

Victim/Witness: Implications for the Interpreter  
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The Victim/Witness Project for the Handicapped (1981) was a federal grant project to educate law enforcement and other criminal justice personnel about the special needs of physically disabled citizens who become victims of or witnesses to crime. It was administered at the National Academy of Gallaudet College by Myra Per-Lee; the Project's creator and consultant was Dr. Virginia Cogswell. Although the Project itself was terminated, the National Academy continues to provide information and technical assistance to the public on issues affecting disabled victims of crime. The Academy's requests, from both interpreters and criminal justice personnel, reveal considerable confusion about the interpreter's role and responsibilities where a deaf victim of a crime is involved.

The Academy was fortunate that Ms. Carol Pace, an experienced legal interpreter in the Washington area, agreed to meet with Ms. Per-Lee and Dr. Cogswell to discuss the implications of the victim/witness situation on the role of the interpreter. It was felt that interpreters might benefit from the participants' perceptions expressed during this discussion; therefore, we have edited the transcript of exchange to share with our readers.

Per-Lee: Carol, Virginia and I have asked to meet with you today to discuss some of the situational implications of interpreting for a deaf victim of crime. As you know, we recently completed a one-year grant, the Victim/Witness Project for the Handicapped, which attempted to educate those who serve victims of crime about the special needs of disabled victims. In our communication with various personnel, we realized the depth of misunderstanding and misinformation about their responsibilities in obtaining the services of interpreters when deaf persons are victims. Having heard of your experience in legal interpreting, we wanted the opportunity to see how you perceive these difficulties and how you handle them.

Pace: I would be happy to share my experiences with you. In my own work, my clients have included both deaf defendants and deaf victims. I'm afraid my

role as an interpreter has not always been entirely understood by criminal justice professionals. But before we go on, could you explain what you mean by the victim/witness field? How, aside from the obvious ways, does it differ from the arena of police, district attorneys, and judges, which I know best?

Cogswell: The victim/witness field does not necessarily differ from fields in the criminal justice system, such as law enforcement. It encompasses the aspects of those fields that have to do with the needs and rights of victims. If you notice, law enforcement (police), prosecuting or district attorneys, and judges are all considered part of the criminal justice system. For years, many have felt that this system, in trying to be fair to the person accused of a crime, has ignored the physical and emotional trauma experienced by the victim of crime. And, in the last ten years, concerned citizens, social service workers, medical personnel, police, and district attorneys, have organized to provide assistance and advocacy for victims of crime; that movement is known as the victim/witness movement.

Per-Lee: There is a movement advocating for national and state legislation to provide for victims of crime, but there are also direct services for victims of crime, and they are known, generically, as victim/witness services. They may be rape crisis centers or domestic violence centers, or they may help victims of any criminal act. They may be police-based, community-based, or in social service agencies, and they generally provide for the immediate physical and emotional needs of the victim; although some may provide long term counseling, many are more crisis-oriented. District attorneys' offices may have victim/witness units, but those generally focus on orienting the victim to what is expected of him/her in court.

Pace: I see. So, in other words, if I get a call from a victim/witness service to interpret, it may not be coming from a criminal justice agency, but from a social service agency or volunteer crisis center. Does this mean that the victim is not reporting the case to the police, and that I am needed to interpret a counseling session?

Per-Lee: Well, yes and no. The victim does not have to report a crime in order to receive counseling

and support from a community or social service agency. However, the victim may have already reported the crime or may later report it. So, if you are asking to what degree you will be involved in legal actions, that is difficult to predict.

Pace: If I was asked to interpret a counseling session, and then called in to testify in court, during a trial involving that victim, I, of course, wouldn't divulge what I learned as an interpreter.

Per-Lee: When would you have the cloak of confidentiality?

Pace: I have it if the counselor has it.

Cogswell: On that point, it has occurred to me that each of the professional you come in contact with may have a different understanding of your role. With professionals who deal with victims, the district attorney, for example, what if they want to call you as a witness? The police or victim service agency may think that you are an advocate. How do you explain your function, and how can you anticipate possible hidden agendas on the part of these personnel?

