



# Language Services & the **Legal** **Industry.**

Confidentiality, USCIS  
Approval, & Rush  
Interpreting.



# Guaranteed Accuracy for Legal Translations

When it comes to **multilingual litigations**, every person related to a case must receive proper interpretation, and every document a proper translation, in order to ensure a fair trial.

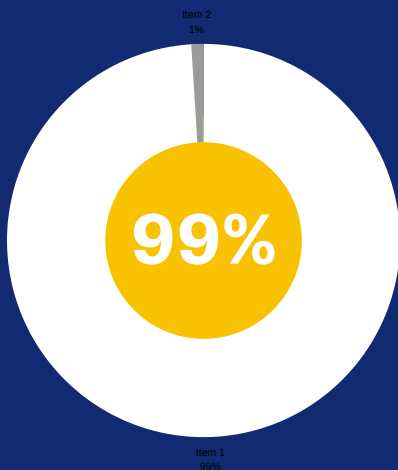


Bilingual communication in a legal setting gets tricky, and a lack of experienced, well trained interpreters and translators can leave interrogations, testimonies, and documentation mistranslated. Sometimes these mistranslations are caught and corrected. But in other situations, a **proper translation is denied, and so is justice.**

# The Consequence of Sub-Standard Translators and Interpreters

## THE PROBLEM

**Dan Harris**, founder of international law firm **Harris Bricken**, says that anytime the opposition submits translated evidence, **he almost always hires his own translator to confirm its accuracy.**



*“About 85% of the time the translation is ‘accurate,’ but about **99% of the time, it has been translated in a way that favors the side doing the translation.**” — Dan Harris*

Harris instantly draws the court’s attention to any biased translations. To the untrained eye, these translations could easily be overlooked.

But with years of experience in international law, **Harris knows what to be on the lookout for.**



## THE TRICK

The bias tends to exist with words that are close in meaning, but the subtle difference is enough to alter one's view of a situation.

An example would be, "**one can**" vs. "**one should.**"

While the words are very similar, they ultimately hold different meanings. Depending on the situation, this subtle mistranslation can cause reasonable doubt.

### IT'S IMPORTANT TO NOTE

- ✗ Any translation without an attached declaration or affidavit of authenticity is easily **stricken from court.**
- ✗ Any poorly interpreted deposition **can be thrown out.**
- ✗ Bad translations are typically met with a **counter translation.**

Harris explains that finding a good interpreter for depositions is very difficult. Of all of the private local interpreters in Seattle, his home base, Harris claims there is *only one interpreter*, a Russian <> English terp, that provides unbiased interpretation that all attorneys agree upon.

# Simple Inaccuracies, Monumental Effects

“Many of the interpretation problems in American courtrooms can be traced to **inconsistent training, inadequate standards, and just plain ignorance.**”

*Nancy Combs, Cabell Research Professor of Law at the William & Mary Law School*

**An untrained interpreter does not understand the imperative need for 100% accuracy for legal communication. Subtle changes may not be recognized by most, and could be considered insignificant in casual conversation. However, in the court of law, these subtleties **have an impact on the fact-finder in the case, whether judge or jury.****



# These subtle **inaccurate interpretation** examples have occurred in **multiple court cases**:



Culturally **taboo phrases**, such as curse words or words of sexual connotation, **omitted or changed by a shy, inexperienced interpreter.**

A **lack of explanation about body language**, when the body language of a suspect has opposite meanings among the cultures involved.



An answer phrased in active voice, translated in passive voice, **deemphasizing the role of the subject.**

**Inserted or omitted incidental language**, such as “you know,” “well,” and “so you see,” which illustrates hesitation or confidence.



**Inserted or omitted language that functions as politeness**, such as “sir” or “ma’am.”

The choice of a word with multiple meanings, without explanation of the speaker’s intent.



# The Consequence of Mistranslation

## SPANISH VS. MIXYEC - *Sandy, Oregon*

After a birthday party turned into a fist fight and a car chase involving the destruction of property, cops were called on the scene. They rounded up seven of the eight men involved, confiscated a gun, and sent the men home.

**The next morning, an eighth man was discovered dead, stabbed to death.**

The local sheriff's department gathered the seven men again. Santiago Ventura Morales was shaky, pale, and didn't look the questioning officer in the eye, so *he was charged with the murder.*

**Morales, an 18-year-old Mixtec Indian from Oaxaca, Mexico, was provided a Spanish interpreter even though he only spoke Mixtec.**



## AT THE TRIAL



- Two of the seven men at the scene gave wavering testimonies that made it sound like Morales had committed the murder.
- While a considerable amount of blood spurted from the victim's wounds, a laboratory examination found **no traces of blood on Morales' knife**. The State medical examiner testified that as Morales pulled his knife out, the victim's fat tissue wiped it clean. Morales' attorney did not hire an expert to check the testimony of the State's witness.
- Morales did not testify.

