

Selecting, Vetting, and Preparing Interpreters for Human Trafficking Cases

A WARNATH GROUP PRACTICE GUIDE



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The WARNATH GROUP

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PRACTICE GUIDE
by The Warnath Group

AT A GLANCE

Intended Audience:

- Investigators and prosecutors working on human trafficking cases.

Takeaway: By thoroughly vetting and preparing candidates, it is possible to effectively work with an interpreter and ensure the proper handling of human trafficking cases.

In This Practice Guide:

- How to confirm the language of the victim
- How to ensure the candidate is a good fit
- How to screen potential interpreters
- A list of the obligations of the interpreter
- A sample interpreter confidentiality agreement
- Tips on preparing the interpreter and the victim separately to work together

INTRODUCTION

Victims of human trafficking are often exploited in places where they do not speak the local language. This adds a layer of complexity for investigators and prosecutors who cannot communicate directly with the victim and must rely upon the services of an interpreter. Knowing how to effectively work with an interpreter is a basic requirement for properly handling human trafficking cases. This document focuses on working with interpreters in the context of a victim who speaks a foreign language but is equally relevant when working with interpreters to communicate with witnesses or defendants.

CONFIRM THE LANGUAGE

The first step to finding an interpreter is determining what language the victim speaks. If the victim is unable to communicate what language he/she speaks, the investigator or prosecutor may have to employ creative means to determine the victim's primary language.

For example, if the individual is literate in their native language they should be able to point to their language on a list of languages.¹ If the victim is not literate they may be able to point to their home country on a map, or identify their home country flag.² Alternatively, a language expert from a local university or on-line translation service may be able to help, but that should be a secondary option as there is always the potential for a conflict of interest when bringing in outside experts (more on this below).

In some cases, identifying the primary language is just the first step. If the victim speaks a language that has many dialects, it is important to identify the victim's dialect as interpreters should only work in dialects they have mastered.

In cases where the language or dialect are difficult to pinpoint it might be helpful to make a short recording of the victim speaking (if you can be fairly confident the recording does not reference any of the facts of the case) and confirm with the proposed interpreter that they are familiar with the language/dialect being spoken.

MAKE SURE THE CANDIDATE IS A GOOD FIT

There are several considerations that go into selecting an interpreter.

Consecutive or Simultaneous Interpretation: Consecutive interpretation is often the default interpretation mode and is always an acceptable option. It allows the interviewer to focus on the victim's body language and expressions while he or she is talking. Consecutive interpretation proceeds at a slower pace and only one person is speaking at a time, so it can be less stressful and confusing for the interviewee who is unfamiliar with simultaneous interpretation. Simultaneous interpretation can resemble a regular conversation in terms of pace and back and forth exchanges, and may be the preferred option for some interviews. It is important to confirm the interpreter is capable of providing the mode of interpretation preferred by the investigator or prosecutor.

In-Person or On-Line: In person is always preferable, but not always possible. There are both audio-based and interactive video options for remote interpretation. These phone-based or online services are excellent resources for those in areas with few local

¹ See https://en.wikipedia.org/wiki/List_of_language_names

² See https://en.wikipedia.org/wiki/Gallery_of_sovereign_state_flags

interpreters or in cases involving more obscure languages. In some cases, if there are concerns about contacts between local interpreters and the victim and/or defendant, there might be an advantage to using an on-line certified interpreter.

Gender: In all trafficking cases, particularly those involving sex trafficking, the victim might have a strong preference for working with one gender or the other. The best practice is to ask, if logistically possible, what gender interpreter the victim would prefer to work with. Online translation tools or non-verbal communication methods can be used to ask the question.

Cultural Interpreter: Some interpreters, who have personal experience with the victim's culture, can also serve as cultural experts. Cultural experts can both provide tips on how the interviewer might want to approach the victim and explain the cultural context of the victim's behavior or speech patterns. For example, some cultures require spending time getting to know each other and quite a bit of small talk before it is appropriate to ask a personal or difficult question, while in other cultures it is perfectly appropriate to move directly to substantive issues after minimal small talk. A cultural interpreter can explain common usage of words that may have more than one meaning (including slang) and can explain the cultural context for certain body language and behaviors. For example, in some countries avoiding eye-contact is a sign of respect, while in other countries it is seen as a sign of lying. Not everyone can provide cultural interpretation, but it is certainly worth finding out if a potential interpreter is capable of serving as a cultural interpreter as well.

