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Cover Page Footnote

The author wishes to acknowledge his MA Thesis supervisors, Prof. Dr. Jemina Napier & Prof. Dr. Jens Hessmann for their support on this research project; acknowledge all of the research subjects for participating this research. Special thanks to Natalie Atlas and Benjamin Hartmann for being my readers of the thesis and to Julian Trevino for supporting me with the writing of this article.

How American Sign Language-English Interpreters Who Can Hear Determine Need for a Deaf Interpreter for Court Proceedings

Christopher Tester

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ABSTRACT

This study investigates how and when hearing interpreters in the United States decide there is a need for a Deaf interpreter in court proceedings. Previous publications have strongly suggested that it is best practice to work with a Deaf interpreter for specific situations (NCIEC, 2007). In this study, the author utilized two frameworks: Brennan & Brown's (1997) *Equality before the Law*, and Mathers' (2009) *Deaf interpreters in court: an accommodation that is more than reasonable*, to design this study which brings to light the criteria used by hearing ASL-English interpreters when calling upon Deaf interpreters. This research also explores the hearing interpreter's view of the Deaf interpreter and allows for discussion about the experience of working as the hearing member of a Deaf-hearing team in the courtroom. Findings suggest that hearing interpreters are generally in alignment with best practices for working with Deaf interpreter specialists, but significant inconsistencies and barriers remain. Further research into this configuration and its accompanying dynamics is needed.

INTRODUCTION

Legal interpreting is a specialized field within interpreting which requires advanced training, knowledge, and skills (Hale, 2002, 2006, 2007; Mathers, 2007, 2009; Roberson et al, 2012; Stewart, K., Witter-Merrithew, A., Cobb, M., 2012). However, research into legal interpreting is relatively limited (Hale, 2006) and even more so within the field of signed language interpreting (Roberson et al., 2012; Russell, 2012). In the current body of signed language interpreting research, most has been focused on hearing interpreters who work between a signed language and a spoken language.

In recent years, there has been marked increase in the presence of interpreters who are Deaf working in different settings, including the courtroom (Boudreault, 2005; Forestal, 2014; NCIEC, 2007). A Certified Deaf Interpreter is a specialist who provides cultural and linguistic expertise. Furthermore, a Deaf interpreter is an individual who is a native or near-native signer with a lifetime experience as a Deaf individual, and who is also trained to ensure that communication is effective. The role and function of a Deaf interpreter will be defined within the literature review.

This study investigates the legal interpreters' qualifications and training, and whether they are aligned with the best practices of working with a Deaf interpreter specialist. The aim of the study is to investigate how and when hearing interpreters decide there is a need for a Deaf interpreter in court proceedings. This study addresses the following research questions:

- 1) What is the hearing interpreter's decision-making process for requesting a Deaf interpreter in court?

- 2) Is there a trend indicating a specific point during the proceedings when hearing interpreters request a Deaf interpreter?

There has been limited research on what decision-making criteria hearing ASL-English interpreters utilize when calling upon a Deaf interpreter specialist in the courtroom, even though the literature has shown that it is best practice to hire Deaf interpreters in this specific setting (LaVigne & Vernon, 2003; Mathers, 2009; Stewart, K., Witter-Merrithew, A., Cobb, M., 2009; Tuck, 2010). This research is not to suggest best practice, but to observe and document current practice, and present findings on hearing interpreters' experience and criteria for working with Deaf interpreters.

LITERATURE REVIEW

There has been increased research into the language used in the courts (Shuy, 2007), and an accompanying and growing body of research on interpreting in the courtroom, more than any other legal arena (Hale, 2006). There is also research that examines the ways the court process impacts the role of spoken language interpreters and the interpretation itself (Hale, 2006; Jacobsen, 2008; 2012; Lee, 2013). However, the volume of data is still relatively small in comparison to research in other professions (Hale, 2006).

There have been numerous studies of courtroom interpreting: the use of language within the courtroom (O'Barr, 1982 in Shuy, 2007; Shuy, 2007) and its effect on the jurors' perspectives (Hale, 2002, 2006; O'Barr, 1982 in Hale, 2002; Shuy, 2007); the impact of interpreted witness testimony on jurors (Berk-Seligson, 1990 in Hale, 2006; Hale, 2002); the roles and expectations of the interpreter (Berk-Seligson, 1990 in Hale, 2006; Hale, 2007; Jacobsen, 2012); modes of interpreting (Jacobsen, 2012); the accuracy and fidelity of interpretation (Berk-Seligson, 1990 in Hale, 2006; Hale, 2002, 2006, 2007; Moeketsi, 2001), which includes an investigation into the concept of 'face' and its impact on interpretation (Jacobsen, 2008); miscommunication, the 'attempt to restore communication' (which could be defined as clarification), and interpreters' strategies with handling miscommunication (Lee, 2013); and interpreter-initiated utterances, additions, and omissions which can result in powerful or powerless speech, and the subsequent perceptions of those interactions (Elsrud, 2014; Hale, 2002).

Research on sign language interpreting in the courts has provided a variety of perspectives, which include the impact of interpreting mode on accuracy, perception of the interpreter's role (both Deaf and non-Deaf), quality and competence of the interpreter, interpreter's linguistic decisions during interpretations, and Video Remote Interpreting in court (Brennan, 1999; Brennan & Brown, 1997; Brunson, 2008; Miller, 2001; Miller & Vernon, 2005; Napier & Leneham, 2011; Roberson et al., 2012; Russell, 2003, 2012; Turner, 1995).

Two important themes, based on existing research, are the varying perception of the role of the interpreter, and the accuracy of the interpreting process (Russell, 2012).

THE DEAF CONSUMER AND THEIR LANGUAGE

The study of sign language interpreting in the courtroom is not simply a study of interpreting between two languages, but also between two different modalities. Spoken languages are 'oral-aural' whereas signed languages are visual-gestural (Brennan, 1999). In addition to the

differences in modalities, signed languages have a minority status. They are used by a significantly smaller community, which is typically Deaf, and that community is deprived of the recognition, respect, and power that the English-speaking majority culture holds, especially in the United States of America and the United Kingdom (Brennan, 1999).

The following quote by LaVigne & McCray (2003) aptly describes the challenge to a Deaf person's status and language when encountering the court system:

But too often environment, education, and biology conspire against a Deaf person and deprive her of the opportunity to acquire a solid base of language of any kind, be it English or ASL. This language deficiency will invariably interfere with communication about most abstract matters such as the law and will throw communication in the courtroom or the lawyer's office into a tailspin. (pp. 848).

The language used by Deaf people in the United States is "highly variable" (LaVigne & Vernon, 2003:851). LaVigne & Vernon (2003) argues that the development of English literacy is strongly dependent on learning spoken English. Deaf children have limited access to spoken English, and as a result, find reading English a challenge for most of their lives (LaVigne & Vernon, 2003:855; Mathers, 2009). Written English is a symbolic form of spoken English. Hence, English is technically any Deaf individual's second language, even if it was the first or only language they were exposed to in childhood (LaVigne & Vernon, 2003:856). Miller & Vernon (2001) stated:

Thirty percent of the Deaf population is functionally illiterate, reading at grade level 2.8 or below (Alston, 1997; Marschark, 1993; Vernon & Miller, in press), and approximately 60% of Deaf persons are unable to read and understand the Miranda warnings, which are typically written at about the eighth-grade level (Simon, 1994; Vernon, 1996; Vernon & Coley, 1978; Vernon, Raifman, & Greenberg, 1996) (in Miller & Vernon, 2001:230).

