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# ITIA BULLETIN

February 2011

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## ■ Editorial

Dear Readers,

This issue has been co-edited by Gosia Emanowicz, who has been editing the Bulletin for the last year, and myself, the new editor of the Bulletin. I am taking over from Gosia and hope that I will be able to live up to your expectations and keep up the high standards set by my predecessors. Gosia's contribution over the last year is much appreciated.

My objective is to cover a broad spectrum of topics relating to all disciplines within the domain of translation and interpreting. Ideally I would like to focus on issues directly concerning Ireland, however, as we are living in a global village and working in a global market, which is especially true for translators, I will also report on interesting stories relating to our profession from around the world. If anyone would like to make any suggestions or contributions to the Bulletin, they are more than welcome to do so via the email provided below.

I aim to produce one issue of the Bulletin every month. However should this be impossible due to personal or professional circumstances, the Bulletin will appear at least bimonthly.

I would like to thank Liz Hayes, whose contribution to the Bulletin over the years has been invaluable. She was the editor of the Bulletin for a number of years, and over the last year she has been assisting Gosia as a proofreader. I wish Liz every success in her future endeavours. At the same time I would like to invite new candidates to fill in Liz's position. Like the editor's, this position is also a voluntary one. If you are a native English speaker and are interested in proof-reading the Bulletin, please contact me at [theitiabulletin@gmail.com](mailto:theitiabulletin@gmail.com).

Last but not least, I would also like to thank Jody Byrne for his continuing input into the formatting of the Bulletin.

**Adam Brozynski**  
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## ■ Interpreter's actions raise suspect rights question

Experts say interview 'troublesome' and 'dangerous' Unethical language interpreting during a police interrogation of a Waynesboro murder suspect may prevent the man's confession from reaching a courtroom, said a defense attorney and experts.

During a Waynesboro detective's interrogation of David Luna Sanchez in June, a Spanish interpreter failed to relay the defendant's request that an attorney be present, an interview transcript shows.

Moments into the interview, Sanchez asked for an attorney upon hearing a reading of his "Miranda rights," which inform a criminal suspect of the right to remain silent and to be represented by an attorney.

But the interpreter did not relay the request to Waynesboro police Sgt. Becky Moran. "Yes, I would like to have a lawyer present here now to tell him well, whatever it would be," Sanchez said.

"Okay," the interpreter responded in Spanish. "Listen to what I'm saying. She only wants to listen to the side of your story."

Moran, who declined comment, never learned Sanchez asked for an attorney, according to the transcript. Assistant Commonwealth's Attorney Jim Camblos also declined comment.

The interpreter's fumbling could cause the entire interrogation to be thrown out as evidence, including portions where Sanchez described stabbing a man in self-defense, said defense attorney Scott Hansen.

"At the end of the day, the best I can hope ... is to keep out my client's statements about himself," Hansen said.

The interrogation took place at the Putnam County Sheriff's Office in Florida several days after Sanchez, an illegal immigrant from Mexico, fled Waynesboro in a primer black Ford Taurus in the wake of the June 27 stabbing death of Eduardo "Piku" Herrera, 39, of 260 N. Commerce Ave., police said.

Sanchez is charged with second-degree murder. Authorities charged a co-defendant, Abiel Vazquez, 19, of Waynesboro, with principle in the second degree. At a preliminary hearing, Vazquez testified he was present at the stabbing and later watched Sanchez clean a knife and throw it into the woods. Authorities would not name the interpreter.

After hearing the dialogue from the transcript, two interpretation experts and a law expert critiqued the procedure.

A member of the *American Translators Association* (ATA) described the interview as "a messy situation."

“Your role as an interpreter is strictly to translate exactly what the question is and what the answer is,” said Mary van den Bosch, of the regional ATA chapter. “No sidebars, no nothing.”

Interpreter Rosemary W. Dann echoed van der Bosch. “The fact that the interpreter did not interpret what [Sanchez] said is troublesome,” Dann said. “The interpreter’s job is not to be an advocate for either side.”

Dann, chairwoman of the National Association of Judiciary Interpreters and Translators, said it’s important to serve as a linguistic link without embellishing or explaining.

From the first pages of the transcript to the last, Sanchez asked questions that showed he did not understand what was happening.

He declined to sign a waiver of his rights and repeatedly asked the interpreter about an attorney.

“All this, is it going to be given to a lawyer?” he asked on page 119.

“I don’t know,” the interpreter replied. “I am just translating ... your side of the story.”

“Anyways,” Sanchez replied, “I need to have a lawyer to tell him what happened.”

When Hansen saw the transcript, he described a moment of red flags and lightning bolts. Still, the defence attorney said there might be portions that will benefit Sanchez. “Even though there may be a violation to Miranda, we may not want to exclude [the transcript],” Hansen said.

