puzzled and they're kind of like "Uh..." and you can just tell. And by the way they're answering you can tell they are not comprehending, which I think is something you pick up through experience. I've been doing this for 25 years so I can pick it up very quickly, I can just tell you can just tell that they are not understanding.

P 8 Yes, absolutely. There can be several signs. There are people that will tell you, "What are you talking about?" But I feel it, you know, if a person is looking at me like, you know, what's happening? Again, it's not my job to tell the attorney giving the interview because he's looking at the same thing I'm looking at. If the attorney asks me, in that kind of a situation, I'll tell them, "I don't think the client is grasping anything that you're saying."

P 9 Yeah, that happens fairly frequently. It's always extralinguistic clues, it's always facial expressions. Whether it's a vapid kind of stare the way they look at you, *las cejas fruncidas* (frowning), any of those things could, it's always extralinguistic just to let you know that they have no idea. They kind of back off and look at you like what the hell? There are extralinguistic clues. They will tell you everything. There's the clue like what they actually say, and then they say extralinguistic clue. Some people sit there and say, well it's a body language. It's not just body language. It's the nod of the head, it's the way they tilt their head when they're talking, whether they blink at you... there's a ton of things that bring more meaning to everything. If you cannot see the extralinguistic clues, you probably aren't getting the full communication of what's going on... Because nobody in a Spanish-speaking country puts their hands completely at their side while they're talking. The language has a culture, expresses a culture, and a culture has a language with which to express itself. So when you take away any of those elements, you are hindering communication.

P 10 Yes. The first one is they are not replying to the question, and it's not a difficult, personal, like *loss of*

consortium, no, it's a very simple, non-committal question, and they're not responding to that question, they're responding to something else. And they keep going and going and going I think because in their mind they know there's something they're not getting. So because they don't want to feel embarrassed, so they keep going and going and going and they give you a longer answer, so I think that's what happens is they're mumbling, they keep going and they're not responding to that. In many cases, I know that it's just a very simple... like "What color is your car?" Something super simple, and they're not getting it for whatever reason. They hesitate, they have like a little lapse where they're not talking at first. Then they give you a longer answer, they start giving you longer and longer answers, or they start yawning sometimes. They look kinda confused, or they pause, they start a sentence, they pause, they start another one, they give you a long answer.

Main study - Interpreters' interviews – Question 13

Do you ever find circumstances in which a witness or defendant may say that they understand, but you can tell that they don't?

P 1	Yes. Not in a courtroom or before the judge setting, but during an out-of-court meeting, if I can tell the person does not understand, even if he says he does, I let the attorney know. I'll say "He thinks you are referring to XYZ, when you are actually talking about ABC."
P 2	Yes. It happens all the time.
P 3	Yes. Not often, but it does happen.
P 4	Well, yes. The reason I would know that they didn't understand would be if a similar language had been used previously and they didn't understand it and this kind of language comes and now they say they do, I know from what I've already heard that they don't. So, usually that kind of thing comes from halfway through, when you've had a chance to get to know the person's level. And if you realize that other language has gone by that they didn't understand and this is no different from that language and now they're saying they do understand, then you kind of get a good feeling then that they probably didn't. I do see that happen a lot, and a lot of times.
P 5	Oh yes. What I would do depends on the consequences of the misunderstanding, and the repercussions. If I see that he starts answering things that make no sense I would inquire with his attorney. Sometimes attorneys get upset and tell me let to things take their course, or if they are more considerate they may say "Go ahead interpreter, and just say it in a way that he will for sure understand."
P 6	Exactly. I haven't experienced that in a long time because I do a lot of interviews on a one-to-one with the attorney so usually all the questions are answered. But in court it does happen more often, when you're rushing through something there may not be understanding right away... They may say "yes" too many times, because they're too embarrassed to say "I don't understand" so they may just agree, because it's part of the culture. But there may be, because of understanding different legal systems, there may be a lower understanding. Maybe my Spanish will be understood but the concept itself will not be understood.
P 7	Yeah, and they don't. You can tell by the way they answer the questions if they're understanding or not... And a lot of times they'll answer a question without understanding it because they simply feel like they have to answer the question.
P 8	Yes, there are. [And in those circumstances you just continue interpreting?] Well, that's what I do for a living and I am not going to do something that... I mean, I am not going to, you know, unless the person tells me "I don't understand" or the attorney asks me "What do you think?" And obviously in court it wouldn't happen, but if I know the attorney well enough, you know, there will be times when I will, if I work with an attorney and we are on those kinds of terms, I'll tell him, "Counsel, your client is just lost" or at least "She is not understanding."
P 9	Yes! Especially with these people that really don't speak Spanish or Castilian is their first language. You do this whole thing with them and they go "Sí, sí, sí," and then you find out they speak Zapotec or some other language, some other indigenous language, from Mexico or... [But they still say they understand?] Oh yeah, they'll say that, because they don't wanna get beaten, you know? Where they come from, up in Antigua or Guatemala, [if] you don't say yes, you get slapped around. So their concept is yes, of course, whatever you want. They do not order their world the way we do. They'll still say yes even if they don't understand because that's just what you do in front of authority. There's not just a language element to look at, there's a cultural element to look at. Yeah, I took an entire plea, a guilty plea, and sentencing, before we realized that the guy was just saying "Yes yes yes" and he didn't really know what the hell else to say.
P 10	Yes. Even just doing the admonitions at beginning of the depo, "Do you know the difference between a guess and [an estimate?]..., do you want me to explain?" "Ah, no no no."

Main study - Interpreters' interviews – Question 14

Do you ever feel comfortable enough to interrupt a proceeding, either to clarify a term you hear, to advise on a possible language or cultural issue, or because you believe the witness or defendant is not understanding?

P 1 [In a private setting] I usually try to tell the attorney at the moment, I do not think he understood your question. I do not think he got it. In court what happens most of the time is the guy will sound confused or will sound like "Uh... *sí*" so I'll go "Uh... yes" and the judge can hear him. I also have to say that to me there's a major difference between federal court and state court. In state court, the number of cases is always larger. The judge has to go like an assembly line. So then sometimes there is not much time and some of the judges, I hate to say this, but some of the judges don't care. They just want to get it done. But in federal court, everything takes longer. The process, the time from when the guy gets arrested to when the guy gets sentenced, it's usually five or six months at least. Depending on the situation, I probably will [interrupt], but it doesn't happen often because the answer that comes back is one that the judge can tell, the guy didn't get it. So he will say, "Let's try this again, Mr. so and so." And if not the attorney, the attorney will say, "May I have a moment please," and he will talk. Or I will look at the attorney, I will just look at him like, help!

P 2 I only feel the freedom to do that when I have worked with a specific attorney for a while, and I will interrupt. I will tell the attorney, "Counsel, I believe the plaintiff or the applicant is not understanding that word." Otherwise I don't because it has happened to me many years ago, and this was in a prep setting, so very informal, that I told the attorney, "I don't think the witness is understanding you," and he told me, "Well, let the witness tell me." So it kind of threw me off, because I was only trying to help. And I thought, ok he's putting me in my place and maybe I shouldn't be saying anything. I think my instinct in that moment, and I remember that case in particular, that the attorney was making it seem as if the witness was just dumb. And he wasn't dumb, maybe he was uneducated, but he wasn't dumb. It's just that he was unable to understand the words that this attorney was using. By all means, he wasn't dumb so it bothered me. I think that... and again, it's not up to me, and I should not put any emotion into it, but I did at that moment, and that's why I said "Counsel I believe he's not understanding." I just wanted to make it clear that he wasn't stupid... So ethically, this happens to me all the time, that I think ok, I have to say something, but I don't. I don't because I know that I shouldn't, because I have been trained not to. The only time that I interrupt, and maybe this is wrong, but the only time that I interrupt is when I don't understand. When I cannot give a rendition of what the witness said because I did not understand, because it was unintelligible, but other than that, if I understand the word, if I can give a rendition of the interpretation, I do. I think that we should be allowed in certain cases to make comments, but then again, we're not. I totally believe that it is ethical for us to point that out. I'll give you an example Julia, every single day I come across this, "State and spell your name for the record." And the person will state their name and start spelling it, let's say Mario, and they'll say "M-r-i-o," and I don't care how educated or uneducated the person is, we in Spanish do not spell out loud. We don't, we separate in syllables. I never in my native country have had to spell [Participant's name] out loud, x-x-x-x in Spanish, or spell words. And they'll look at the person like, what? And I don't know if you've ever encountered that, but sometimes they roll their eyes, I've been in settings where everybody in the room rolls their eyes like "Oh my God give me a break, they don't know how to spell their name."

P 3 Yes. I would say in any setting.