American Sign Language (ASL) acquisition among Deaf people in the US also varies significantly. This is largely due to the fact that the majority of Deaf children do not learn ASL from their parents, but rather through peer contact. Less than 10% of Deaf children are born to Deaf parents (Padden, C., & Humpries, T., *Deaf in America: Voices from a culture* (1998) cited in LaVigne & Vernon, 2003:860; Mathers, 2009). All of these factors affect the Deaf community, which is estimated to number approximately 125,000 – 165,000 individuals in the United States (NAD-RSA report cited in Mathers, 2009). Similar statistics have been reported in the UK (Brennan & Brown, 1997).

LaVigne & Vernon (2003) and Miller & Vernon (2001) described the Deaf community's language as a whole to fall on a continuum between fluency in ASL, fluency in English, and minimal language skill (LaVigne & Vernon, 2003:878). The authors asserted that it is the interpreter's responsibility to determine what language and communication style is used by every Deaf individual entering the justice system. These variations can produce linguistic nuances easily misunderstood except by those with close association or intimate knowledge of the speaker's style (Mathers, 2009:14).

In the United States, it has been suggested that Deaf interpreters should be a part of the process of identifying and working with this assortment of consumers, especially with those who fall closer to the minimal language skills range (Mathers, 2009).

DEAF INTERPRETERS

Deaf interpreters are individuals who work as interpreters and are also Deaf themselves; they are an emerging sector of specialized professionals in the field of signed language interpreting. Through my own experience and observations as a Deaf interpreter and through discussions with fellow Deaf interpreters, it is apparent that Deaf interpreters are employed in an assortment of settings. One highly visible example is during national and international conferences. Some of these include the European Federation of Sign Language Interpreters (EFSLI, 2012, 2014), Conference of Interpreter Trainers (CIT, 2008, 2010, 2012, 2014), Association of Visual Language Interpreter Conference (AVLIC, 2014), and the United Nations in New York (2012, 2013, 2014, 2015, 2016). During some of these conferences, Deaf interpreters worked between two different signed languages (Danish Sign Language to International Sign, or British Sign Language to American Sign Language, e.g.) (Stone & Russell, 2011). In other conference settings, Deaf interpreters worked from English subtitles to American Sign Language, as they did during the Theoretical Issues of Sign Language Research conference (TISLR) (2013, 2016). Deaf professionals interpret the news on television in Denmark (Hardell & Batory, personal communications, 2014), in Belgium (Meulder & Heyerick, 2014), in the United Kingdom (Stone, 2009) and recently in the United States during emergencies. Deaf interpreters are also employed as translators (Meulder & Heyerick, 2014; Stone, 2009), for websites (Natua, E. Personal communications, 2015), electronic-video museum tours (e.g. Whitney Museum, New York), and in one situation, a satisfaction survey for New Jersey Administrative of the Courts (NJAOC, 2015).

Some research has attempted to identify the fundamental characteristics of Deaf interpreters. Deaf interpreters emerged naturally from the Deaf community as “balanced bilinguals” Kannepell (1993) (as cited in Boudreault, 2005), who clarified and facilitated communication among peers and with hearing people. Deaf people share the same language, culture, and knowledge of the Deaf world (Forestal, 2014:30), along with the experience of being Deaf and ‘navigating’ the non-Deaf world (Howard, N., Lecture Notes 2014). These combined characteristics become what is described as extra-linguistic knowledge, or ELK (Adam et al., 2014:8). However, specialized training is needed in order to transform such individuals into professional interpreting service providers (Forestal, 2014). In 2007, the United States National Consortium of Interpreter Education Centers conducted a study and discovered that Deaf interpreters worked most commonly in social services and medical appointments, with a total combined response rate of 48% for these two settings. 15% of the respondents reported working primarily in the legal setting (NCIEC, 2007). Still, literature on the role and function of Deaf interpreter is relatively limited (Boudreault, 2005; Forestal, 2014, de Meulder & Heyerick, 2014; Stone & Russell, 2011).

RATIONALE FOR CURRENT STUDY

Current best practices in the United States suggest that Deaf interpreters are, and should consistently be, working in the courts alongside their hearing counterparts. Mathers & Witter-Merrithew (2014) suggested that Deaf interpreters function as gatekeepers, ensuring that Deaf

clients are comfortable and aware of the process and have access to contextualized information. Boudreault (2005) indicated the importance of identifying a semilingual Deaf person in order to provide appropriate services, not only to staff sign language interpreters but also to provide clear rationale for that staffing to the “service providers,” “government agencies,” “court room,” and “legal authorities” (p. 332). Additionally, Mathers (2009) argued that a Deaf-hearing interpreting team is a critically important part of the solution to filling communication gaps. To date, there has been very limited research about the specific contributions of Deaf interpreters.

There is limited research on Deaf-hearing interpreting teams in the courtroom, and even less on how hearing interpreters make the determination to bring in a Deaf interpreter. Nor is there research on those states where there are no statutes or guidelines to support the decision to bring in a Deaf practitioner. Roberson et al., (2012) conducted a broad exploration into interpreting practices in the legal setting and included some discussion of Deaf interpreters. Participants were asked about the rationale for their decision to work with a Deaf interpreting team, and the results showed that the top four categories were: the Deaf consumer’s linguistic needs, language issues, the complexity of the case, and the availability of Deaf interpreters.

For the purpose of this study, I replicated a part of Brennan & Brown’s (1997) study and utilized criteria presented by Mathers (2009) on identifying the communication needs of Deaf litigants.

FRAMEWORK FOR THE STUDY

During the literature review, two studies came up that strongly influenced the development of the questionnaire for this study. The goal of utilizing both frameworks is to give the questionnaire a stronger reliability and validity. The first framework focused on researching demographics of the interpreters and their experience working in the courts. The second framework focused on defining rationale for the provision of Deaf interpreters in the courtroom, as well as the status of Deaf people and American Sign Language in the United States.

FIRST FRAMEWORK. *Equality before the Law: Deaf people’s access to Justice.*

Brennan & Brown’s *Equality before the Law: Deaf people’s access to Justice* was one of the first comprehensive research projects to analyze legal interpreting and Deaf people’s access to the justice system. The study focused on the status of legal sign language interpreting within the United Kingdom. It included several objectives, not limited to the following (Brennan & Brown, 1997:15):

1. The role of BSL/English interpreters in mediating access.
2. Problems inherent in the process of interpreting courtroom discourse.
3. Sociolinguistic and socio-cultural influences on the nature of courtroom interactions.

The research was conducted in three parts. The first consisted of interviews: collecting anecdotal evidence, perceptions, and experiences of Deaf individuals in different roles during the legal process, including defendant, witness, and plaintiff. Examination of the Deaf perspective was a pivotal element of this study.