Difficult Subject Matter: The interpreter must be willing to spend hours, days, or even weeks interpreting conversations about the often-difficult topic of human trafficking. Some interpreters may not be comfortable working on sex trafficking cases, cases involving child victims, or cases involving extreme violence or torture. It is best to give the interpreter some idea of the facts of the case and confirm they are comfortable working with the topic. The interpreter will need to be able to interpret everything neutrally and without judgment. The interpreter should be comfortable with the type of language the victims or witnesses use. For example, if the victim uses a derogatory slang term for genitalia, the interpreter should use a similar derogatory slang term for the genitalia in the interviewer's language as opposed to sanitizing the victim's statement by using a medical term.

SCREEN POTENTIAL INTERPRETERS

Interpreters have direct access to victims, witnesses, and/or case information. There are numerous real world examples of interpreters from human trafficking cases taking advantage of their position to intimidate victims or witnesses, alerting potential defendants to pending investigations, providing false “interpretation” to investigators or the court, passing sensitive information to defendants and their networks, and otherwise influencing or try to influence the outcome of the case. Interpreters who provide information or advantage to the defendant(s) may do so due to threats, the promise of money or other awards or due to allegiance to the defendant(s). Conversely, some interpreters become crusaders for the victim and cross ethical lines in an effort to see the defendant convicted. Because of the opportunity interpreters have to do harm in human trafficking cases it is critical to screen all candidates for conflicts of interest or bias before asking them to join the team.

The screening process should focus on identifying current or prior connections between the proposed interpreter and the defendant(s) or victim.

- The interpreter should be asked if they know the victim(s), witness(es) or the defendant(s) by name or by sight. It is important to provide the interpreter with enough information about the people and facts of the case so they can determine if there is a conflict of interest, but not so much that it will compromise the investigation.
- The victim should be asked if they know the interpreter by name or by sight, or are aware of any connection between the interpreter and the defendant(s). Even incidental contact with a defendant is relevant and potentially disqualifying. For example, if the defendant and interpreter are members of the same social circle, house of worship, or private club, that can create the appearance of bias. It is also possible that those connections could consciously or unconsciously cause the interpreter to sympathize with the defendant(s) or lead to pressure from mutual friends for the interpreter to “help” the defendant(s). If there is no hard evidence but the victim expresses a belief as to a connection or natural affinity

between the interpreter and a defendant it is best to respect the victim's concerns and not use that interpreter.

Certified or Accredited (Court) Interpreters

Whenever possible it is best practice to use certified or accredited interpreters who have credentials indicating they actually have the requisite language skills to interpret. Interpreters who are court certified are often the best option as they will be familiar with the legal system and the ethical standards they are expected to uphold when interpreting in the criminal justice context.

Be particularly wary of any non-accredited interpreters who come forward to volunteer their services on the case as they may have ties to the defendant(s) and be actively seeking information about the case.

OBLIGATIONS OF THE INTERPRETER

The interviewer must be clear with the interpreter about his or her obligations and what is and is not acceptable activity.

The interpreter's focus should always be on **accurately interpreting** the questions asked, the answers given, and any other discussions (even small talk) that take place in the presence of the victim. If the interviewer wants to confer privately with someone they should step out of the room.

The interpreter should **not offer personal opinions or provide advice** of any kind to the victim. If the interpreter thinks the victim is confused or did not understand the interviewer's question the interpreter can alert the interviewer to the concern during a break rather than address it directly with the victim. The interviewer can then take the steps necessary to clear up any confusion.

Be clear with the interpreter that he or she is not and should not act like a social worker, friend, or ally of the victim. The interpreter is also not an investigator or prosecutor and should not attempt to take on that role. The interpreter must **remain neutral** and should

be careful not to develop an independent personal relationship with the victim or overstep the clearly defined role of interpreter.