P 4 I consider myself, in any setting, I'll interrupt. I consider the interpreter basically the sort of, like, orchestra director in a bilingual situation. It all turns on the interpreter's ability to keep things running smoothly. So it's up to me to make sure that happens. And so, long ago, 10 years ago out of the 17 that I've been in this, long ago abandoned sort of a timid, subservient attitude towards the courts and the people in them. The situation is bilingual people depend on us, and we have to make sure that everything gets handled right and that the language gets across and that everything is conveyed, it's up to us, really. So if that means we have to interrupt up to an attorney, even a judge, a prosecutor, whatever, even a witness. And it's up to us, we are the orchestra leaders. We direct, it's not every interpreter who knows that. The more experienced I get, the older I get, the more sure of myself I am in a courtroom, the less hesitant am I to interrupt. To interrupt an attorney, even to interrupt, well I wouldn't interrupt a judge. But I have no problem interrupting an attorney to straighten problems out. And that has something to do with the fact that I'm no longer a beginner. If it's a matter of not understanding, it's about half and half. And sometimes it's just a matter of me needing to clarify with a witness that I haven't understood him or her. It may be because I didn't, maybe because the attorney's question is not clear.

P 5 Not right away. You know, the judge is the king in his courtroom and judges usually don't like to be told things. I try to be as unobtrusive as possible, but sometimes I've done it because I see the situation going in circles and going nowhere. And maybe you get a new attorney or an attorney that got the case but isn't used to working with people who don't speak the language. And for the sake of the proceeding to go smoothly, I have interrupted, but I really try not to. I try to let the things get resolved by the judge. I think people should have the right to culture.

And there are things that in the deponent's or witness' culture are right or are okay and here are perceive as really bad. For example this: About a month ago I went to the jail for an interview. It was a competency interview, but they were alleging mental issues. Of course as an interpreter, you have your own ideas and thoughts about what's really going on because you learn through the years, you can, although you're not a psychologist, I already know the questions by heart. I know what the psychologist or the psychiatrist is gonna ask. And most of the time I know when the person is lying or trying to get away, I know what they're gonna

answer. This specific person was being interviewed for competency in terms of mental health. It turned out that this psychologist, after we left, she told me, "What do you think?" And this is where there's a really thin line for me, the interpreter, to determine where is the right to culture present, and where is my opinion, as something not being called for taking place? So I thought in this particular case I had to speak up, because they started asking the defendant, "Are you ready to stand trial?" and then I interpreted. And he said, "Well I don't know." "Do you know what a public defender is?" "Is that my attorney?" "Yeah yeah yeah." "Do you know who the prosecutor is?" "No." "What does the prosecutor do?" "I don't know." "Do you know what the judge does?" "No." "Do you know how many members of the jury are in the jury box?" "Uhh..." He didn't know anything. So I thought that my input was necessary to let this psychologist know that in the country of origin where this person comes from there are no oral trials, so this person doesn't have any idea about how the judicial process, how the system works here, so if someone is found guilty of a crime, it's because the judge ruled and that was it. Yeah, you go to jail for so and so months, go to a rehab center, whatever. None of this show happens. So in that specific instance, yes, I did think that this person had the right to culture, because of lack of competence, cultural competence.

P 6 I don't interrupt the proceeding, I don't feel free to do so. In my experience because of the work I do now, by the time the defendant goes before the court that person has already been... has already talked to his attorney at length so all his questions would have been answered by then. And that's at the federal level. In state court, usually I catch during the proceeding that this person may not understand. I catch their attorney after we're done and will say, "please explain to your client once again because I think there's doubt in his mind." If it was a different format, if it was acceptable, if it was expected, I would.

P 7 No. Never. Maybe in a private interview I might say, you know what, "I don't think he's getting it." But when we're in a deposition or in court or in trial or on the stand, I let them figure it out, the person asking the questions. 'Cause it's like I said, it's not my responsibility to make sure they understand each other. If I'm using the register that the attorney's using, and the witness is not understanding it, then that's that.

P 8 I don't have any problems doing that either. I would go a different way with it and say "Your honor, the interpreter needs clarification." I don't have any problem doing that at all.

P 9 No, not in a formal proceeding. Although there's things that have happened, you know, you can sit there and see, there'll be all this kind of confusion and it's because of a cultural thing or because of a radical dialect thing or something, and if the judges and justice partners are wise, they'll ask for a break or they'll ask me and I'll be able to explain during a break. You can't do it while the thing's going on, because then the mess becomes a mess. But if there's an opportunity or I'm with the defendant and there's a problem, I ask the lawyer, "Could we just take a break? It's really important, could we take a break?" But I don't interrupt anything, I don't stop anything... because I am not one of the parties to the action. And there's a legal concept that, you're not a party to the action, whether it's the prosecutorial side, whatever it may be, you don't have legal standing to sit there and stop things, interrupt things. You know, as an interpreter, I could sit there and say "Your honor, I think there's been a problem, I'd like to talk to everybody" or "I'd like there to be a break so I could talk to all the parties in your chamber." You could maybe say that, believe me, that is a card that if you put that on the table... I have done that maybe twice in my career. So it's a very very touchy thing to do, and dangerous. Touchy and dangerous to do that kind of stuff. Say for instance I get one of these central Americans or Mexicans who don't really speak Spanish, they speak an indigenous language. The way I interrupt it, is "Excuse me, your honor, as a friend of the court, as an amicus curie I have a doubt as to whether Castilian Spanish is his first language." And then you can ask the guy, "Do you understand the interpreter? What is your first language?" The guy will say "Quiche" or he'll say "Zapotec," there's a gazillion things. They say they're different languages, they're usually just different dialects of the same language group, you know? But that's the only time, and I do it in that fashion.

P 10 Yes, I have. Especially at depos, there are words such as *canilla* that people use to mean either *shin* or *knee*, so I have asked for clarification and I indicate to the attorneys that the word has multiple meanings, depending on the country of origin or the person. Sometimes I struggle a little bit with the need to clarify or not, just be accurate and if it doesn't make sense, just say it… Sometimes I find it difficult to discern whether I need to bring something up that is culturally important, or not. Because I don't want anybody to think that I'm leading the witness. So that sometimes is like I need to really use my common sense, my experience, my intelligence. But it also depends on the personalities of the attorneys I'm working with. If they are very very anal and difficult, I just stick to protocol more like one hundred percent. If I can tell that they really wanna understand, that they care, I feel like I have more leeway with them.

Main study - Interpreters' interviews – Question 15

	The witness says *mano* (hand) but points at the arm in plain view of all present. What do you think would be the best way to proceed in this case?
P 1	I would definitely, if he said *hand*, I would say *hand*. I would say *hand* because everybody can see and so it's the duty of his attorney, because that would show that this guy even didn't get it, or *qué le pasa?*(What is the matter with him?).
P 2	What I will do is interpret the word *hand*. What I would like to do is make an interpreter comment on the record. Not a comment as to the pointing, I would just like to state on the record that in several areas of different countries, I believe that happens a lot with Mexican nationals but I cannot guarantee that it is only with Mexican nationals... And I would like to be able to state that, as an interpreter, to put that on the record, that that exists, that it's not just this witness was doing that, but it is common. But again, that's not what I would do.
P 3	I say *hand* and then I say, "Interpreter note: witness is indicating his arm."
P 4	In that case, given the picture you presented, I just say *hand*. If I thought there was any doubt, then yes, I might make a comment. But if there's no doubt, I'm gonna have no need to make a comment.
P 5	In court, I would hesitate a little more because I don't want to be called off for offering things that are not asked of me. So I would say the *hand*, and the attorney is looking at the witness and will say, "But you are pointing to your arm" and I will interpret that, and it may be resolved that way. [Considering] other options, I would inquire. I would directly on the record, ask the judge directly. "May the interpreter clarify?" [In a deposition] I would, although I was once called on that, on adding "Deponent is saying *hand*, is pointing at the whole arm." Most attorneys appreciate the help because sometimes they are taking notes, but this one specifically didn't. In court, unless the person has the arm under the little desk...
P 6	I've done both where I've said *hand* vs. *arm* and then in other occasions I just say *arm*. So we know it is a cultural thing that most people refer to a body part as a whole, they consider the hand an extension of the arm and so forth. And it's not just the Spanish culture, but in other languages people do use different body names for the same part. So I've used both, in medical settings I actually point to the same, the correct, if they say "My hand hurts" but they point to the arm, I will say the correct term. Not necessarily what the witness has said but what they are pointing to.
P 7	I say "This is the interpreter speaking. The witness is using a term that can mean *hand* or *arm*."
P 8	I go to the judge and say "Your honor, the witness used the word for *hand* but he pointed at his arm." And that's one thing that helps a lot because Hispanics are usually very animated. They're not just quietly sitting there, they point, you know, that helps a lot.
P 9	I have to be really honest, what I do when that happens, I don't care what the extralinguistic clue is. Because it's such a simple word, and because we have so many Spanish-speaking judges, lawyers and everything else, I say the *hand*. And then they'll say "Don't you mean the *arm*?" "*¿No es cierto que usted quería decir el* brazo?" (Isn't it true that you meant to say the *arm*?) You see what I'm saying? And they'll say "Oh ok, you're right." Sometimes when you tell the word out to them, then they remember, oh yeah, that's what this whole thing is. And some of them just don't have the level of education or experience. They are real words that they use in Spanish.
P 10	If the attorney doesn't, sometimes the attorney says, "I'd like the record to say that he's pointing at his arm, do you mean your arm?" So if that doesn't happen, I would just ask the attorney "May I clarify, because in Mexican English they use *hand* and *arm* for both, so may I clarify?" So usually that's what I do. And the sooner you do it, the better.