The second stage was comprised of background research on BSL/English interpreters working in the courts. Their research aimed to document practicing interpreters in order to investigate the disparity between actual and ideal interpreter qualifications (Brennan & Brown, 1997). My study replicated this stage of their research.

Regarding interpreters' comprehension of Deaf individuals, Brennan & Brown (1997:37) found that while the majority of interpreters experienced some difficulty, it was infrequent. They also found that respondents with higher qualifications were more likely to admit to difficulty understanding than those with lower qualifications. Brennan & Brown (1997) suggested that Deaf people themselves should be brought into the court system to assume the role of providing 'linguistic and cultural information relating to the Deaf community' (p. 71). This is the key issue of my current study. What are the signals that lead a hearing interpreter to bring in a Deaf professional? Brennan & Brown (1997) did not explore this area empirically, however, in the United States, it is considered a best practice to bring in a Deaf interpreter as a specialist (Stewart, K., Witter-Merrithew, A., Cobb, M., 2009).

SECOND FRAMEWORK. *Deaf Interpreters in Court: An accommodation that is more than reasonable.*

Mathers (2009) suggested that, "A significant portion of the Deaf population is best served by the provision of a Deaf-hearing interpreting team accommodation" (p. 6). Mathers (2009) and Miller & Vernon (2001) described cases where Deaf individuals were wrongfully declared incompetent to stand trial and their due process rights were violated because of non-qualified ASL interpreters. One specific area of concern was that the Miranda warning be interpreted in a manner that is "readily understood by the defendant" (Miller & Vernon, 2001). Mathers (2009) noted that even with the reasonable accommodation of a Deaf-hearing team of co-interpreters, some Deaf individuals might remain incompetent to stand trial. She argued, however, that the test cannot be conducted without this configuration to ensure that, regardless of the result, full communication is provided.

In the United States, the prevailing rationale for utilizing a Deaf interpreter is the Deaf litigant's language. As described in the previous section (Mathers, 2009; Tuck, 2010; LaVigne & Vernon, 2003), Deaf interpreters have extra-linguistic knowledge (NCIEC, 2015) and "in-group" status, and so are more able to capture nuances in a Deaf person's communication style (LaVigne & Vernon, 2003; Mathers, 2009; Tuck, 2010; Boudreault, 2005). This not only relates to ASL production, but also to the lived experience of being Deaf, which is something that is foreign to a hearing interpreter (CAAOC, 2010). Mathers (2009) used the NCIEC Deaf Interpreter work team's recommendation for employing a Deaf-hearing interpreting team when an interpreter identifies any one of the following:

1. Underdeveloped ASL skills
2. Limited socialization in the Deaf community
3. Limited education
4. Cognitive challenges
5. Delayed language

6. Organic issues causing affect deficiencies
7. Mental illness
8. Problems caused by drug abuse
9. Physical challenges that impact communication

I used some of these labels in my questionnaire to learn which has the strongest impact on a hearing interpreter's decision to bring in a Deaf interpreter, and whether the decision and experience is consistent among interpreters.

This research focused on the hearing interpreter's perspective, and augments Brennan and Brown's work which did not explore the decisions and barriers involved in requesting a Deaf interpreter and the experience of working with them. Mathers (2009) best practice paper identified different trigger points for bringing in a Deaf interpreter. This study explores whether these suggested best practices are actually taking place in courts in the United States. I strive to illuminate the following areas: who decides when a Deaf interpreter should be brought into court; at what point this decision is made (i.e., the trigger event), the reasons why Deaf interpreters are typically brought in, and finally, when the need for a Deaf interpreter is made known to the court, whether the request is consistently honored.

METHOD

A combined quantitative-qualitative approach was adapted to address the research questions using a questionnaire instrument. This research has been approved by the affiliated university's board of examiners at Heriot Watt University. Follow up interviews with three participants were conducted to more thoroughly explore their decision-making processes.

INSTRUMENT

The questionnaire was administered through an online survey instrument supplied by the university. The questionnaire was open for 1 month: from 4, June 2015 through 4, July 2015. It consisted of 29 questions. Refer to Appendix 1 for the full list of questions.

PARTICIPANT RECRUITMENT

Both purposive and snowball sampling were utilized for participant recruitment (Hale, S. & Napier, J., 2013). The baseline requirements to take the questionnaire were that the interpreter worked in the United States, was not Deaf, and had experience interpreting in the courts. The researcher recruited participants for the study through several channels:

- 1) Sent personal e-mails to colleagues with whom the researcher had prior working, professional, or training experience.
- 2) Published the survey link on a legal listserv moderated by the Registry of the Interpreters for the Deaf's Legal Interpreters member section, which has 496 members (e-mail communication, August 4, 2015).

3) Posted the call for participants with the survey link on Facebook. Friends and colleagues were encouraged to share the link with their colleagues, which is a 'snowballing' effect. The call was also posted on the researcher's Linked-in profile page.

In addition, potential participants were encouraged to share the link to the questionnaire with other hearing interpreters with court experience.

PARTICIPANTS FOR THE INTERVIEWS

Participants voluntarily informed the researcher that they completed the questionnaire. Three participants were then individually contacted by email and asked to respond within 3 days if they were willing to be interviewed. All three responded affirmatively via e-mail. Participants were interviewed through a video chat program, either Skype or FaceTime, and the interviews were preserved utilizing a QuickTime screen recorder. The interviews were conducted in American Sign Language. The quotes used within this document are based on the researcher's translation into English. Each interview session lasted approximately 30 minutes.

RESULTS AND DISCUSSION

The results are presented in four sections: Participants' characteristics (including interpreting qualifications and professional experience); experience with Deaf clients and communication issues; teaming, which includes working with Deaf interpreters; and interview data.

PARTICIPANTS' CHARACTERISTICS

This study consists of 79 participants from 30 states and the District of Columbia who responded to the questionnaire. The three interviewees were selected from that pool of 79 participants. All of the interpreters are hearing, live in the United States and have experience working in the courts. One participant's responses had to be removed because the individual did not meet the baseline requirements. Thus, for the purpose of this study, 78 respondents' data will be utilized. Due to the limitations of the article, a summary will be provided for the demographics of the participants.

As seen in Table 1, the majority of respondents were females, with over 20 years of experience, holder of Specialty Certificate: Legal and were considered to be very experienced in the courtroom. The interpreters expressed greater confidence with their English than their American Sign Language skills.