The interpreter should acknowledge that all information they learn as a result of their involvement with the investigation or case is absolutely confidential and cannot be shared with anyone at any time. The best way to highlight the importance of confidentiality and ensure that the interpreter understands what is expected of them is for the interviewer to walk the interpreter through a confidentiality agreement and then have the interpreter sign the agreement. A confidentiality agreement should be drafted to meet the specific requirements of the applicable jurisdiction. A sample of a simple confidentiality agreement that can be used for victims or witnesses is below:

SAMPLE INTERPRETER CONFIDENTIALITY AGREEMENT

1. I, _____ [name of interpreter], hereinafter “INTERPRETER”, agree to assist _____ [person or agency conducting interview], hereinafter “INTERVIEWER”, and the interview subject, hereinafter “SUBJECT, by interpreting between _____ [subject’s language] and _____ [interviewer’s language].
2. I understand my job as INTERPRETER is to enable INTERVIEWER and SUBJECT to communicate with each other by providing direct interpretation.
3. When both INTERVIEWER and SUBJECT are in the room I will interpret everything said in _____ [subject’s language] to _____ [interviewer’s language] and vice versa, even if it is not conversation between the INTERVIEWER and SUBJECT or part of the formal interview.
4. I understand that any and all information I learn as a result of my involvement with this case, including identifying personal information about SUBJECT, witnesses, or potential defendants, is strictly confidential. I will not disclose any information I learn as a result of my work as an interpreter to anyone, including but not limited to potential defendants and their associates, opposing counsel, the press, foreign government officials, or my friends or family members.
5. I will immediately notify the INTERVIEWER if anyone contacts me seeking information about this case or any of the individuals involved with the case.
6. I will immediately notify INTERVIEWER of any conflict or potential conflict of interest. If during the course of the interview I become aware of a potential conflict of interest, I will call for a break immediately and notify the INTERVIEWER about the nature of potential conflict.
7. I will not retain any documents or notes used during the interpretation without the express permission of the INTERVIEWER, and cannot disclose any information, or share any documents or notes arising from this interview with any third party. If INTERVIEWER agrees to let me retain documents for any reason I will not make any copies and will return the originals to INTERVIEWER when I no longer need them.
8. I will not offer advice, counsel, or my opinions on any topic raised during the interpretation session.
9. I will be honest and trustworthy, specifically as regard to my qualifications, potential conflicts of interest and billing for services.

10. This agreement does not expire. My duty to maintain the confidentiality as to the people and acts involved in this investigation is infinite and extends beyond the duration of the investigation and/or subsequent legal case.

INTERPRETER SIGNATURE

DATE

Preparing the Interpreter – A Brief Check-List

- ✓ Give the Interpreter a general read-in and ask if they are willing to work on the type of human trafficking case involved.
- ✓ Determine if the interpreter has any conflicts of interest, including any prior contact with the victim(s) or defendant(s). If so, find another interpreter.
- ✓ Confirm that that interpreter has the skills the interviewer requires (mode of interpretation; cultural interpretation).
- ✓ Establish before the interview if the interpreter will serve as a cultural interpreter.
- ✓ Check that the victim is speaking a language/dialect the interpreter recognizes and is qualified to interpret.
- ✓ Explain the importance of the confidentiality agreement and give the interpreter an opportunity to review the agreement and ask questions before introducing the interpreter to the interview subject. The confidentiality agreement should be read in its entirety to the interview subject and then the interpreter should sign the agreement (or acknowledge having previously signed) in the presence of the interview subject.

Preparing the Victim for Interpretation – A Brief Check-List

- ✓ If possible, determine what gender interpreter the victim is most comfortable working with.
- ✓ Prior to bringing the interpreter into the room, the interviewer and victim should work together to come up with a signal the victim can use to indicate that there is a problem with the interpreter.
- ✓ Begin the interpreted session by describing the role and obligations of the interpreter, and the other individuals in the room.
- ✓ The interpreter should translate what is written in the confidentiality agreement and either sign it in the victim's presence or acknowledge having previously signed it.
- ✓ If applicable, clarify the interpreter is a neutral party and not a member of the investigative or prosecution team.
- ✓ Explain to the victim that the best way to work with an interpreter is to pretend he or she is not there – and to look at and speak directly to the interviewer.

Acknowledgements

For more information about selecting, vetting, and preparing interpreters for human trafficking cases, contact the Warnath Group at info@WarnathGroup.com. To access additional practical tools and resources, visit our website at www.WarnathGroup.com. Studies and background material – including the stories of victims of human trafficking -- are at www.NEXUSInstitute.net.

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