Main study - Interpreters' interviews – Question 16

The witness says *mano* (hand) but points at the arm in a way that only the interpreter can see it. What do you think would be the best way to proceed in this case?	
P 1	I probably ask for permission to clarify or I might, in a situation like that, say "Your honor, the witness pointed at an area in his body and I think I was the only one that could see that." So then it becomes my responsibility. Or maybe I could say that it doesn't match the word that he used or something. I think it'd be safer, I haven't done a deposition in so long, I do not dare talk about the rules. But I would probably say, "Your honor, if I may, Mr. so and so just pointed at an area in his body but I think I'm the only one that was able to see that so I just wanted to make the court aware." And if he says "Ok, move on," then at least I told you, it's on the record.
P 2	Ok. What I will do once again is interpret *hand*, but this is the main reason why I would like to be able to make an interpreter comment. And the reason I don't do it is out of fear... I don't wanna find myself in the situation of being told, "Well that's not your job." It's really not my job to be looking at the witness, but ethically, and now I'm not talking about the Judicial Council ethics, I'm talking about my moral ethics. I feel horrible in situations like that, Julia. I really feel horrible because I know what he is saying, I know that I'm the only one looking at him, 'cause it has happened and I know nobody saw him. So they're not going to clarify it, and it may be a very important part of the case that he's pointing at the arm and saying *hand*, and I have to say *hand*, and I leave with that bad taste in my mouth. I could [ask for permission to clarify] but my style, I interrupt, I hardly ever interrupt.
P 3	Same thing [I say *hand* and then I say, "Interpreter note: witness is indicating his arm."]
P 4	Oh no, in that case I would interject. I would make a formal interpreter's interjection and say, "My hand hurts, but the interpreter will interject that the witness was pointing to his arm under the, out of sight of the jury," or whatever.
P 5	Yes, but again, I would talk to the judge and I would say that I don't know if everyone else saw what happened, but the witness was pointing to some parts of the body that no one else could see.
P 6	Most of the times I would default to just saying the word that he's using, because in that instance I don't know if it's the hand or the arm. I would probably say *arm* as well, if he's pointing.
P 7	Same thing [I say "This is the interpreter speaking. The witness is using a term that can mean *hand* or *arm*."]
P 8	I do the same [I go to the judge and say "Your honor, the witness used the word for *hand* but he pointed at his arm."]
P 9	I still say the *hand*.
P 10	The same, [ask for] clarification.

Main study - Interpreters' interviews – Question 17

The witness says *mano* (hand) without pointing, but everyone -including the interpreter- knows that the case is only about an arm injury, with no hand involvement. What do you think would be the best way to proceed in this case?

P 1	I would say *hand* and then let them figure it out, either the opposing attorney, or his own attorney needs to show the judge and jury that he's paying attention.
P 2	I say *hand*.
P 3	I ask for clarification.
P 4	I think I would also interject there. I would say as briefly as I could, "The interpreter will interject that the witness has said *hand*," and I have done this, "The interpreter will note that the witness said *hand*, some Spanish speakers habitually say hand meaning arm." Something like that.
P 5	Nothing. I would say whatever he says and let them take care of that. They will find a way because I was not the only one doing the case for a week, they were too. So I know whoever is there, that's really totally out of my league, I wouldn't say anything.
P 6	If I'm familiar with the case, I'll probably use *arm* rather than *hand*. And I can, one of the things about using the different words is being able to argue in favor of your choice. So if somebody from a juror says, the witness says hand but the interpreter says arm, I can argue, I can give a good argument as to the cultural implication of the term. I can justify my choice.
P 7	I still do the same [I say "This is the interpreter speaking. The witness is using a term that can mean *hand* or *arm*."]
P 8	I am going to repeat the words that he said, and it's up to the person doing the questioning to clarify.
P 9	I still say *hand* because I can't assume that he just didn't make a Freudian slip or make a mistake himself. I have to go with him still. [Would you think of maybe asking for permission to clarify with the witness at that time?] Well no, because it's very clear to any Spanish speaker that he's saying the word *hand*. Any Spanish speaker knows that he's saying the word *hand*, I'm not gonna sit there and say *arm*.
P 10	I would clarify it.

Main study - Interpreters' interviews – Question 18

The witness says *mano* (hand), no pointing, no knowledge about the case, only the interpreter's suspicion, based on experience, that the witness may mean the arm. What do you think would be the best way to proceed in this case?

P 1	I would say hand.
P 2	I say hand.
P 3	I ask for clarification.
P 4	In that case, I think I would also note that for the record, for the attorney, "The interpreter will note that although the witness has said *hand*, there is a distinct possibility that he meant arm."
P 5	When in doubt, I would always ask the judge to ask for clarification. Always.
P 6	I would just say what he said.
P 7	Yes, same. [I say "This is the interpreter speaking. The witness is using a term that can mean *hand* or *arm*."] You can't assume facts not in evidence.
P 8	I would use the word *hand* because that is what the witness said and I don't have any indication otherwise.
P 9	In a court proceeding I would say *hand* for every single scenario. In an interview I would probably say, you know, "He's saying the word *hand*, but I think he might be saying arm, let's clarify." He may not have the vocabulary word for that. I would do it in an interview outside of a judicial hearing because in a judicial hearing the most important thing is to not become a proactive person in the proceeding. And if I were to sit there and start throwing out, well I think this may be this or that, I've become proactive. That's not the role of the interpreter in a judicial proceeding. But in an interview process, that's completely different, what's most important is meaningful communication, accuracy, and the meaning.
P 10	I still clarify.

Main study - Interpreters' interviews – Question 19

What is the translation you usually use for *cintura* (waist)?

P 1	I would say *waist*, I would never say *back.* Now, if it repeats itself, if it happens the first time and no one does anything, the attorney doesn't, the next time around, I will probably say, "I need a second to clarify with the witness," *"Señor, cuando usted está diciendo* cintura*, a qué se refiere?"* (Sir, when you are saying *cintura*, what are you referring to?) because, ok, this is another thing. There are some people that are extremely strict and by the book with no situational awareness and they are actually out there teaching and being instructors. And they are saying that the attorney might be doing that on purpose to help his case or to discredit the witness or to whatever. And so it's not your place, you know. That's why I'm saying a lot of it has to do with your own judgment at the moment. If you can tell that it's not an issue of the attorney playing games to benefit his own position or whatever, but it is actually an issue of, I don't know, the guy being nervous and having made a mistake and nothing. But that's what I'm saying, situational awareness.
P 2	Low back... but if you ask me always, I had a deposition with an Argentinean man a few years ago and I did not say *low back*.
P 3	Low back.
P 4	Well now, from experience, I just say *lower back*, and I'll tell you why. The reason I say *lower back* directly and immediately for *cintura* (waist) is because it would be highly unlikely for any actual English speaker to say "My waist hurts." It's not a part of the body, really. A waist is an abstraction; a waist is a description rather than an anatomical part, strictly speaking. And so I have no problem because I know, as I think all of us interpreters know, that when a Spanish speaker says *la cintura* and especially our Spanish speakers, say *cintura*, they mean lower back, precisely. Let me add something to that. For the first number of years as an interpreter, whenever I had that problem I would stop and ask counsel, usually in depositions, I would ask if I could please clarify. And in clarifying, I would add an additional unnecessary three minutes of exchange with the applicant, witness, whatever, talking about *la espalda*, (the back) *la parte inferior de la espalda, la parte baja de la espalda,* (lower back) "*¿No es eso lo que quiere decir?"* (Isn't that what you mean?) and the net game in doing this would be absolutely zero. Because I could have just simply, I knew, at the beginning I knew, but after a thousand times you know so much more, so much better, that all along the person has meant lower back and nothing but lower back, and so I simply dropped that whole little interference because it wasn't gaining anybody anything.
P 5	I use *lower back.*
P 6	I would say *low back* for that.
P 7	I would say "This is the interpreter speaking. The witness is using a term that can either mean the waist area or the lower back."
P 8	I use *waist*.
P 9	Nine times out of ten I say the *waist*.
P 10	Low back.