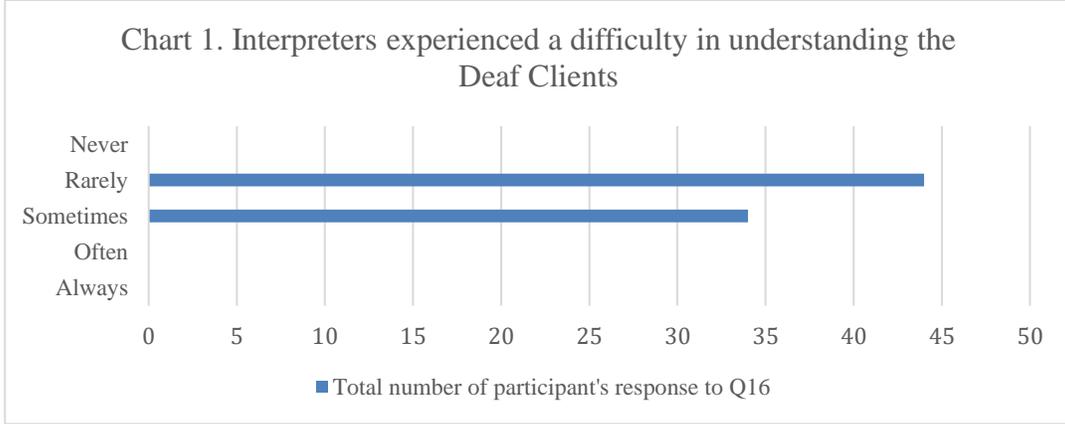
Table 1. A summary of participant demographics in the study.

Survey Question	Total number of responses
Number of participants	78*
Females	68
Males	10
Interpreters were in the age range of 30-40 years old	52
Nationally certified	77
Holds the advanced legal certification (Specialty Certificate: Legal)	57
ASL acquisition:	
As a child	35
As an adult	43
Interpreters with over 20 years of experience	54
Interpreters with over 20 years of courtroom experience	24
Interpreters with between 6 - 20 years of court room experience	47

* 79 responded, but 1(one) did not qualify

WORKING WITH DEAF CLIENTS

The next few questions focused on the participants' ability to understand and work with Deaf clients, and to identify trends in their interactions with Deaf clients in the courtroom. This section gives us a clear sense of what issues a hearing interpreter faces in the court room and helps to identify what challenges or barriers arise within the court room. Chart 1 shows the participant's overall experience with Deaf clients, and the level of difficulty in understanding Deaf clients. As shown in Chart 1, most interpreters rarely experienced a difficulty in comprehension.



As a way to follow up with Q16 and to find out what makes it difficult to understand a Deaf client, Table 2 represents the results of Q17.

Q17: Please rank as to what is the most common issue in understanding the Deaf client: Deaf client’s language.

Participants were asked to rank from 1 – 6 (1 as the most common reason, to 6 being the least common) and the results are presented in Table 2 below:

Table 2. Result of Q17 where the participants ranked the most common issue in understanding the Deaf client.

	Rank 1	Rank 2	Rank 3	Rank 4	Rank 5	Rank 6	N/A
Underdeveloped ASL Skills	28	15	13	6	6	3	1
Cognitive Challenges	18	21	20	7	5	2	0
Foreign Born/Other Signed Languages	16	8	12	9	11	12	5
Limited English	4	5	14	15	15	12	7
Limited Education	13	14	17	7	14	3	4
Other							

As seen in the Table 2, the top issue for the majority of the respondents was underdeveloped ASL skills. This shows that when hearing interpreters struggle to understand a Deaf person in the court, it is most likely due to the Deaf person’s underdeveloped ASL skills.

Table 3. Top 4 categories with combined data.

Categories	Combined rank 1-3 score.
Underdeveloped ASL Skills	56
Foreign Born	36
Cognitive Challenges	59
Limited Education	44

Cognitive Challenges received 21 responses as the second most common issue. However, these results would be misleading if the other rankings were ignored. So to analyze the data further, rankings 1-3 were combined. By combining those scores, we can see more holistically the different issues that the participants observed. Table 3 below represents the top four categories that were ranked with a combined score of 1, 2, and 3.

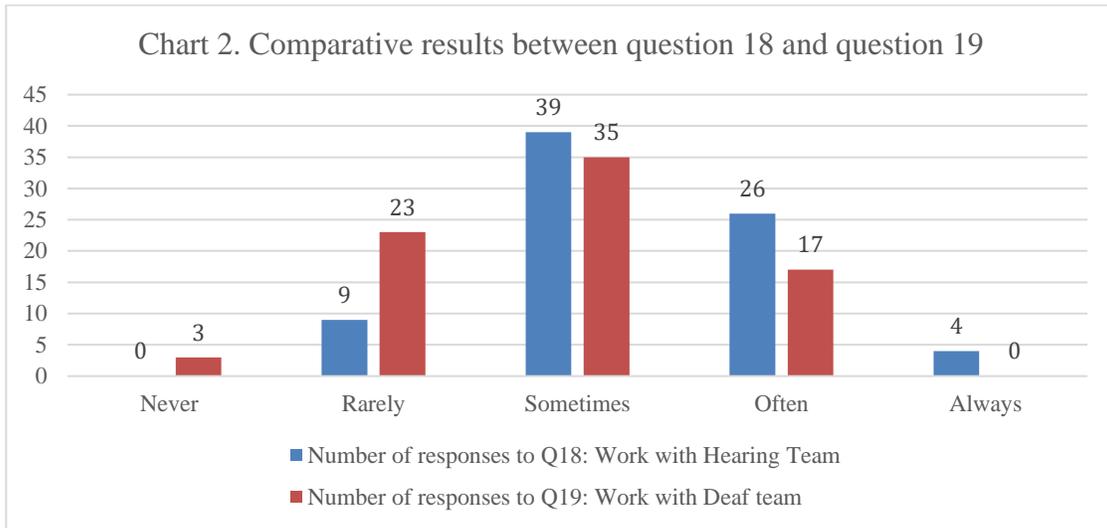
Again, as shown in Table 2, underdeveloped ASL skills were ranked the highest, but when incorporating ranks 1-3, Cognitive Challenges emerges as the leading issue, shown in Table 3. This shows that the communication challenges encountered with Deaf clients are not easy to demarcate. For example, if a Deaf individual is foreign born, s/he could demonstrate underdeveloped ASL skills, which does not necessarily mean s/he does not know any signed language. However, that foreign born person may be from a country where education for Deaf children is not supported, which could also lead to existing cognitive challenges. One or many of these characteristics may manifest in the same individual.

As seen from the responses to questions 16 and 17, the participants did not indicate complete absence of any issues, nor did any respond that they always had an issue understanding Deaf clients. 56% of the participants indicated that they rarely have issues. However, comprehension issues arise, the leading reasons due to the Deaf consumer's underdeveloped ASL skills and cognitive challenges.