Morales was **convicted of murder** and sentenced **to 10 years to life in prison.**

**Before he was sentenced, three of the jurors expressed doubts regarding Morales' culpability.** After his sentencing, juror Elisabeth Linder explained her doubts to friend Donna Slepach, Director of Psychology at Antioch University, Portland.

**Slepach was so moved by Morales' case, that she took up a cause to help his real case be heard. Slepach taught Morales how to speak English and took action to get him a post-conviction hearing.**



## IN THE POST-CONVICTION HEARING, IT WAS REVEALED THAT:

- The Spanish interpreter **could not accurately convey the testimonies of the State's two eyewitnesses**, since both men were Mixtec too, and spoke no Spanish.
- The idea of a knife coming out clean from a wound because of fat tissue was *"contradictory, misleading, incomplete, and incorrect."*
- Morales said he had wanted to testify at his trial, but did not know he had the right to do so.
- **In the Mixtec culture, it is a sign of respect not to look your elders in the eye.**
- A new witness was located, and testified that, in the strawberry field where the murder took place, before Morales even arrived, a man named Herminio Luna Hernandez had chased the victim until the two men disappeared from sight.

As a result, **Morales was released from prison, pardoned, and had all charges dismissed** due to the testimony of the new witnesses, the debunking of the forensic testimony, and because Morales had been denied his constitutional right to testify.



## HINDI TO ENGLISH - *Toronto, Canada*

Canadian Superior Court Justice Anthony Hill declared a mistrial in a sexual assault case against defendant Vishnu Dutt Sharma. **The court interpreter provided in the case mistranslated major phrases in the testimony.** The mistranslations included "sexual assault" vs. "physical assault," "genital area" vs. "between the legs," and "two days" vs. "a couple of weeks."



Sharma's lawyer, also fluent in Hindi, was able to bring attention to this mistranslation. As a result, audiotapes from the cross-examinations were sent to an expert in the U.S., who said **the interpreter "did not interpret verbatim, summarized most of the proceedings, and was not able to interpret everything that was said on record."**



Judge Hill ruled, **"In this case, the non-English-speaker was prejudiced by a denial of full linguistic presence at his trial."**

## SPANISH TO ENGLISH - *San Francisco, California*

Jose Ines Garcia Zarate, an illegal immigrant previously deported from the U.S. five times, was charged with murder, involuntary manslaughter, and assault with a deadly weapon in relation to the death of Kate Steinle near Pier 14 in San Francisco. Steinle was killed after a bullet from a stolen gun ricocheted off the pier and traveled 78 feet before striking her in the back.

The defense attorney said Zarate found the gun at the pier wrapped in cloth, and when Garcia Zarate unwrapped it, the gun accidentally discharged.

In the police interrogation, Zarate admitted to firing the gun.

Once he said he was aiming at a seal. Another time, he told police that he had stepped on the gun, causing it to fire.



### THE DEFENSE CALLED

- A firearms expert who testified that logistics of distance, among other factors, indicated that the discharge was accidental.

### THE PROSECUTION CALLED

- A firearms expert who testified about the internal mechanisms of the weapon that prevent it from firing *unless the trigger is pulled*.
- A retired SFPD officer who testified that the shot, despite the ricochet, did not bank left or right, indicating the firearm was pointed in Steinle's direction.

But the biggest case for the defense was the interpretation Zarate received during his interrogation. **In the early morning hours after the shooting, Zarate's interrogation was interpreted by another officer at the station.**

The defense hired an expert translator to review the interrogation, and claimed improper interpretation changed the meaning of the Zarate's interrogation questions. **The interrogating officer asked "Did you pull the trigger?" The interpreter translated, "Did you fire the gun?"**

Because Zarate's interrogation, a central piece of evidence in the trial, was **refuted due to mistranslation**, jurors acquitted Zarate of every charge except possession of a firearm.



# The Impact of Bilingual Discovery

*The right to discovery varies depending on the country of the court handling a litigation.*

*The more expansive the right to discovery is in a bilingual case, the more details in need of careful observation exist.*



The details that affect **bilingual discovery** are as follows:

- 1) **LANGUAGE** - Meticulous translation must be rendered to assure that intent, not just words, are accurately conveyed.
- 2) **CULTURE** - For example, politeness vs. bluntness in email correspondence varies depending on a person's country of origin
- 3) **LOCAL LAW** - For example, France, that rarely uses discovery, has strict privacy laws preventing certain names and related facts from appearing in documents.
- 4) **VOLUME** - Electronic communication has multiplied discovery. Many emails contain nothing but a simple reply of "yes," "okay," or "sure," but all must be combed by lawyers.