Waynesboro police spokesman Sgt. Kelly Walker said officers are supposed to stop questioning a suspect once they hear an “unequivocal” request for an attorney a point reinforced by John Whitehead, president of The Rutherford Institute in Charlottesville.

The institute, which gained national recognition for pursuing a lawsuit against President Bill Clinton in 1997, provides free legal services in constitutional and human rights cases.

“A morally responsible prosecutor now will probably halt this,” Whitehead said. “I think at the point when [Sanchez] asked for a lawyer, the law is pretty clear.”

He described the situation as unique because the investigator never learned about the request. Whitehead said serious problems can arise with language barriers.

“When someone doesn’t know the language you have to tread even lighter,” he said. “It sounds like the interpreter was doing an investigation it’s dangerous stuff.” Sanchez is scheduled to appear in court later this month.

By Chase Purdy

Published: January 13, 2011 in The News Virginian

Original source:

<http://tinyurl.com/5sac4va>

## ■ Translation as Literary Ambassador

The American market is vast and almost every industry would like to establish its presence there. However, does it offer great opportunities for literary translators? Do the citizens of the United States of America enjoy reading translated works of literature? It seems that is not the case. But as the author of this article argues, perhaps there is some hope that things might change in the future.

Here is an excerpt from the New York Times article by LARRY ROTHER Translation as Literary Ambassador for those who might be interested in this issue:

“Among foreign cultural institutes and publishers, the traditional American aversion to literature in translation is known as “the 3 percent problem.” But now, hoping to increase their minuscule share of the American book market — about 3 percent — foreign governments and foundations, especially those on the margins of Europe, are taking matters into their own hands and plunging into the publishing fray in the United States.

Increasingly, that campaign is no longer limited to widely spoken languages like French and German. From Romania to Catalonia to Iceland, cultural institutes and agencies are subsidizing publication of books in English, underwriting the training of translators, encouraging their writers to tour in the United States, submitting to American marketing and promotional techniques they may have previously shunned and exploiting existing niches in the publishing industry.”

The full article can be found at:

<http://tinyurl.com/26sjufr>

## ■ Joining the ITIA

The *Irish Translators' & Interpreters' Association* is pleased to welcome new members to the association. We currently have the following categories of membership:

- ◆ Professional
- ◆ Associate
- ◆ Corporate
- ◆ Institutional
- ◆ Student
- ◆ Honorary

*Professional Membership* is awarded to translators or interpreters who meet the strict criteria of the ITIA based on qualification and level of experience. Applicants must also achieve a PASS in the annual Professional Membership Examination (translator or interpreter) set by the ITIA.

*Associate Membership* is available to translators and interpreters who are starting out on their careers and to those who do not work full-time as a translator or interpreter. Many members avail of Associate Membership until such time as they have acquired the requisite experience and/or qualifications to apply for Professional Membership. Associate Membership is also availed of by people with a professional interest in the professions of translation and interpreting (e.g. terminologists, translation/interpreting tutors etc.) and by those who have a general interest in these professions.

*Corporate Membership* is available to translation companies. As this category is currently under review, we are not accepting applications at the moment.

*Institutional Membership* is available to bodies that do not function as commercial agencies, for example university centres for translation and interpreting studies or cultural institutes. Application documents for Institutional membership are currently being prepared.

*Student Membership* is available to persons undertaking undergraduate studies in any discipline or those undertaking postgraduate studies in translation or interpreting.

*Honorary Membership* is awarded by the ITIA AGM to persons in Ireland or abroad who have distinguished themselves in the field of translation or interpreting. For further details and application forms, please see our website at <http://tinyurl.com/y65bgtb>

## New Associate Members of the ITIA - January 2011

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## ■ Courts Service goes to Tender again

The Courts Service has had an exclusive contract with Lionbridge to provide interpreters since March 2007. That contract is due to expire in March 2011 and the Courts Service has issued a request for tender for interpreters in the criminal, civil and family law courts. The deadline is 26<sup>th</sup> January 2011 and the Courts Service hopes that the new contracts will be in place by March and will run until 2015. The Courts Service has decided to model their new contracts on those of the Garda and have divided the country into four lots:

- ◆ **Lot 1** - Dublin City and County
- ◆ **Lot 2** - South to include all the counties of Munster excluding Clare
- ◆ **Lot 3** - West to include Donegal, Clare and all the counties of Connacht
- ◆ **Lot 4** - East, Midland and Border to include Cavan, Monaghan and all counties of Leinster excluding Dublin.

Requests for an interpreter will go to the number one supplier and if they cannot provide an interpreter, then the number two supplier is contacted, and if they cannot provide an interpreter the number three supplier is

contacted. If the number one company can meet the demand, then very few requests will filter down to the number two and three companies. According to the tender documents, the reason for the change is 'to minimise expenditure on travel costs while at the same time maintaining a high level of customer service.'