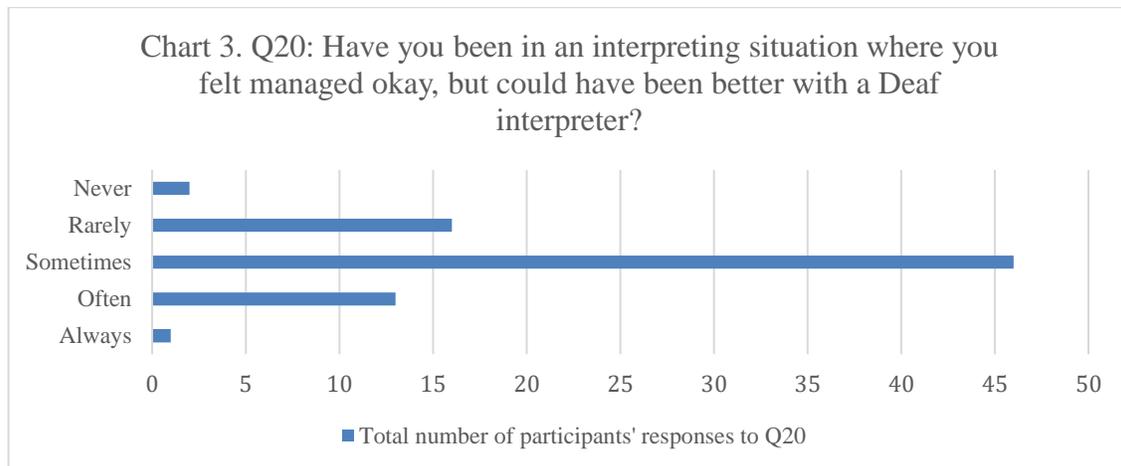
INTERPRETERS WORKING TOGETHER AS A TEAM

This section explores the participants' experience in and reactions to working in teamed situations, regardless of whether the partner is Deaf or hearing, and explores the interpreter's criteria for determining when to request a team, and reasons for not requesting a Deaf interpreting team. This section is separated into two parts. The first is focused on frequency and strategies for setting up a Deaf-hearing team, and second is the hearing interpreter's experience of teaming.

FREQUENCY AND STRATEGIES FOR TEAMED INTERPRETING

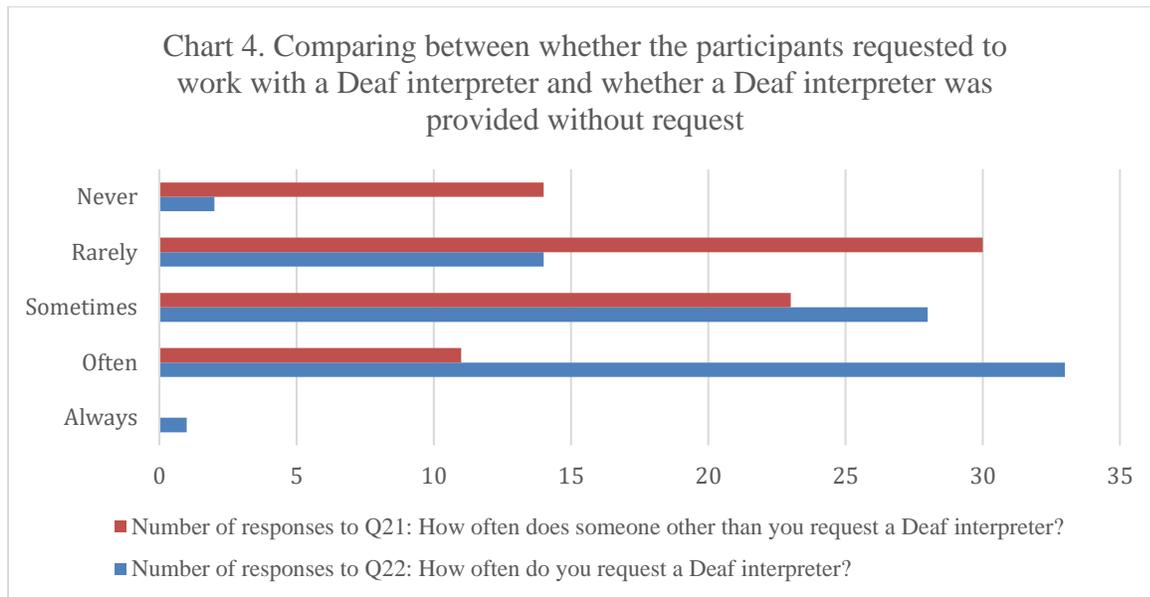


For the purpose of comparison in Chart 2, all respondents indicated that some portion of court work was always with a hearing team (there were 0 “never” responses) whereas there were some who never worked with a Deaf interpreter (3 “never” responses). Additionally, four respondents “always” work with a hearing team and none reported “always” working with a Deaf team. Most responses were in the middle range: rarely (23) sometimes (35) and often (17). This result demonstrates that many hearing interpreters are in alignment with the current best practices of working with a Deaf interpreter in the courts. Roberson et al., (2012) found that 48% of their participants never or rarely worked with a Deaf interpreting team. In this study, the combination of never and rarely is 33.3% of the total sample. Based on this study's limited data, all of the respondents who held the SC:L worked with Deaf interpreters, with responses ranging from rarely to often.



The result of this question as shown in Chart 3 is consistent with the results shown in Chart 1, which explored participants’ experience in understanding Deaf clients. Most respondents answered sometimes and rarely. It will be important to explore whether the interpreter continued

working without a Deaf interpreter in those instances, and if so, what were the repercussions, if any. In addition, data from court personnel and Deaf clients is needed to see if the interpreter's perspective is the same or different from theirs. For further research, it would be strongly recommended to follow Brennan & Brown's (1997) study to incorporate all of the stakeholders and achieve a more complete picture.



A majority of the respondents had experience with requesting a Deaf interpreter. While the results in Chart 4 do not show to whom the request was made, it does show that they frequently make the argument to bring in a Deaf interpreter. Additionally, this question considers the possibility of cases requiring adjournment, and that there may be a different hearing interpreter scheduled for the new date. Forty-four (44) participants (excluding respondents who fell into the never and rarely categories) stated that they usually initiate the request, which underscores the importance of having effective discussions with court personnel about the need for Deaf/hearing teams as a part of appropriate staffing. This is further supported by data gleaned from Q22. When asked how often do you request to work with a Deaf interpreter, the results indicate that if sometimes is statistically closer to infrequent, then potentially more than 50% of the respondents do not often request Deaf interpreters, which would support Roberson et al.'s (2012) finding that 48% of the interpreters rarely or never work with Deaf interpreter. This result could be compared with Q19, and possibly suggest that many interpreters will work with a Deaf interpreter that is already in place but may be less likely to request one on their own.

Q23: What criteria or indicators do you use that leads you to request for Deaf Interpreter?

The participants were asked to rank the following statements from 1-8.

Table 4. The following numbers represent the total of the participants' rank to each criteria and/or indicators. 1 being the most important criteria and 8 being the least important criteria.

	Rank 1	Rank 2	Rank 3	Rank 4	Rank 5	Rank 6	Rank 7	Rank 8	N/A
Complicated situation (the case itself);	23	30	17	2	1	2	1	2	1
Deaf individual's ASL (using the criteria described in question 17)	48	14	10	3	1	1	1	1	0
Deaf individual's English	0	7	11	13	11	7	8	7	15
My own ASL skills	2	2	4	16	9	13	13	12	8
My legal knowledge	0	0	0	6	12	12	19	20	10
My legal interpreting experience	0	2	4	3	15	11	15	21	8
Prefer to work as a team than solo	9	12	14	11	6	2	8	9	8
Other	10	3	3	0	2	0	1	4	56

As seen in Table 4, the top two categories, with rankings of 1-4, were the Deaf individuals' ASL (74 responses), closely followed by complicated situation (71 responses). The third category was "prefer to work as a team rather than solo" (45 responses) and "Deaf person's English" (31 responses). The data shows that interpreters are requesting a Deaf interpreting team mostly due to complicated situations and the Deaf consumer's ASL usage. This is consistent with previous research which demonstrated that many court cases are complex, and become even more so when compounded by language issues, like underdeveloped ASL skills or cognitive challenges (e.g. LaVigne & Vernon, 2003; Mathers, 2009; Miller & Vernon, 2001; Tuck, 2010).