Main study - Interpreters' interviews - Additional comment

Additional comments	
P 8	There might be instances where you are doing what your "formal education" in California, and your code of ethics, or the Canons of the profession, as they call them, they tell you you're supposed to do a, b, c in this order and this way. But if the person that you are interpreting for is not understanding, you're not getting the concept through to the person that you're interpreting for, I mean, you might be doing what they told you to do, however, that doesn't mean that you're doing what an interpreter is supposed to be doing. An interpreter should convey a clear concept of what the person is being told in such a way that the target, be it witness, defendant, interviewee, understands and grasps the concept in their own language, and they don't have the same level of education as the person that's trying to explain to them whatever it is that they are trying to explain. But at the same time, I mean, I don't necessarily agree with it, because if somebody has lived in the United States all his life, at least in theory, they are supposed to understand what their legal system is about or how it works. If somebody comes from a different country, first of all, I'm not talking in my personal opinion, I came from Mexico, and the legal system is completely different down there. But the thing is, and let's not kid ourselves either, the person that you're interpreting for is not going to understand the legal system either in Mexico or here, but they don't have the level of education to... they have never... that's not something that you're taught in school. I don't know in Spain, but in Mexico they don't teach you even the basics of the legal system, even at the high school level. I don't know, but they don't go into a legal system, and I don't know that they do that here either. But at least somebody in the United States who speaks the language all their life and all that, they have a better chance of understanding and to ask the questions that they need to ask. But a Hispanic person, I'm talking especially about Hispanics, they are gonna be too scared to even ask anything. And I cannot question, and I have done so, you know, not on the record, but I have had conversations with judges and attorneys and this and that, but if you start questioning what you're doing and you start exposing all these doubts you have within yourself, they start looking at you like a persona non grata or traitor, or something, like you're going against the system. Well, I mean, I think most interpreters are afraid of retaliation. I was never afraid of that kind of thing because, look, a judge has a black robe, that doesn't make him a better person than I am. But that's not the point, the point is to be able to communicate. That's what interpreting is all about.

Appendix 10. Main study. Interviews with attorneys

Main study - Attorneys' interviews - Question 1

What is the percentage of English speakers and Spanish speakers among your clients?	
P 1	I would say it's probably 30% English, 70% Spanish.
P 2	I don't know for sure, my estimate would maybe be 70-80% Spanish.
P 3	I think that it would be approximately 95% Spanish speakers and 5% English speakers.
P 4	I would say that 75% are Spanish speaking.
P 5	In my clients I would say, probably about 95% of the clients that I deal with are Spanish speaking.
P 6	I would say my clients, I'd estimate at least 70-80% require an interpreter.
P 7	I'd say at least half of them are Spanish, maybe 60%.
P 8	Approximately 90% Spanish and 10% English.
P 9	When I was a public defender, I'd say it was closer to 50%.
P 10	At least 80-90% Spanish speakers.

Main study - Attorneys' interviews - Question 2

When you work with Spanish speakers, do you feel you can communicate the same way as when you speak with English speakers? If not, what are the differences?	
P 1	Well, sometimes I can get the sense that the Spanish speakers are less educated and I will consciously try and keep things even more simple. Like, I don't want to overwhelm them with details so I will try to just keep in mind that the comprehension is going to probably be lower so I'll use the simpler language.
P 2	Not exactly the same way. But I feel that I can communicate properly with them. Sometimes people are from different areas though and have different dialects. Generally my Spanish-speaking clientele is less educated than my English speaking clients so I have to use simpler terms when describing things. I feel that everybody's entitled to the same information. And if they don't understand it, then I'll just go over it as many times as it takes.
P 3	No. When I speak to the Spanish-speaking clients, I give them more examples than I do with my English speaking clients. I use more cultural examples and words as well, that I think that they'll be more familiar, whereas with my English-speaking clients I'm actually a little bit more, I don't want to say professional, but it's more cold, formal. And with my Spanish-speaking clients, it's more, I make it seem more like we're in a dining room setting and we're just talking like friends. [They feel] more comfortable, and they trust me. That's what I need to make sure, is that they trust me. Because a lot of the times, that's the very first time that we meet.
P 4	The Spanish-speaking clientele that I have in general, a lot of them are very smart but not well educated, so what I find is that I tend to speak more simply. And also my English is better than my Spanish, but I think that when I speak Spanish it's more on a basic level than when I speak English. I think that with the Spanish-speaking clientele, I think in general, but I think as a group they're taught to be more polite than Americans. So in a deposition setting, which is an adversarial setting, I tend to warn them more than the other side is not their friend, and that they need to be very careful what they say. And I think that as a society, Hispanics are more polite. So I think you have to protect them more when you prepare them for the deposition.
P 5	No. First of all, me communicating with a Spanish speaker, I am limited in how I can express myself. I find that, maybe I'm a little bit biased because I know Spanish fluently; I just find that the Spanish language is a lot more rich. There's so many different words to explain something, I can actually lower the legal terms to a level that... in English I find it harder to do that when I'm using an interpreter, especially because the interpreter is limited to only interpreting what I am saying so it's all up to me. If I cannot put it in terms that the interpreter can translate exactly, then my client is not gonna understand... Well to me, it's important to illustrate to them, give them examples to try to explain to them what certain things mean... and it's also the levels of education, most of the English-speaking clients graduated from high school at least so they can understand a little bit more. But if I'm explaining this to a person that has a second or third grade education and some of them don't even have that, or know how to read and write, then it's hard for me to explain those terms to them.
P 6	No. Because there's an interpreter, I go through all the procedures, some of the procedures of what the interpreter is for, the purpose of the interpreter... and if they do understand or speak some English, to not

listen to me, and only listen to the interpreter, and even if they understand it in English to only answer in Spanish. I would say pretty much the same, I would say the difference is more in education levels. That if I have someone who English is their native language and they just have a grammar school education, I will treat them differently than someone with a college or high school education, and the same with Spanish speakers. So the way we'll communicate will be different just because of the level of education, not because of the language. I'd say basically based on the education level, not just because they're speaking Spanish. So given the same education levels and background I would say the same thing, generally the same thing to my English speakers as I would to my Spanish speakers.

P 7 I think it depends, for the most part, but it depends a little bit on the individual and that's the same with English, I mean, even when I'm talking with someone in English, depending on their sophistication and education level, you have to change the way you approach it. But I don't see any real difference between the [communication with] Spanish and English.

P 8 Yes. The same instructions, sometimes I may add an additional instruction that deals with the language of the process so I instruct the client that they must only depend on the words of the interpreter, and then I instruct them that I'm going to sit them in a way that they're not distracted by English speakers so they're not facing English speakers, they face the interpreter.

P 9 Well, I try to avoid using slang or colloquialisms that might get lost in translation. I try to be conscious of that. I think it's more normal that when we're talking to another English speaker, particularly someone from the same area, there tends to be use of slang or terms that would be considered slang or colloquialisms to convey thoughts, and I try to not do that when I'm speaking to Spanish speakers and using an interpreter because I feel it will create confusion, cause when I've done it in the past, they don't understand what I'm talking about. So that's the most, I guess, obvious example. I don't know if I attribute it to Spanish speakers, per say, as opposed to kind of the level of education or sophistication of the person I'm talking to. And by and large, my Spanish speaking clients tend to be less educated, or less sophisticated than my English speaking clients.

P 10 More or less. English is a little easier, I would say, since there's no translation. I guess the communication with the English speakers is a little better, because the interpreter, the Spanish interpreter, is trying to interpret what to interpret, kind of thing, so sometimes there's some miscommunication. Yeah, there are some additional instructions because they are Spanish speaking. Theoretically the same, just listen, other than just making sure you just, there's always a possible problem where they'll know some English and they don't always listen to the Spanish only, so I give that instruction too, you know, listen. So I think the Spanish sometimes becomes pretty difficult. Sometimes their explanations are a little unclear… they start to ramble a bit more than the English do, speaking.

Main study - Attorneys' interviews - Question 3

How would you characterize the differences between English and Spanish speakers in terms of awareness, comprehension, participation, or familiarity with the proceeding at hand?

P 1 I would definitely say that the English speakers are more assertive, even to the point of being aggressive. There are some Spanish speakers that are assertive with their questions and that they don't understand, but overwhelmingly they're much more passive. They seem quieter and I have to make a lot of effort to make sure that they understand what I'm saying.

P 2 I find that English speakers tend to ask more questions more often. They call in a lot more than the Spanish speakers. Most of my Spanish speaking clients will tell me that they trust me to handle their file and they don't call in as often. English speakers tend to know a little bit more about the law than Spanish speakers do, sometimes I have to go into more detail with Spanish speakers. sometimes I have to explain things over and over to Spanish speakers to make sure that they understand.

P 3 I feel that the English- speaking clients, I get more feedback from them, they're more into the conversation. Whereas with my Spanish-speaking clients, I feel like they're looking at me, but their mind is wandering somewhere else.

P 4 I think the Spanish-speaking clientele are very good in terms of, I really find that they're more helpful. When I give them instructions, I find that, and if they really feel that you care, they will follow your instructions completely. But with the Americans I feel that they tend to do more of what they wanna do. I think the Spanish speaking people understand when you explain things to them very simply and clearly.

P 5 I find that English-speaking clients are usually more aware and understanding of the legal system here in the US. I think they've either been exposed to it by shows like Law and Order, or basic principles that you learn in school, so they're more comfortable and aware of the simple process that's going on. But I think the biggest difference between one and the other, I think that the Spanish-speaking community is less exposed to the legal system vs. the English-speaking community.