Pace: Based on my experience, I think I can pretty well tell what someone is after. And often it's right out in the open. For example, one district attorney said she would like to use my services to work with a rape victim. She explained that we would first go to the victim's home and get the whole story, and she would call on me again when the case came to trial. She added that if the rape victim forgot or changed her story during the trial, she would put me on the stand as a witness since I would know what the victim had said during the first interview.

My response was to explain my role as an interpreter. I said I would be happy to interpret at the victim's home and at the trial, but I could not testify. When I asked her how she handled hearing rape victims, she said that she brought along an assistant, whom she could later put on the stand if the victim forgot her testimony. When I suggested that she do the same, she responded that it was too expensive to pay two persons when I could easily do both. I could see that I was not going to change her mind, so I suggested that she call another interpreter. I then alerted the interpreter

referral service about the situation.

Per-Lee: What do you think can be done to control or minimize those hidden agendas? Are there ways that you personally can clarify your role before these situations arise? How would you go about providing general education to criminal justice and victim service centers about the role and availability of interpreters?

Pace: Personally, I often discuss the role of the interpreter with callers who request my services. Attorneys and others may also obtain information from several professional organizations, such as the Registry of Interpreters for the Deaf, local R.I.D. groups, and the National Center for Law and the Deaf. The national R.I.D. has pamphlets describing the role of the interpreter in various settings, such as legal and medical. Its Regional Directory of Services for Deaf Persons includes lists of interpreters, as do many local R.I.D. directories.

Per-Lee: I have learned of several criminal justice agencies that are either ignoring or are not aware of their Section 504 responsibilities to provide interpreters for deaf victims and defendants. Often, if these agencies do call in an interpreter, they may not be aware that they are responsible for paying for interpreter services. With victim/witness center personnel, who may be volunteers themselves, they might assume that you are also volunteering. How and when do you approach the subject of money?

Pace: Diplomatically and as soon as possible! About half my calls for legal interpreting come from referral centers who pave the way for me. They let the lawyer or court know that interpreters are paid and when I am contacted I only have to inquire as to whom I should bill. When I state my rate, it is usually accepted; sometimes, though, an agency will tell me how much they are allowed to pay and I decide whether or not to accept the assignment. So far, lack of money has not kept me from accepting any cases.

Now, the other half of my calls come from law firms, deaf persons, or friends or relatives of a deaf person. In most cases, I tell them my fee (I will say, "I am generally paid XX amount for legal interpreting," and then sometimes end up negotiating), and find out who is responsible for payment.

Cogswell: That brings another subject to mind. If a criminal justice agency calls you to interpret, is that agency or the deaf person considered your client? What if the police, for example, tell you not to interpret something they say in front of the deaf person?

Pace: In general, I regard the deaf person as my client no matter who has hired me. If the police or anyone ask me not to interpret something, I quickly say that it is my role to interpret everything. Now, that is the "right" answer. But really, there are exceptions.

I am thinking about a very young deaf girl who was a rape victim. The police were questioning her, but several times during the questioning the girl's mother answered or talked to the police. I knew that the girl's language skills were poor and that she could not have understood everything, so I interpreted only what the police asked me to. At times, they asked me specifically not to interpret even though I had explained my role to them before. That put me in an awkward position. I could have refused to continue interpreting, but I would have hindered that situation, not helped it. The girl appeared to be comfortable with her mother and did not appear to be concerned that some conversation was taking place that was not interpreted. So, I continued and I think I did the right thing.

You know, although I tend to stick to the answer that the deaf person is my client no matter who pays, every interpreting situation is different. For example, what if another interpreter was called by a district attorney to interpret for a deaf victim, but the attorney for the hearing defendant called me in as an interpreter to use for his cross examination? That attorney may see the need to have an interpreter who will convey his words and tone accurately and not be influenced by sympathy with the victim. Now, this reflects his perception of the court's interpreter, not mine. If I agreed to interpret for the defense attorney in this kind of a situation, I would consider my client to be the defense attorney and not the deaf victim.