Q24: What issues or barriers that prevented Deaf Interpreters from being provided?

Participants were asked to rank 1-6, with 1 as the most common reason for why there was not a Deaf interpreter in place.

1. I felt I had adequate communication and proceeded
2. Judge declined your request
3. Lawyer(s) objected to your request

4. Interpreter coordinator couldn't find a Deaf interpreter
5. Deaf client did not want to work with a Deaf interpreter
6. Requested for next time, but did not want to stop in the middle of a court proceeding.
7. Other

One result of this question showed that the main reason a Deaf interpreter was not provided was due to lack of availability (option 4) with 47 responses. Several of the respondents added comments mentioning issues with their interpreter coordinator. Other comments indicated that an issue was the lack of qualified Deaf interpreters who are trained to work in the courts. Another explanation was that because a previous hearing interpreter did not request a Deaf interpreter, the next interpreter's request for one was declined.

- a) "Other SC:L's in the area will cover the same case without a CDI team - precedent is set."

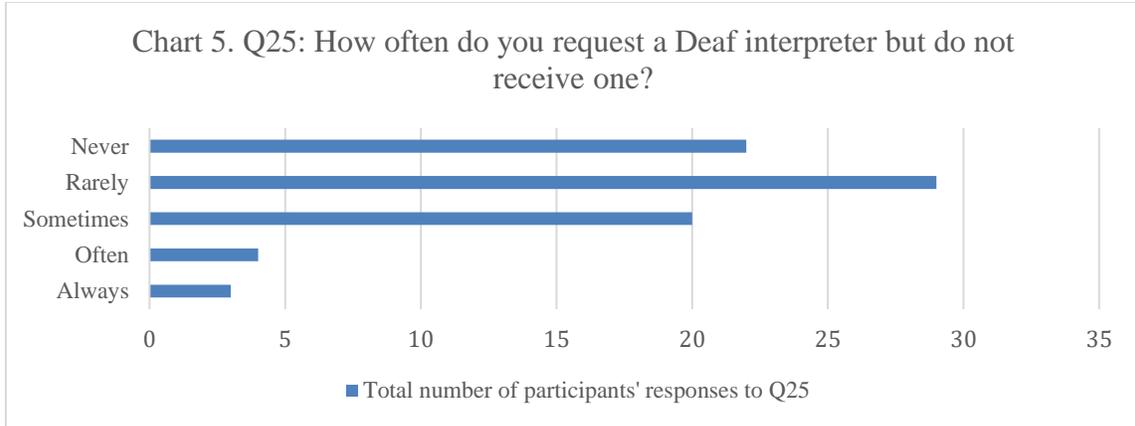
This is also documented in Hale (2006) and Roberson et al. (2012), where they found that court interpreters are not consistent in their practice.

The next category was that the interpreter felt s/he had adequate communication and proceeded (32 responses). There is one quote worth noting here, which exemplifies the factors an interpreter has to weigh before determining whether to stop or proceed.

- a) "As an explanation for why I recently chose not to stop in the middle of a proceeding, the Deaf consumer was being arraigned and if I stopped, he would have spent the weekend in jail. After I explained the situation to the attorney, I chose to muddle through due to pragmatics so that he could go home. I would not have made that choice if it were simply a matter of the Deaf person being able to go home and come back on a future date."

These results are also surprising, as one might reasonably expect resistance from the courts. One possible explanation may be due to the fact that many of this study's participants live in states where there are established policies and procedures for securing a Deaf interpreter (New Jersey and California, for example). It would be interesting to do a comparative study of states with specific statutes that include language about Deaf interpreters and states that do not have such laws to see if there is a quantifiable difference.

Reinforcing what has already been shown in Q24 above, that the failure to secure a Deaf interpreter was often due to the lack of qualified Deaf interpreters in the area, another respondent commented about financial obstacles presented by the courts. Figure 5 shows the total number of responses to Q25, where the participants were asked how often they requested a Deaf interpreter but did not receive one.



Another comment in response to Q25 supports the data from Q24, where a prior interpreter prevented the next interpreter from being able to request a Deaf interpreter:

- a) “The request is denied because one or more prior interpreters on the case did not request one and/or stated one wasn't necessary.”

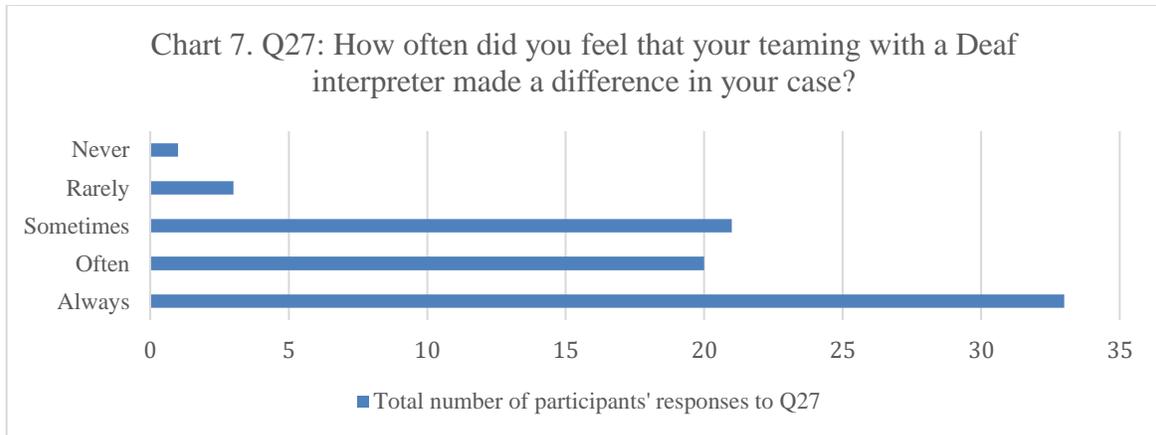
This quote again calls to question the challenge of consistency between interpreters, and the need to recognize different levels of skills and experience that may impact interpreting and interpersonal decisions within the courtroom. One interpreter’s skill set may differ from the next interpreter’s skill set.

HEARING INTERPRETERS’ EXPERIENCE WORKING WITH DEAF INTERPRETERS

This section focuses on hearing interpreters’ experiences working with Deaf interpreters and their perception of the process.



As shown in Chart 6, the majority of the respondents (59%) have had a very positive experience working with Deaf interpreters in court. Zero (0) responded to having a very negative experience.



Above in Chart 7, the responses vary. While (33) 42% responded that teaming with a Deaf interpreter always made a difference, the remainder reported mixed responses. This is consistent with Chart 6. If the experience were very positive, then the impact on the case would be very positive. The numbers almost match. The following are quotes from participants that reflect both strong results and mixed results.