P 6 I would say far less, and again, I think this has to do with the educational level as much as a lack of sophistication. And I will probably ask them more questions in one day and they will probably talk more in one day than they ever have. They're basically clueless. They don't understand even though it's been

	explained, the fundamental concept of a [legal] system. Even though we've told them, most of them are clueless as to how the system works. They have trouble concentrating, they have trouble focusing. And I don't know if it's a cultural thing or what, but you need to trigger things, and I find that you need much more leading questions. Especially with the less educated, they lack... their ability to do critical thinking or independent thinking or abstract thinking is very very limited, and you've gotta basically feed them questions. In many cases, because of their education level or their background, they cannot give a clear narrative. They have great difficulty in being specific. They have great difficulty coming up with concepts or ideas on their own. And they use phrases like "all the time" or "many times" and... the way they talk is just different. For example, I had one, "Do you have any pets?" and the answer is "No, only one dog," rather than in English or more sophisticated education, "Yes, I have a dog." So sometimes the context and the syntax, the way they answer is just different. The other thing that I find culturally is that a lot of people have long term relationships and they'll call them their wife or their husband and they're technically not married. And that's important to us in the legal field to know whether they're married for all kinds of reasons. "So did you go to a wedding ceremony to formally get married?" "No, but I call this person my wife or my husband," those kinds of things.
P 7	Overall, I can't say that I do. I would say I see the English speaking clients, the same percentage, probably, have more interest or want to participate or be involved in the case. I wouldn't say it's any more so with the English speaking than the Spanish speaking. I'd say it's a stronger level of knowledge with the English speaking as opposed to Spanish speaking. I think that, not sure if it's accurate, but I perceive that, just because of the feedback that I get and I'm not sure if they're actually understanding a lot of what I say. So my perception is that it's more difficult to get them to understand.
P 8	Almost zero percentage familiarity with the system for the Spanish speaker, because culturally they're not affiliated with it, they don't grow up watching TV, they don't understand what English speakers take for granted.
P 9	I do think with many of my Spanish-speaking clients... with the ones that trust me, I have Spanish-speaking clients that are difficult clients where they don't trust me. When I've been a public defender or I've been a court appointed and they're not actually paying for my services, sometimes with people there's a distrust or they don't trust what you're saying. But with Spanish-speaking clients who trust me... the problem becomes more about being overly deferential to me. They don't tell me something unless I ask specifically. They don't necessarily appreciate or don't understand what I'm telling them about what is important and not important in the case. I have a couple memories of learning later in the case where my reaction was, "Why didn't you tell me this earlier?" And they say, "Well, you didn't ask me," even though to me, it seemed obviously relevant to the charges against them. So I think there is this, especially with people from Mexico, and I don't wanna generalize, but it seems like with people from Mexico there is this almost, deference to authority, and once I'm perceived as the authority they're trying to be cooperative and be respectful, and the way that they're cooperative and respectful is to only answer specifically what I've asked. When it is their first time, I think that there is this, they think, and it varies, they seem relatively unsophisticated. They seem to think that if they just cooperate with everybody that everything will be alright, and that oftentimes leads to them waiving important rights before I even see them.
P 10	Well, sometimes the English speakers have more comprehension I think, of what's going on, because the Spanish speakers are often from another country originally or what have you. So I'd say, yeah. sometimes the translation is a little bit difficult depending on where they came from, right? whether they come from Mexico or a different South-American country. Sometimes the interpreters are from you know, different countries which don't necessarily match up, and also the dialect. There's cultural differences. One recently said that the legal systems were different and that's why she was having trouble understanding. I think it's a little more difficult with the Spanish speakers, but on the other hand, sometimes the Spanish speakers are more, maybe I shouldn't say this, English speakers think they know too much maybe sometimes, they kind of argue with you a little bit. So I think the comprehension is lower, which, they don't get the point of the question a lot of times, that's what I feel. Some of them just aren't getting it as easily. They don't seem to get, sometimes, of course it depends on the person, but I think it has to do with their education a lot of times. A lot of times they don't seem to get the question, they don't seem to understand.

Main study - Attorneys' interviews - Question 4

	How would you characterize the difference in their attitude and/or reaction when there is something they don't understand? Do you find Spanish speakers tend to ask for repetitions or clarifications spontaneously?
P 1	Spanish speakers do not generally volunteer the fact that they do not understand what's going on, and they don't always show it in their faces. So it's oftentimes hard for me to know that they don't understand something. I've gotten a little better at reading the subtle facial cues that they don't really understand something, but they don't tell me as often as the English speakers, although there are some English speakers that also don't tell me that they don't understand.
P 2	Sometimes I think that Spanish speakers are a little more embarrassed if they don't understand so they'll keep quiet. So I go to great lengths to make sure they understand.
P 3	With my English-speaking clients, they're more likely to say "I didn't understand." Whereas my Spanish-speaking clients, they usually get embarrassed and don't say anything, so I really need to be more perceptive with respect to their body language as well as their facial expressions. And constantly I'm asking, "Ok, did you understand that? Does it make sense?"
P 4	No, I don't think so. I think you have to watch out for that, cause a lot of times they feel very intimidated and they don't speak up for themselves so you have to ask them if you feel that they're not understanding, and you have to help them.
P 5	If there's something that they don't understand, an English speaker will challenge you, they will ask you, they will let you know, "I don't understand this." I find that the Spanish speaker doesn't. I mean one of two things usually happens. Either they won't say anything and just sort of close themselves up and be very shy, or they'll answer without understanding the question. Just to give an answer, just to feel, make you think that they understand.
P 6	They're just clueless to what's going on and they're too embarrassed to say that they don't understand, and it's all over their head and they don't understand. More sophisticated ones ask for clarification. Most of the time I realize they didn't understand by the answer that they give. Or many times what they will do, they will answer a question, but not the one asked. So they'll give information, but they don't ask, for example, "Did you see Dr. Jones last month?" it's a yes or no question, and the answer is "I saw him for pain in my back." "I don't think you answered the question, the question was have you seen Dr. Jones in the last month, I didn't ask what you saw him for, I wanna know, have you seen Dr. Jones in the last month?" So that's an example where they'll give information, but it's not what you need to know. 'Cause you're trying to find a timeframe and they'll give information and it's not the question being asked at all.
P 7	I believe Spanish-speaking deponents rarely ask for clarification even when they really don't seem to grasp the question. English speakers are much more willing to ask for clarification. Not sure why.
P 8	No, not at all. [Even if they don't understand], they don't ask. Spanish speakers, the clients that I've been dealing with, they're much more intimidated by the process, much more hesitant to speak up and ask for clarification even when it's apparent that I would not expect them to understand. English speakers tend to just say, "I don't understand, I'm really confused."
P 9	The more assertive ones do, and actually the more intelligent ones do, they tend to ask for clarification. Of course, the problems arise when you have the less assertive or less intelligent ones, right? Because the lawyer believes if they're not asking questions that they understand what they're saying. And frankly over time, I've learned that that's not necessarily true. If they're being silent, particularly too silent at points in the conversation where you'd think they'd have questions, then that's usually a sign to me that they're not really understanding what you're telling them. Because you know, the kind of thing that a person who's essentially just been told the equivalent that he has a serious disease would wanna know more about it. It's like the doctor telling him, you know, "You have this serious disease," and their response is "Ok." When the lawyer tells him, "These are the consequences for the conviction of this charge" and they're just like, "Oh, ok," it tends to be a sign that they didn't quite understand.
P 10	I think they're pretty spontaneous about it... they're pretty... of course there are always exceptions, 75-80% at least.

Main study - Attorneys' interviews - Question 5

	Are there circumstances in which the Spanish speaker would claim to understand and you can tell he or she clearly doesn't?
P 1	Yes, a lot. I find that both English and Spanish speakers, but Spanish speakers more often, and maybe it's because I deal with more Spanish speakers, they're less willing to tell me that they don't understand something. And I only figure it out later, when I ask them a question that involves them needing to apply something I've told them about, and then I realize that they did not understand a word of what I was saying.
P 2	Yes I can usually see in their eyes when they don't understand. They're kind of glazed over but they say they understand. So that's a signal for me to go back and explain again.
P 3	Yeah, I do. That happens.
P 4	Yes, sometimes they don't understand, they're more polite, no doubt about it. I think it's an aspect of being polite. They just, they don't wanna be a bother. They're more polite, you always have to be on the lookout for that. A lot of times when you're going through the instructions for the deposition you should go over certain things more than once.
P 5	Yes, sometimes they don't wanna look... I find especially within the male community they don't wanna look or feel that they're dumb or that they don't understand. I think that they feel that that's a sign of weakness. So they'll say yes, I understand. Or they'll answer the question even though they don't understand what they're answering.
P 6	Oh, sure. Many many times. And so there's many times they'll answer a question when they clearly do not understand. And I'll try to emphasize, it's okay to say I don't know, it's ok to say I don't understand, but I think a lot of them get, they're very nervous, they're very embarrassed. What do you do for fun? Or tell me the things you do outside of work? And they start explaining things at work. These kinds of things.
P 7	Oh yeah. A lot of times, and you see it both in the preparation and you'll see it in the deposition where they just feel compelled to go along and agree. And I always caution them in the prep, you know, if I'm seeing that happening, you can't let the attorney do that in the deposition cause they'll lead you right down to saying that nothing ever happened and you're fine. And sometimes they just feel that they have to just follow the path that they're being led.
P 8	Yes, they just won't make any sense. I know many times when someone answers a question, they believe, they say that they understood it, and they may answer something completely different, off topic. And it's very difficult, especially when the answer seems to be almost right, whether it's right or not, or whether it's responsive.
P 9	I think I have had some like that but there tends to be the more common scenario is… once I confirm for myself that they do understand, oftentimes then it's like, well I don't believe you basically. You're just telling me this because you don't wanna do anything for me, or I'm gonna go talk to another lawyer, or whatever that might be, there tends to be this denial. I do mostly fairly serious cases, I don't do misdemeanors, I don't do things that are just gonna get people put on probation. If they have me for their lawyer, they're… and they get convicted, they are very likely going to federal prison, and oftentimes for a very long period of time. And so I have to, it's a constant battle to make sure that they understand the seriousness of what's going on, while, at the same time, maintain their trust and confidence.
P 10	That often happens, yeah.