*There is no definition of competency and a continuing assumption that anyone who speaks English and another language can interpret.*

The tender documents set out 3 booking categories. The first, category A, is for routine court sittings. The second, category B, is for trials to be held over a number of days. The third, category C, is where urgent attendance is required. In all cases 'public transport costs may be chargeable and a maximum of one hour's travel time [each way] allowed.' The emphasis is on public transport wherever possible.

If this is not feasible, then travel expenses can be claimed but full justification will be required and the first 20 Km on both the outward and return journey will not be payable although the interpreter can claim for time spent travelling. However, In the case of Category A and B bookings within Dublin no travel or other expenses will be allowable.

The Courts Service asks tenderers to supply them with hourly and daily rates applicable to all languages. Tenderers will have to have a 24 hour 7 day a week telephone booking system and will have to provide monthly reports on interpreter usage by venue and language. In order to tender, companies have to show that they have had or have a contract worth at least €25,000 per year.

They are also asked to provide a financial profile for the last three years and they have to have an annual turnover (from the provision of interpreting services) of at least €250,000 for Dublin, €200,000 for the East and Midlands, €100,000 for the South or West or €500,000 if they want to tender for all four lots. They also have to provide details of professional indemnity insurance. The award criteria for the contracts are as follows: 35% will be based on cost, 20% on quality of contract management, 10% on the reporting and booking system, 30% on the quality and level of interpretation, and 5% on security clearance.

Appendix A specifies that 'Interpretation services shall not be provided to parties other than the Court, without the expressed consent of the Court'. If solicitors need an interpreter they either have to organise one themselves or the court interpreter has to ask the court's permission to interpret for the solicitor.

## Problems with the tender

### 1. New EU Directive

This is a four year contract to March 2015. It takes no account of the EU Directive on the Right to Interpretation and Translation in Criminal Proceedings due to come into force on 27<sup>th</sup> October 2013.

<http://tinyurl.com/6kzjn68>

### 2. Interpreter Competency

Levels of competency are going down instead of up. Appendix E includes three levels of qualification for interpretation:

- ◆ **Level One** The person can be shown to be competent in both English and the language concerned.
- ◆ **Level Two** The person is a native speaker of the language concerned and can be shown to be competent in English or is a native speaker of English and can be shown to be competent in the language concerned.
- ◆ **Level Three** The person is a native speaker of English with a third level qualification in the language concerned or a native speaker of the language concerned with a third level qualification in English.

At the time of the last request for tender in 2006 there was a fourth level:

- ◆ **Level Four** The person has Level 3 qualifications plus qualifications specific to translating or interpreting

Unfortunately, the Courts Service has seen fit to remove level four. It would have made more sense to remove level one where for example an interpreter can interpret between two foreign languages, which is extremely difficult to do. There is no definition of competency and a continuing assumption that anyone who speaks English and another language can interpret. It would also have made sense to include a specific qualification in court or community interpreting. Tenderers are asked to provide details of interpreter training 'particularly in relation to professional standards and ethics'. Again, the actual skill of interpreting accurately from one language to another is not seen as an issue. Nor is legal terminology or an understanding of how the courts work.

Despite these low levels of competency, the Courts Service says they will 'closely monitor the quality and efficiency of the services provided' and that:

The selected tenderer(s) will be responsible for ensuring the availability of interpreters as required and that they are sufficiently competent and proficient in both English and the language/dialect for which they are engaged to enable the selected tenderer(s) to properly discharge their duties under the contract.

There is a fundamental mismatch between the three levels of competency and the requirement for companies to ensure that interpreters are sufficiently competent to be able to 'properly discharge their duties'.

The Courts Service has the option to carry out an audit and they also mention that they can use digital audio recordings to check on interpreting. It would be really useful if the Courts were to send recordings of a percentage of interpreted cases to be assessed by experts. This would involve a transcript of everything that was said in English and the foreign language in order to verify that the information is complete and correct. This is standard practice in translation.

### 3.No simultaneous interpreting

*According to the tender documents:*

Interpretation services are for Consecutive Interpretations only. That is, where the speaker states a few phrases and then pauses while the interpreter interprets. Consecutive interpretation is bidirectional. For this reason it is helpful to ask witnesses and all other parties addressing the Court to keep their statements as short and precise as possible. Simultaneous interpretation is, generally, not feasible in a courtroom for a variety of reasons including the need to install sound proof interpreters' booths. (Appendix A)

The next issue of the ITIA Bulletin will be out next month. If you have any contributions, suggestions or scandals that you would like to share with over 1,000 subscribers worldwide, send them to Gosia Emanowicz at [theitiabulletin@gmail.com](mailto:theitiabulletin@gmail.com).