- a. “Deaf interpreters who are trained in court are a huge advantage to the hearing co-interpreter and the Deaf individual in the proceeding. The message equivalence and accuracy is enhanced. The CDI is linguistically and culturally appropriate for the Deaf consumer in such a legal setting.”
- b. “I have always felt that the inherent convective nature of working with a Deaf Interpreter and the benefits of having primary users of both languages on the team had yielded interpretations that were more accurate and both linguistically and culturally more accessible to all parties involved.”
- c. “There are a few Deaf Interpreters that I value working with. There are a few other's that make matters worse by not knowing the legal jargon necessary for accurate interpretation.”
- d. “There are few qualified DIs who can contribute something which I cannot do on my own (and with another HI team). Most simply do not help the situation, and it is not worth the circus.”

These quotes demonstrate overall a very positive response to whether Deaf interpreters actually make a difference to the case. However, as shown in quotes c and d, it is dependent on the Deaf interpreter. The following section provides further analysis of the participants’ responses regarding their experience working with Deaf interpreters, and what shapes a successful Deaf-hearing team within the courts.

In Q28, all participants were offered the opportunity to share their experience of working with Deaf interpreters in court. There were 78 responses, and several themes emerged. Two quotes are shared for each thematic category.

1. Many Deaf interpreters do not have sufficient training or legal knowledge and can disrupt the process.
 - a. “In some instances, I felt that the Deaf interpreter had insufficient training, or lacked experience in working with the courts. In other instances, the interpretation provided by the Deaf interpreter was no more effective than that provided by myself. In other words, the Deaf interpreter did little more than parrot the interpretation I provided to them.”
 - b. “In a pinch, I have worked with DIs, not CDIs, and while communication was helped, the result was disastrous. With all but one untrained DI, the DI's operated without any boundaries, advising attorney of what they thought really happened, talking to client outside of court, "expanding" in an untrained manner that was education and advocacy instead of finding semantic equivalence, etc. I can work with a trained CDI who understands the role of an interpreter but has no legal training easier than I can work with a DI who understands the legal system but not the role of an interpreter.”

These comments represent a recurring theme. The issues are twofold: first, some certified Deaf interpreters lack specialized legal training; second, some of the respondents are working with Deaf interpreters who are not yet certified.

2. Just as different hearing interpreters have various skill sets, so do Deaf interpreters, which can contribute to mixed experiences.
 - a. “Deaf interpreters skill ranges just like hearing interpreters. I definitely have preferred Deaf interpreters to work with. I don't just want a CDI, but one that is truly bilingual and knows the legal system. Also one who doesn't just copy what I do. Unfortunately this ‘perfect formula’ is hard to find.”
 - b. “When a Deaf interpreter is placed to work in the courts that does not have the adequate language flexibility it does not go well. This same statement holds true for hearing interpreters. Any interpreter that does not have the knowledge of the setting or the language skills for the clients leads to a bad experience. Myself included. There have been times where I have not been the best fit for the job or the team and things did not go smoothly.”

This category focuses on Deaf interpreters who have specialized legal training, and yet may not be the best match for the hearing interpreter. Quote A is a good example of recognizing that not all Deaf interpreters are created equal, just as not all hearing interpreters are created equal. Each interpreter possesses different skill sets, experience and knowledge, and prior research has shown this to be problematic for working in the courts, (Hale, 2006; and Roberson et al, 2012).

In this study's sample, the majority of the respondents had 20+ years of experience and held the SC:L certificate. On average, what experience and training do Deaf interpreters bring to the table? At the time of writing, there are approximately 350 interpreters who possess the SC:L in the United States and from that number only 10 Deaf interpreters in the entire country have earned the SC:L (RID.org, accessed on March 3, 2017). Additionally, 47 Deaf interpreters hold the Conditional Legal Interpreting Permit – Relay (CLIP-R) certificate that requires only

verification of hours of training, but does not require examinations (RID.org, accessed on March 3, 2017).

3. Deaf interpreters have been an invaluable addition to the team and collaboration has been highly successful and productive.
 - a. “I am lucky to usually team with interpreters who are top notch. I always benefit from the experience in terms of learning from my colleagues and in the post-assignment discussions and observations we're able to have. I have better confidence in the efficacy of the interpretation and in the service to the Deaf consumer when I work with a Deaf interpreter team.”
 - b. “The CDIs that I work with are amazing! Well trained and a couple with so much experience that I learn every time I work with them. I'm always grateful to have a CDI to work with, especially since any court work requires certification by state law. Uncertified DIs can't work in legal settings in this state.”

This third category represents individuals who expressed a very positive perspective about working with Deaf interpreters. In comment b, the participant explained that in her state, unqualified Deaf interpreters are not allowed in their courts, therefore Deaf and hearing interpreters have the same qualifications, which seems to have resulted in a consistently productive working experience. For some of these individuals, partnering with a Deaf team increased their confidence in the work itself.

RESULTS FROM THE INTERVIEWS

Interviews with three of the participants were conducted to gauge the priority areas of their decision-making process for requesting a Deaf interpreter team. The interview followed a semi-structured form. The participants will be labeled as P1, P2, and P3. They were not asked to divulge their specific answers to the questionnaire, which means their background information is already included in the demographics section of the data. The three participants exhibited very similar characteristics which include being female with more than 15 years of experience and having SC:L certification. In addition, they all live on the East coast of the United States. This similarity among the participants potentially could skew the conclusion of this interview portion. The goal of the interviews was to discern their decision-making process for requesting a Deaf interpreter, and how they ordinarily proceeded with that decision.

Question 1: Does legal jargon and specialist terminology factor into your decision to bring in a Deaf interpreter?

All three respondents answered no to this question, and felt that jargon and terminology was not a factor. All shared similar explanations, where with their wealth of experience, specialist terminology becomes predictable, especially if they work at a particular courthouse on a regular basis. However, P1 shared an example of when specialist terminology might be a consideration.

- a) “Since I do not have mental health training, often I am not compatible for the case and the Deaf client. Sometimes it is appropriate to bring in a Deaf interpreter who

has mental health training, (for a case in court that has strong ties to mental health issues or argument), or recuse myself and find another hearing interpreter who is well versed in mental health issues and also specialized in court work.”

P1 expressed the importance of preparation and gathering information and details on the case before making decisions about teaming configuration and determining whether one should even accept that particular assignment.

Question 2: Does interrupting for clarification have a part for your consideration in getting a Deaf interpreter?

All of the participants expressed that it was not difficult to interrupt for clarification. Specifically, P3 indicated that sometimes it is more challenging to interrupt, especially in smaller courts, where a case can proceed quickly. However, she added that the presence of such challenges doesn't mean she does not interrupt. P2 and P3 shared a similar perspective. What also emerged is that while it may not be too challenging to interrupt the courts, it may be a challenge to find a culturally appropriate way to interrupt a Deaf person. P3 stated that if it is difficult to get a specific answer from the Deaf client after clarification attempts, that is a trigger moment for requesting a Deaf interpreting team.