Main study - Attorneys' interviews - Question 6

Could you estimate the average educational attainment level of your English-speaking and Spanish-speaking clients?	
P 1	I guess I tend to assume that the Spanish speakers will have about a 6th grade education, as that is what I understand is customary in Latin American countries. And I will assume that English speakers are out of high school.
P 2	[Spanish speakers] anywhere from 5th grade up to 10th grade usually, we don't get lots of high school graduates. The English speakers I'd say most have a high school diploma, some have an AA or some college and a few have higher education.
P 3	0 to 6 [years] for Spanish, high school to 2 years of college for English.
P 4	If I was going to average out the Hispanic clientele I would say that they have a junior high level of education. The average amount, whereas with the American I would say that they have a high school level of education.
P 5	I would say the average would be 4th or 5th grade education. It's very hard to see someone that has a high school degree or anything higher than maybe a 6th grade degree. English speakers, 14-18 years.
P 6	My English-speaking clients one year of college average, and the Spanish speakers 6th or 7th grade from Mexico.
P 7	Spanish 8 years to 11 years, English high school or GED to 2 years of college.
P 8	Spanish 3 to 6 years, English some college, AA or some specialized certification.
P 9	Usually my English speaking clients have at least some college and now more often than not in my private practice, either college degrees or post graduate degrees. A lot of my clients are now professionals, doctors, lawyers, things like that. [Spanish speakers] particularly the appointed ones, often times, you know, yeah, the equivalent of junior high education.
P 10	Pretty much on the low end. Most of them have some education, some none, some zero... [an average of] probably 6-7th grade. The English speakers have at least 11th grade for sure or graduated high school for sure.

Main study - Attorneys' interviews - Question 7

Are there circumstances in which an interpreter may interrupt to advice on a possible language or cultural issue, or suggest that a Spanish speaker may not be understanding the question? If so, do you welcome these interruptions?	
P 1	Yes. Some of the ones that are good at reading my clients, because sometimes I can't read my clients, I can't tell that they don't understand, I can't tell what's confusing them. And sometimes the interpreter is a little bit more sensitive to my client and can tell which words or which concepts are tripping them up. And they say, "I think I understand where they're confused, do you mind if I try to straighten this out?" and they try and help clear that up. I definitely prefer that they would, and sometimes they don't when they should and I'm the one who catches that word that's being used that can be interpreted several ways and they'll translate into English using one interpretation and then [opposing] attorney will use that word as something that they get hung up on, and I have to say "Wait, stop. That's not what they said." I mean, it could be what they said, but there's another word or possibility that matches that word. So I wish they would say it more, and I understand that they're not supposed to be advocates of the people that they're interpreting for, but if they're trying their best to interpret what this client is saying and what the attorney asking the question is understanding, then I think that they should speak up and say, I think there's a cultural difference in using that word, or I should seek further clarification to make sure that I really understand. So if somebody has gotten down or up on their level, I don't mean to sound condescending, but if somebody has gotten on their level, and spoken in a level, in a language that they understand and we can all get on the same page, then it's tremendously helpful, and that's what good interpreters have done for me, is that they help me get on the same page, get on the same understanding, help me understand when my client is not understanding me, when I am not able to discern that for myself.
P 2	Yes, that happens with some interpreters, and I appreciate that. Well, I find that a lot of the interpreters won't ask for clarification in trial. It's like a machine, you put in the interpretation and you get the exact interpretation and sometimes it's wrong. And there are a couple interpreters that I love and I work with all the time who will speak up. [Do you welcome these interruptions?] I do, I do. Because I want to make sure that the client understands. It happens in court but not necessarily in trial. Before we get to trial, the interpreters are more likely to say, "Let me help you." When we're actually on the record, it doesn't always happen. Every now and then they'll say, "Wait, let me ask for clarification, I think the client is saying something else." It happens less in trial. And sometimes I catch interpreters doing an interpretation that may be literal but I don't think myself that that's what the client is saying so I will ask them to clarify.
P 3	They have. Actually I do appreciate when they do that, because sometimes I'm so focused on what I have to do that I'm not all the time paying attention to some of the cues. And so I do appreciate when the interpreters interrupt and say, "Oh I don't think he understood that" or, "I don't think we're getting through to him."
P 4	Yeah, I've had depositions where they interject and they explain something or maybe that the client meant

	what they were saying a particular way. I like it. I prefer it. They should... I think that's part of their job. [To alert of non-comprehension] once in a while that happens, and I have no objection to them saying that. Because if the client doesn't understand it's very good that the interpreter says that. It doesn't happen that often, I'm gonna be honest with you. I don't find that it happens. Sometimes, the interpreters often will rephrase things. Like, they'll say it one way and then if the client doesn't understand they'll say it another way. Yeah, it happens more in private meetings, at least once during the depo, generally the interpreter will bring up something. Of course, that's part of their job, they speak Spanish better than anyone there, so that's my expectation that of course they'll do that. I want them to. I don't want there to be any misunderstanding.
P 5	It's not common, but yes. And actually those are the good interpreters for me. The ones that are able to stop me and say, "Listen, I don't think your client is getting it, or may I explain it in a different way?" And I usually appreciate that, I've learned so much that way. I've learned so much from the interpreters, because sometimes I get caught up in my legalese so I don't know how to bring it down to my client's level, and a good interpreter is able to do that. I know they're not supposed to, unfortunately, but it usually helps me a lot and I've learned a lot from interpreters that do that.
P 6	I... probably that's happened maybe about ten times. That's very very rare. Usually I'll pick it up just when the interpreter does also. So, it's very rare... Sometimes I'll try in several ways, and I'll ask the interpreter, can you help me on this, and try to explain it maybe in a different way or ask it in a different way? And most of them are very accommodating and helpful. [Do you welcome these interruptions?] Oh, absolutely. Because that means we're not communicating.
P 7	In depositions it'll happen because the interpreter, I know they wanna make sure they're getting it accurate, so they'll sometimes say, can I inquire to get clarification, if they don't understand the exact words or idiom whatever that's being used. In preparation when you're actually discussing the case with the client, I would say it's much less formal so the interpreter feels more free and sometimes they'll just start saying things, they'll often tell me, I was just telling the client this. And so in very experienced interpreters I'm very comfortable with that because they've done this as many times or more than I have. I think the interruptions are good because it makes sure… I think the interpreter probably perceives better as to whether the person's getting it or if they understood. So if they're interrupting to explain things further, to ask me for clarification, I'm sure that's a good thing, that I know that it's sinking into the client, which is what's the important thing.
P 8	It depends on the interpreter. So the ones that are more experienced, more friendly to the process, and understand the legal integrity, will ask to, as a courtesy, will ask for, if we're on the record, to go off the record. And at that point they will say, interpreter clarification, I need to inquire as to the client's understanding, if I may, may ask permission. Those are the better interpreters.
P 9	I have had that, occasionally. I can't think of, I have had that in meetings, but not in court or testimonies. That's not that uncommon actually, in meetings... There are other interpreters who, when a client makes that statement, they say, "Literally it would mean this but it is in context or is commonly understood to mean this." I've had that happen as well, which has always been welcomed, because more often than not it's what's needed to give it clarity, and the failure to do that would actually lead to miscommunication. Absolutely. Cause they're right. I've worked with them for so long, they know. And if it was a new interpreter, I'd be fine with that too, I don't have a problem with that.
P 10	Well, yes, sometimes. Two things. Sometimes the interpreters don't listen very carefully to what I'm saying and sometimes they interrupt when they shouldn't, and sometimes they interrupt for good reasons, so it depends. If I've misstated or misquoted something, I welcome that, yeah. If I'm not being clear or it's not coming out right, I would like an interpreter who will say, you know, you didn't explain it right or whatever, who would help me clarify. [From question 12] To say that the client is not understanding it doesn't happen very often, not enough. I wish they would do it more. If the interpreter is actually conscientious, I would say, and not just going by the book, sometimes… rarely in the depo[sition] will they say, "They didn't understand the question," but occasionally. I wish they'd work as a team a little bit with me. Some do. They know better than I do when they're understanding the question, so I'd like to have their feedback.