Per-Lee: I suppose it is common for hearing people to ask the interpreter not to interpret something, but even in the absence of those instructions, the interpreter must often make a choice about what to interpret. I am thinking of situations where one-to-one communication is not involved, but rather several persons

are engaged in various conversations. Let's say that you are called to interpret for a victim in the emergency room of a hospital. The policeman is talking to the nurse, two doctors are talking, two relatives are talking, and a photographer is trying to move everyone around so that he can take pictures. Who decides what is to be interpreted and how?

Face: A guideline I follow in life- or health-threatening situations, is to interpret only what medical personnel are trying to communicate to the deaf person. If, as you say, no one is speaking directly to the deaf person, I would try to summarize the various conversations and let the deaf person decide what he or she wanted to hear or participate in. If the confusion seemed to be upsetting the deaf person, I would interpret the deaf person's reactions to the hearing people.

I can remember interpreting in such a situation. It was a meeting of several lawyers about a legal situation that the deaf person had an important economic stake in. Towards the end of the meeting, several conversations broke out among the members. One conversation was about the deaf person's role in the situation, so on my own, I decided that I should interpret this conversation. The deaf person, however, saw two lawyers talking and asked me to interpret what they were saying. I did what she asked me to do, but the conversation was about golf and, after a minute of interpreting, I suggested that the other conversation was about the deaf person's main concern. She insisted, however, that she would rather hear what the lawyers were saying, so naturally I continued to interpret that.

Cogswell: So, in the absence of a clear preference from your deaf client, you must make the decision based on your perception of the deaf client's interests?

Face: Yes, but first I will try to summarize all the conversations so that the deaf person can more easily make a choice.

Cogswell: You have defined your perception of your role as an interpreter very clearly, and have obviously been exposed to a variety of experiences, which have forced you to think about it. I have another question which relates to your role, however.

There are times when the police, district attorney, or other criminal justice authority will not be aware of the cause of a communication problem and may, as a result, misdiagnose or misinterpret the problem. Let's say you arrive at the police station and the police tell you that the deaf victim is emotionally ill or mentally retarded. Later, as you are interpreting, you see that the deaf victim had been very frustrated by attempts to understand the police. Or maybe you discover that the deaf person refused to try to understand or talk to the police until you arrived and that led to the police diagnosis of mental retardation. Whatever the misdiagnosis was, can you ethically try to correct the police perception?

Pace: When you walk into a situation that you know very little about and a person of some authority makes an untrue, unfair, or stupid statement, it is best to size up the situation before you react too strongly. I am not saying that you should let the remark go. In the example you have given me, I would say something like, "Perhaps when I am able to interpret, the deaf person will understand," or "The deaf person might not seem mentally retarded to you after I am able to communicate to him/her in sign language." The policeman's perception of the deaf person often improves after some communication through interpreting takes place.

So, to answer your question, "Can you ethically correct the police's perception?" my answer is yes, of course, but the way I would do that is by interpreting and allowing communication to take place.

Per-Lee: How much do you think the interpreter should know about criminal justice procedures and personnel before interpreting in that setting? There is always the possibility that the deaf person will ask you questions about what's happening.

Pace: I have a general understanding of the criminal justice system, but I don't understand every procedure. I generally feel comfortable in legal settings because I do have an awareness of what is happening and also because I have gotten to know people at the local courts and feel that I have good professional credibility with them.

How much should an interpreter know about the

procedures and personnel? I think it is more important to be able to interpret the spoken language into appropriate and understandable signs for the particular deaf client and to have good sign-to-voice skills, if that is required. It is helpful to understand the procedures, but an interpreter who doesn't understand them can still function effectively. For example, when a deaf client asks about procedures, I generally suggest that the question be asked of the lawyer or the appropriate person, rather than answer myself.

Per-Lee: Carol, we appreciate your interest and efforts in helping us come to a better understanding of how the interpreter functions in a legal setting, particularly in victim settings. This information will help us greatly in our efforts to educate criminal justice personnel in how to effectively utilize interpreters. Hopefully, other interpreters will also benefit from the experiences you have shared with us. Thank you.