This description shows an example how the interpreter considers different factors in their work. The courts have specific protocols to interrupt and request clarification. This is standard and teachable. However, each Deaf client is different, and has different ways of handling and understanding the purpose of interruptions.

Question 3: Share your general process of determining the need to work with a Deaf interpreter team.

Each participant was invited to talk about whatever issues they felt were important to consider, and how they typically make the decision to bring in a Deaf interpreter. Each offered examples from their own experience.

All three participants stated that they include consideration of a Deaf interpreter's services for every court job they accept. P2 and P3 are more similar in their process than P1. P1 explained that in her city, a group of court specialized interpreters have established their own protocol, and they have developed a list where they will note patterns and demands of common types of clients or cases and will automatically have a Deaf-hearing interpreting team put into place if certain list criteria are met. For example, any Deaf witness testimony or Deaf children involved in proceedings will trigger staffing with a Deaf-hearing team. P1 shared that even the court-employed interpreter coordinator in that city has started to automatically assign a Deaf-hearing team for any court case involving a Deaf child. P1 also explained that for arraignments, they previously established Deaf-hearing interpreter teams automatically, but found this to be not only difficult to manage, but also not always successful. Currently, a Deaf-hearing interpreting team works together at arraignments with the Deaf interpreter acting as a monitor of the process to see if a modification to communication is required. Together, they decide whether this particular consumer should have a Deaf-hearing team for future appearances.

P2 and P3's experiences were slightly different from P1, but they shared the practice of doing a communication assessment by meeting with the Deaf client before any proceedings

began. Both typically meet the Deaf client alone as their courts do not ordinarily send in a Deaf-hearing team at the first request. One of the most important considerations mentioned by all three interviewees is whether the Deaf client has any prior experience with the court process and is familiar with how the system works. P2 stated that before accepting an assignment, she does some “profiling” consisting of an informal assessment, considering the participants’ names, how many parties to the case are Deaf, the nature of the case (domestic violence or violation of probation, for example), whether it is a first appearance or a case that is already moving through the system. She added that if it is a continued case that was previously handled by the state’s two full-time staff interpreters who also possess the SC:L and they decided the case did not need a Deaf interpreter, she will trust their decision. However, she is not afraid to challenge that decision if there is a change in the case, due to any number of possible factors.

P3 suggested similar reasoning, and provided an example. P3 met with a Deaf client prior to a court hearing and had clear and easy communication during which both appeared to understand each other. Once they entered the courtroom, however, communication became difficult. The interpretation required several clarifications and repetitions. After the case was over, they spoke briefly outside the courtroom, and communication was clear and easy again. This experience helped the interpreter to recognize that a Deaf interpreter partner would have been beneficial, because a Deaf person’s language can change in response to stress. This is something that could not have been predicted during the initial communication check.

LIMITATIONS OF THE RESEARCH

It is important to acknowledge some limitations of this research study. The researcher acknowledges that because it was known that he is a Deaf interpreter himself, this may have prevented some hearing interpreters, especially those who might hold a less favorable view of working with Deaf interpreters, from participating in this study. Therefore, the data may be skewed to a more positive result. Also, as mentioned in previous analysis, due to the use of the Legal Interpreters member section listserv, the participant pool does not necessarily represent the entire pool of hearing interpreters who have experience working in the courts. Members of RID’s Legal Interpreters member section are more likely to be motivated to advance their work and remain current with specialized legal training.

CONCLUSION

This research explored different aspects of hearing interpreters’ experiences working with Deaf interpreters:

- 1) More than 50% of the participants had over 20 years of experience working in the courts and possessed the RID’s Specialty Certificate: Legal (SC:L).
- 2) Deaf consumers’ underdeveloped ASL is the main identifier for requesting a Deaf interpreter team.
- 3) Interpreters prefer to have statutory support and a systematic way to identify situations or characteristics of persons that require a Deaf interpreter, reducing the burden on the hearing interpreter to make that decision and the possibility of variable conditions.
- 4) The majority of those surveyed responded favorably to working with Deaf interpreters.

- 5) Based on this data, one cannot conclude precisely when a hearing interpreter decides to bring in a Deaf interpreter.

As seen through the data, the answer is not clear-cut. Based on the questionnaire, the primary reason for working with a Deaf interpreter is due to the Deaf client's underdeveloped ASL skills or his/her cognitive challenges. However, many participants, including the interviewees, expressed that it is not easy to isolate one specific factor; rather the decision involves a combination of numerous factors including the consumer's prior experience with the court system and world knowledge. Due to a complex combination of factors, it is not always clear as to when the participants decide to bring in a Deaf interpreter. In some situations, Deaf interpreters are already part of the team, therefore removing the burden on hearing interpreters to make the decision alone.

As for the interpreter's decision-making process, there appears to be a wider variety of considerations. As P1 shared, she and a Deaf interpreter do the assessment and collaboratively determine whether the Deaf-hearing interpreter configuration is appropriate. However, based on the data, the hearing interpreter generally bears the burden of doing that assessment without support. P2 expressed relief that in her state, there is a statute that will support her decision to bring in a Deaf interpreter based on her assessment. A few participants commented in the questionnaire that they experience a level of frustration due to a lack of support from their colleagues and/or from the court interpreter coordinator when making a decision to work with a Deaf interpreter.

In sum, the data provided additional information for further analysis. The participants on average expressed higher confidence in their English skills compared to their American Sign Language skills, and prefer to work in a team setting rather than solo. Since the current practice does not suggest that one should work with a Deaf interpreter in every case, it is challenging to determine whether one should always work with a Deaf interpreter when Mathers' (2009) criteria is present in the case. However, based on these results, it does seem that when there are no barriers, hearing interpreters are more likely to be aligned with the best practices. One particularly important observation is that the majority of the participants are very experienced court interpreters with intensive training, and they expect the same level of expertise from Deaf interpreters.

RECOMMENDATIONS FOR FUTURE RESEARCH

At the conclusion of this study, it is strongly recommended to expand the research in several ways. The first recommendation is to expand the interviews with hearing legal interpreters to elicit more of the specific elements of their decision-making process with a special focus on when exactly they determine that a Deaf interpreter should be brought in. While my study intended to capture the "when," due to a complex combination of factors, it was not determined. Additionally, one might consider a longitudinal study, where interpreters are asked to track their experience and document the triggering moment that caused them to determine a Deaf interpreter was needed and how they resolved it.

The second recommendation is to replicate this study with Deaf interpreters, and analyze Deaf interpreter's training, background and work experience in court. Additional in-depth research is necessary to gain a deeper understanding of what Deaf interpreters bring to the

courtroom setting, more specifically looking at their intralingual interpreting process to find out why and how some Deaf interpreters produce more successful work than others. This in-depth study will help to determine whether utilizing Deaf interpreters actually improves a Deaf person's access to the justice system.

The third and final recommendation for additional research is to model Brennan & Brown's (1997) research, which included all possible stakeholder perspectives: the interpreting team (Deaf and hearing), the Deaf client, and the court staff. Alternatively, perhaps a more focused study involving court personnel and Deaf clients would be beneficial, to compare their experiences of Deaf-hearing teams and teams comprised of only hearing interpreters.

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