Main study - Attorneys' interviews - Question 8

What are the main qualities you would hope to find in an interpreter you will be working with?	
P 1	I like when the interpreters ask my clients at the beginning of a deposition, "Where are you from?" Because then it makes them culturally sensitive to the language or to the dialect that the person speaks. I understand that interpreters make things kinda last longer and attorneys, judges, everybody just wants to get in and get out very quickly, but that can't be the priority. The priority has to be our clients understanding what we're trying to say and feeling connected to their attorney. They don't feel connected, they don't feel understood, they don't feel like they have an advocate, then that puts me at a handicap. As much as I would like to just move on with my day, I need the interpreter to help me make sure I'm on the same page as my client. Because when you speak a different language, there's other subtleties that go with that that make communication and understanding more difficult between two people, and I need an interpreter that not only translates the words, but translates the meaning and understanding that I am trying to convey to my client and that I'm trying to get from my client when I communicate with them.
P 2	Well obviously a mastery of the language and knowing that certain people are from certain places and they speak different dialects. And connection with the client is really important. Not just sitting there like a robot, interpreting what I say, but actually engaging the client so that they understand, and telling me if they think that the client doesn't understand, that really helps me.
P 3	Well, I do like it when they're friendly with the clients because it makes the clients feel comfortable and it makes the clients feel like they're important and not just a number. It's really important to me that they're able to do simultaneous translation because we've got such time constraints. And that they're sensitive to the different dialects that are around and, as I indicated earlier, what I do appreciate is when they see things that perhaps I'm missing. It's like we're working together to help one person.
P 4	I want them to be nice to the client number one, and to be patient, because when they're not nice and they're not patient with the client, I think that they make the client very, more uncomfortable during the deposition and it affects their testimony. And also I want them to get the connotation of what the client is saying because sometimes the client will say something, and they mean it a particular way and it can't, it shouldn't be translated literally. They have to use their knowledge and their discretion. I think that it's better that there's an interruption and a clarification so that the record is clear.
P 5	I hope to find someone that understands the Spanish speaking community well enough to know, and the client, someone that has had experience with immigrants. And not only that, but especially within the system, that knows the clients, that knows how to distinguish when a client is getting what is being interpreted to them. And also someone that is not gonna be afraid to stop me and say, "You know what, I'm sorry [Attorney's name], but you're not explaining this correctly, he or she is not understanding what you're saying." Then I appreciate that, because it challenges me. Or if they know how to explain it then go ahead, do it, let me learn from you. Those are the qualities that I like in an interpreter.
P 6	The ones that I see in most of the good interpreters, and you have to distinguish between the interpreter during the deposition and the interpreters during the preparation, 'cause I think their roles are somewhat different. Well, the difference is, the intimacy is a little different, but in the prep I can turn around and say, "Hi, could you help me explain this?," or this kind of thing. I can go back more saying, "I don't think they understand." Or we could do the more show and tell kind of thing where I literally will get up and start doing all the movements. Whereas during the deposition, the main thing is if the clients don't understand or ask for clarification, ask for it, and to do their job. And sometimes the attorneys make it difficult because they think they're talking to some other lawyer or a graduate student, not someone who's barely literate. And the poor interpreter, all they can do is translate these great big words, that, the client has no clue what they mean in Spanish. One time the guy was talking about the trapezoid muscles. I don't know where those are. This kind of stuff. And sometimes I literally had to look up in the dictionary what those words are. And sometimes there are no words where they talk about particular parts of a machine. Where the client doesn't know what the particular names are, and the interpreter wouldn't know either. And I would say that's a job, just interpret, and there's a problem, or they want clarification, to do it. And when you make a mistake or realize you've done something wrong, to say it right away.
P 7	I need somebody that can do simultaneous and I need somebody that would, when they're perceiving that the person's not understanding, that they can communicate that to me, 'cause sometimes I don't pick up on that, sometimes I'm just going through my outline. I don't always pick that up because of the language. And sometimes it's just, sometimes they'll bond with the interpreter a little bit and they'll open up a little bit more to an interpreter, let them know if they're having difficulties with this or that. And I'm not getting that unless the interpreter tells me. So I certainly welcome that, it's... seeing these things and letting me know. Things that I need to be aware of or clarify, because of the language.
P 8	Someone who is pleasant, and aware. And what I mean by that is someone who just doesn't turn their brain off and automatically have language going in their ear and words come out without being aware of the clients' responses. And what I mean by that is that it takes an interpreter who is present and is aware, that the client really, that they are hearing the words actually translated at the level that the questioner has presented. Be aware that there's a problem and they are aware of the body language, of the other aspects of language that are not just verbal, but tonal, or intensity, but they're aware by their responses that they're not understanding. Those are qualities that I really admire in an interpreter.

P 9	Well, the ability to do simultaneous translation... but the more... what I like and the people I build relationships with and use regularly is kind of, respect for the client. I like interpreters who are, feel like they can be honest to me. I tend to be, for people who don't know me and haven't worked for me in the past, I think people can be, particularly people who aren't very assertive, might not be willing to tell me, "He doesn't understand you," "You're not communicating this well enough" or whatever, because of some belief that they might offend me or something like that, and frankly I don't get offended, but they don't know that. And so I need an interpreter who's assertive enough to tell me when they become aware that something here is getting lost in the translation. And that's why I keep using the same three people basically, cause they're respectful to the client, they do good translation, they're available when I need them, and they are willing to tell me when it appears that the client is not understanding what I'm saying.
P 10	Well, I think accuracy of what I'm saying to the client, and also like, if the client is not responding for cultural reasons or whatever, they're pointing to the body part and saying the wrong body part for cultural reasons, I would like... I don't want the interpreter to translate perfectly literally. I don't think that's necessarily a fair interpretation. I think it should be, give some sense of what she's saying rather than literally, what comes out of a textbook or something. So I want them to volunteer what's going on, let's put it that way. Or if the client's not understanding, which does happen somewhat frequently, the person doesn't understand and needs it repeated in a different way or whatever. If I'm not being clear or it's not coming out right, I would like an interpreter who will say, "You know, you didn't explain it right" or whatever, who would help me clarify. I think that's really good if the interpreter is a little proactive and isn't just there to translate literally everything regardless of whether I've said everything clearly or not. A little help.

Main study - Attorneys' interviews – Characterizations 1

Assumptions	
P 6	Sometimes they will make assumptions that come from nowhere. For example, you'll ask them... "What jobs have you had?" And they'll talk about the jobs. So I'll say, "So the first job you ever had was working at Taco Bell?" "Yes." "So you never had any jobs in Mexico?" "Oh yeah I worked in Mexico." "OK why didn't you say the jobs you had in Mexico?" "Oh, I thought you wanted just the jobs in the United States." I'm thinking, "What? I need to know all the jobs you've ever had in your life." In my mind, why would you come out with that assumption when you've just asked them, anytime in their life... What I want from these people is their common sense answers. I don't want them to assume or presume anything at all, which they do, and I give them some examples, but their assumptions, I don't know where it comes from. Whether it's, "I thought I was gonna get fired if I made a complaint," "Well why do you think that?" "Well, I just heard." "Well, why would you think that?" So they give an answer that they cannot explain and all they do is hurt their case. You ask someone, "Well, what do you clean?" "I clean everything." "What do you mean by everything?" "I do everything." Well, I don't know what that means. And when you ask specifically do not volunteer [information], do not say anything except to answer the question, and they make assumptions that in my background don't make any sense. For example, the women, you'll ask them, "Have you ever been overnight in the hospital for any reason in your life whether it has to do with this case or not?" They say no. Then I'll ask, "Where were your children born?" They'll say "Oh, in the hospital." I'll say "Why didn't you say that?" They say, "Oh, I thought you were only talking about the case." So their ability to concentrate and focus, that if you give them a question or statement like that, it's too long. They just don't follow it. And the other thing is, I have found that when you have, "Who do you live with?" They will mention, my spouse or my children or something like that. And you need to ask additional leading questions, like "Who else do you live with?" And then they will say anybody else, anybody else, rather than most English speaking will say "Who do you live with?" they'll give a list of everybody. Also, the Spanish speakers, "Who do you live with?" they will mention all the adults but they won't mention the children. And I'll find that sometimes they'll just make assumptions that have no basis for at all, even when you try to make things clear, they sometimes just don't understand.