# Keeping the **Human** in **Humanity**

In 2018, our over-the-phone interpreting line received a call around 11pm EST. **The caller on the line explained that there was an 80-year-old Iraqi woman wandering outside her house crying.** The woman couldn't speak any English, and the caller hoped to connect with an interpreter who could explain what was going on.

The call was instantly transferred to one of our expert Arab <> English interpreters.

**The interpreter discovered that the woman was upset because she had a green card and proper paperwork to obtain a U.S. citizenship, but her daughter and son-in-law had thrown them away before throwing her out on the street.** The woman had no place to go, and was unable to work because of her age. **She felt helpless and alone.** Our interpreter relayed the message to the caller. The caller thanked the interpreter for her time, and hung up.

Ten minutes later, the caller phoned again. She asked the interpreter to interpret for the Iraqi woman and a police officer that had just arrived.

**After many questions, and tears shed by the woman and our interpreter alike, the police officer explained that he would take care of the woman and connect her with an Iraqi host family, at the woman's request.**

**Because of the woman's situation, our team handled her entire case pro-bono.**

At the heart of every legal case there's a **human**.

At Day Translations, we pride ourselves on being a **human translation company**. All of our translations are provided by humans, checked by humans, and approved by humans. But these services don't only engage minds, they also take heart.

We have provided **translations in under an hour** to get someone out of prison. We have been on the line for the difficult calls to let family in another country know a loved one has gone to jail. And we have been at the **center of hearings, giving flawless testimony interpretations that explain the message and intent of the foreign speakers**.



Our team is comprised of **expert legal translators**, who value the heart in every translation. Because justice relies on 100% accurate translations, we don't settle for anything less.



# Our Language Services Are

## USCIS Approved

As a proud member of the **American Translators Association (ATA)**, all of our translations are accepted by the USCIS.

## Completely Confidential

We comply with **non-disclosure** agreements, and we don't store documents for over 3 months.

## Freely Certified

Certified translations are mandatory for several legal documents, and we provide these certifications **100% for free**.



# Resolution

At Day Translations, our team of legal experts consists of **professional linguists from across the globe. Our legal translators and interpreters undergo extensive training and certification**, both for proper communication in their language pairs, and comprehensive legal understanding of the laws corresponding to their fluent languages.

Our court interpreters have **hours of courtroom training and experience**. Due to their training, they have a thorough understanding of **legal terminology and requirements**. Due to their experience, they understand the **severity of 100% accuracy in legal interpretations**, and they adhere to that accuracy, regardless of circumstance.

**For every legal proceeding, we pair you with a translator or interpreter native to the foreign language involved in the case.** This ensures that the foreign language speaker's testimony is accurately conveyed to the fact-finders, with no risk of confusion. These native linguists also evaluate all actions that could be misunderstood due to cultural differences, and make sure the cultural meaning behind those actions is properly explained.

When it comes to bilingual communication in a legal setting, accuracy is not optional. All interrogations, testimonies, negotiations, and documentation must be translated by a language professional with extensive training and experience in legal translation. Settling for anything less will result in mistranslation, mistrials, and a lack of justice.

**When you need well trained, highly experienced linguists for your legal communication, count on Day Translations for 100% accuracy, every time.**



# Citations

[https://www.chinalawblog.com/2012/01/dueling\\_translations\\_you\\_got\\_that\\_right.html](https://www.chinalawblog.com/2012/01/dueling_translations_you_got_that_right.html)

"Fact-Finding without Facts: The Uncertain Evidentiary Foundations of International Criminal Convictions" by Nancy A. Combs

<https://www.economist.com/business/2012/11/10/legal-language>

<https://www.latimes.com/archives/la-xpm-1992-03-08-tm-5978-story.html>

<https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3492>

[https://www.thestar.com/news/crime/2012/01/05/mistakes\\_by\\_hindi\\_interpreter\\_leads\\_to\\_mis\\_trial\\_in\\_brampton\\_sex\\_assault\\_case.html](https://www.thestar.com/news/crime/2012/01/05/mistakes_by_hindi_interpreter_leads_to_mis_trial_in_brampton_sex_assault_case.html)

<https://www.cnn.com/2017/11/30/us/kate-steinle-murder-trial-verdict/index.html>

<https://www.sfexaminer.com/news/defense-shows-questions-lost-in-translation-during-police-interrogation-of-kate-steinles-alleged-killer/>

<https://www.kqed.org/news/11629621/trigger-mistranslated-defense-rests-case-in-steinle-murder-trial>





# Contact Us

 [www.daytranslations.com](http://www.daytranslations.com)

 [www.dayinterpreting.com](http://www.dayinterpreting.com)

 **1-800-969-6853**

 [contact@daytranslations.com](mailto:contact@daytranslations.com)