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This is quite alarming because it means that interpreters do not have to interpret what the judges, lawyers and witnesses are saying for the defendant. This must be done in whispered simultaneous mode. Defendants have a legal right to know what is being said and they cannot know unless the interpreter provides whispered simultaneous. There is no need for sound proof interpreters' booths although infrared equipment could be very useful.

Defendants in criminal proceedings have the right to the free assistance of an interpreter in criminal proceedings under the *European Convention on Human Rights Act 2003*. While some interpreters are very competent, there is still no test for interpreters and very few have been trained. In other countries where interpreters are tested, the failure rate tends to be high. In Colorado, about 12% of candidates pass the English-Spanish State certification exam. The Federal Court Interpreter exam for the same language combination has a pass rate of around 5%. This shows what a demanding task court interpreting is. As interpreters are not tested in Ireland it is very likely that a large percentage are not up to the job. And it looks as if there will be no change before the year 2015.

Mary Phelan

## ■ Medical interpreters are a patient's right

Medical interpreting has become an important issue in Ireland since the unprecedented influx of foreign non-English speaking nationals throughout the Celtic Tiger era. Despite the recent downturn in the Irish economy a large percentage of them intend to stay in the country and will therefore still require the assistance of medical interpreters.

Below are two excerpts from an LA Times article entitled *Medical interpreters are a patient's right* by Francesca Lunzer Kritz, which outlines how the United States are dealing with the provision of interpreters in medical settings.

"Getting competent interpreting services to everyone who needs them is not all the way there, but we've come a long way," says Mara Youdelman, managing attorney of the Washington, D.C. office of the National Health Law Program, an advocacy group for the underserved that has studied the need and effect of medical interpretation services.

The need is certainly there. According to the federal Department of Health & Human Services' Office of Minority Health, at least 25 million Americans speak English less than "very well." Census data show that at least 40% of California residents speak a language other than English at home. (In Los Angeles, that number rises to more than 50%.)

And a 2002 report from the Institute of Medicine on health disparities found that language barriers between patients and the professionals who care for them can result in poor, shortened or wrong communication, poor decision-making and below-optimal outcomes for members of minorities." [...]

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*"Getting competent interpreting services to everyone who needs them is not all the way there, but we've come a long way"*

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"One of these changes is voluntary certification for interpreters. To be certified, interpreters must show competency in the language they will be interpreting, including medical terminology, as well as an understanding of ethics issues such as maintaining a patient's privacy. That level of competency has been long awaited. A 2002 study funded by the Commonwealth Fund found, on average, 31 mistakes in each encounter of medical interpreting in 13 sessions reviewed. Mistakes were most likely to occur when an ad hoc interpreter was used, such as a family member or hospital employee with limited medical background.

The full article can be found at:  
<http://tinyurl.com/6864hcf>

## ■ Deaf man can sit on jury, says judge

A HIGH Court Judge has ruled for the first time that a deaf person can sit on a jury in the Central Criminal Court.

Mr Justice Paul Carney yesterday ruled that profoundly deaf teacher Senan Dunne could sit on a trial jury with the aid of a sign language interpreter. He said objections to having a "13<sup>th</sup> person in the jury room" in the form of a sign language interpreter could be met by the signer taking an oath of confidentiality and the jury foreman

ensuring that she or he was confined to translating what went on.

Solicitor for Mr Dunne, Michael Farrell of the *Free Legal Advice Centres* (Flac), said while there had been a blanket ban on deaf jurors, the law had changed in 2008. The issue now was whether it was practical for deaf persons to serve. He said with the aid of signers and modern technology, jurors could serve without difficulty. Juries could not be representative of the general public if deaf people were excluded.

Counsel for the DPP, Mary Ellen Ring SC, expressed concern about the confidentiality of jury discussions but Mr Justice Carney ruled that Mr Dunne should be allowed to serve.

Lawyers for the defendant then challenged Mr Dunne under a rule that either side in a trial can challenge up to seven jurors without having to give reasons. Mr Dunne had to stand down but remains on the jury panel for other cases.

Last month High Court judge Mr Justice Daniel O'Keefe ruled a deaf person's ability to serve as a juror should be determined by a trial judge.

Flac welcomed yesterday decision saying the exclusion of deaf persons from juries was symbolic of the fact that they are not treated equally in Irish society. This ruling was an important step towards ending that discrimination, it said.

It added that only last week a deaf person, represented by Flac, was asked to leave the jury box in Tullamore Court because a Circuit Court judge ruled that he could not serve.

Eithne Donnellan,

Published: November 30, 2010 in The Irish Times

Original source:

<http://tinyurl.com/5u22uvx>

A related article entitled Deaf man told to leave jury trial despite historic ruling by Dearbhail McDonald appeared in the Irish Independent. It can be found here:  
<http://tinyurl.com/6g2sehh>

## ■ Contacting The ITIA

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## ■ ITIA Resources for Translators

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