Main study - Attorneys' interviews – Characterizations 2

Volunteering	
P 5	And I don't know if it's cultural or not, but it's also, I see it a lot, most of my Spanish-speaking clients and when I was doing depositions and now even when I'm doing trials, they feel the need to tell me a story. They feel the need to start from the beginning and not answer the questions, and they wanna explain everything instead of just listening to my simple instructions, but it might not be so simple for them, for me it's simple, but for them it's not. And I'm not sure again if that's cultural or if it's an educational thing, but that is a difference.
P 6	You ask about one body part and they may answer... "No, I'm only asking about the neck, I don't wanna hear about your thighs or toes or anything else." And again they will want to tell you things but it's not the answer to the question. Or they'll give a long story and I'll say, "So your answer to the question is yes? The answer to the question is no?" and sometimes I interrupt, I say "It's yes, no, I don't know." And sometimes the cultural thing will come through, that I generally, women especially, older women, when you ask them a simple yes or no question and they tell a story. Quite often they'll give an answer and I'll say, "I don't think you understood." And I'll go back and they miss my, sometimes they miss my cues where I say, "You need to slow down, you need to wait and count to five" or something like that. Two seconds later, they're answering right away rather than just waiting. Or you say, "I don't want you to explain anything at all. I don't wanna hear the word *because*, I don't wanna hear why you did something, just answer the question." And when you say, "Why did you tell me that?" they'll say, "I thought you wanted to know this" or "That's what I thought the question was". And then I'll look at the interpreter and say, "No, I did not ask that question."
P 9	And there is a tendency, I think, to want to explain everything, want to tell you the whole story, when you're trying to simply take it step by step. And [they] also want to deal in generalities rather than, as a lawyer, I want to get into specifics, and particularly when you're dealing with things like state of mind.
P 10	Sometimes they... I can't speak in generalities but sometimes they're evasive a little bit, that's one of the drawbacks of Spanish speakers, it's that sometimes they don't give the direct answer very well, and sometimes they ramble more than English speakers, I think. I need direct answers because I've only got limited time and they don't give me the answer related to what I asked, they answer something else, you know, and I don't know if that's because of the translation or what, but they don't always give me a direct answer. When they have no idea what I was asking at all, and just give a story which is partially irrelevant, I don't, well it's frustrating sometimes.

Main study - Attorneys' interviews – Characterizations 3

Time, dates and numbers	
P 6	And this is what I have noticed, that people admit if they cannot read or write Spanish very well, their educational levels, but they generally do not admit that they don't understand numbers or math and this kind of stuff. So you have to make the questions real real simple because many of them if you ask how old their children are, they don't know. When it comes to time differences, date sequences, this kind of thing. And just like I said, the level of sophistication that, when you say, "How many people live with you?" And then you find out they're not really living [there], they moved out six months or a year ago, that kind of thing is right now, or they'll make assumptions. Or note that the same word can have so many different meanings, like the word *recently*. And in English you have different definitions but here again, almost like childlike, "Well I haven't seen grandma for a long time," well that could be six months ago or last week. Many of them have no concept of time or time differences.
P 8	The [next] problem has to do with the process itself. It's an adversarial process. And when you have someone extremely nervous, in my experience, I don't know if it's true or not, but there is a problem with tenses. So when they are talking about what they experience, they may not have the same understanding or comprehension to explain that this happened a long time ago. So things that they may be explaining as having happened a time ago, they may only talk about it as happening within the last couple of months. And that's a significant problem. In line with that, when they are asked about when a particular problem started, how long have they been experiencing this, they tend to compartmentalize their experience as only pertaining to the subject matter that they're present for. So language itself becomes difficult. So if you were to ask someone who may have developed migraines, profound migraines "When was the first time you experienced this?," in addition to the sense of tenses being completely messed up, they understand it as "When did you experience this problem as you experience it now?" Like, the deponents are asked questions in very vague, generalized manners to allow it to be overbroad, and they will not have the sophistication of language to understand that it could be from any headache or any neck ache, ever. Significant problems that come out of this is that for people that are not educated, who live in a world that is foreign to them, the clues that we have as native speakers, which could be newspapers, TV... But people who don't have the same references, they have a difficult time knowing dates and they will guess the date because they feel they're expected to give a date.
P 9	Like, what they knew at a particular... you know, what's important legally is what they knew at a particular point in time, not what they know now. And trying to get that, and get the answer to that, is sometimes difficult. And it does lead to miscommunication if you're not conscious of it, because they're telling you information that they now have when what you're really asking them is what information did you have at this point in the past. So that's actually a fairly common area of miscommunication. And over the years, I kind of expect that now, and I'm careful to be precise.
P 10	If you ask "When did it first start?," "When did you start to have pain?" that's what I mean, they don't get it sometimes. Even after I explain what a continuous trauma is, I'll say, "Well when was the first time you noticed the pain?" they'll say, "Well, when I slipped and fell," or something specific. It's kind of a strange concept anyway, the continuous trauma, hard for them to grasp. I should probably explain it better, it's probably my own fault. But the interpreter could help that, couldn't they? What I'm saying is, sometimes I'm not speaking very clearly, the interpreter could help rephrase the question a little bit.

Main study - Attorneys' interviews – Characterizations 4

Legal process	
P 4	I just think, though, that the Hispanic group tend to listen to you more as an attorney. They believe in you more and they trust you more than the American clients.
P 5	I do find that with the Spanish-speaking clients, there's sort of a, they don't trust the system as much, they don't understand it, they don't understand the process, they don't understand why they're there, they get very intimidated, they're afraid. I've... sometimes they don't even trust me and I'm the attorney. They feel that I'm gonna sell them out, things like that. There's a lot of questions, they're afraid to go to trial a lot of the times, because they don't understand the system. They don't understand what's gonna happen, they're intimidated to talk to the judge, different things like that.
P 6	But from a psychological standpoint, I don't think most lawyers realize what they're going through and especially for the women, when there's psychological problems, I'll say, "What was more difficult, going through this or having your baby?" and it's amazing how many of them say that the deposition process was far worse than the pregnancy and the birth, which I wouldn't think at all. Or, I hear again, only with the older women, I'll say, especially ones who have had psychological problems... they know they're sad but they don't understand all these psychological terms. And I'll say "What's more embarrassing, having to go through these women's checkups or having to go through the deposition process?" and it's amazing how many women will say the deposition process. I think a man would say going through women's checkups would be far more embarrassing than answering a bunch of questions. And here again, that's good to know while they're going through this, I think they have trouble concentrating, they get flustered, they're embarrassed, they're worried they're gonna say the right name, right thing or not.
P 8	Clients who are intimidated by the process break down and get extremely nervous, and that locks their ability to think. It's almost as if someone is going through a traumatic experience, which causes them to not be able to understand, or say when they don't. I feel strongly that the system that's imposed doesn't work. The system imposed is a formalized interaction with a non-native speaker. They're being asked questions that we as attorneys take for granted, it is our language, and we take for granted that the deponent understands that language. But there are cultural nuances that shift between cultures of different countries. So somebody from El Salvador and Mexico or Argentina or France or wherever, they have a different life experience and educational background. And words have more formalized meanings to them, and they perceive it as a conversation. The consequences of a misunderstanding to the deponent can sometimes cost that client the case and cost them their credibility, because their entire believability is called into question. And the system that I work in or have worked in for the last 14 years doesn't work for non-native speakers without a high educational level.
P 9	They tend to, again, be deferential to all authority figures, so they tend to essentially give statements to the police, and even at times, they give statements thinking that's going to help them without appreciating that the police are really gonna use it in a way to make them appear guilty. Yeah, that the statement, even if they've all been advised to their Miranda rights and told that their statement can be used against them in a criminal proceeding, but they view it as, well, for instance in a drug case, "It wasn't my drugs it was the other guy in the car's drugs," and they think if they tell the police that, the police is just gonna let them go, but how the police view that statement is that you just admitted that you knew there were drugs in the car, right? Which is now an element of the crime we have to prove and therefore we're gonna use that against you. So that's actually a fairly common scenario.

Main study - Attorneys' interviews – Characterizations 5

Body parts	
P 6	They don't know basic body parts, they don't know the names in Spanish, they have trouble describing, for example, the word for *wrist*, rather than saying "I don't know the name, it's the part of the body between my hand and my elbow," but that kind of sophistication is just beyond many of them. But here I've learned over time that when anybody talks about their arm or their hand, or their leg, that it can have many many different meanings. And I've also noticed between the hip and the thigh. That often they don't know the words, but when they're using the words, they're different. And I have all my clients fill out a diagram showing the parts of the body, but many times they'll say one word and they've marked a different word. For example, they've marked the hip but maybe they're using *waist* or *buttocks* or something like that, or vice versa. But I welcome that because I need to know what they're talking about. It's a cultural thing. I'll say, "Ok, what do you mean by your arm?" "I mean the whole arm." I say "No, what do you mean, are you talking about the shoulder, yes or no? Upper arm?" I'm literally pointing to them so I say "When you explain you have to go through all these parts [of the arm]." They'll say "Yeah, my arm." And they don't get, even though I've explained, we have to go part by part by part, all these are different, and sometimes they don't understand it. I've had people say *back*, which is *espalda* in Spanish, but I've said *upper back, middle back*, and *lower back*, and sometimes they have no idea what I'm talking about, then I'm using layman's terms, not medical terms, to explain what we are talking about, and I say "You need to be specific." A lot of them have trouble using words and pointing and explaining like, "It hurts me over here when I go like this," they conceptually cannot articulate in words what they're trying to show with their movements or gestures. Or they just show, "Well it hurts me over here." "What are you pointing to?" And then people mix up the left side and right side, they say "I'm all confused." "What are you confused about?" And then I don't get an answer, something, so I can help them out.
P 10	I don't see why you're mandated in the code when it's not on the record, or not during the deposition, period. But anyway, whether it is or not, the interpreters who I like, as far as the hand and foot, if they're saying the wrong thing, the interpreter will work more efficiently...well the interpreter will say, "Be sure and say if you mean *waist* say *waist*, if you mean *foot* say *foot*." That is what I like, she should say that.