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Anti-human trafficking manual for criminal justice practitioners

Module 10

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Anti-human trafficking manual for criminal justice practitioners

Module 10:

Interpreters in trafficking in persons investigations



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Module 10: Interpreters in trafficking in persons investigations

Objectives

On completing this module users will be able to:

- List the situations in which interpreters may be required in trafficking in persons investigations;
- Explain why it is important to retain an interpreter throughout a trafficking investigation;
- Explain the considerations when planning interpreting services;
- Describe the actions required when contacting an interpreter;
- Describe the actions required when preparing to conduct an interview;
- Identify the information that should be given to interpreters in trafficking interviews.

Interpreters in trafficking in persons investigations

This material uses the term interpreter throughout. An interpreter is a person who interprets speech from one language to another. A translator is a person who translates writing from one language to another. Although there may be a need for translation in some trafficking in persons cases, the majority of work required is likely to be interpretation.

Interpreters may be required in a number of situations in a trafficking investigation.

These include:

- Accompanying law enforcement staff on raids and similar operations;
- When a victim is recovered unexpectedly by law enforcement activity, presents themselves or is “rescued” by a third party;
- Using specialist techniques such as communications interception or electronic monitoring equipment;
- Interviewing victims;
- Interviewing suspects.

There are some considerations that apply to all these situations and others that only apply in certain circumstances.

Getting the right interpreter and keeping them throughout the investigation will make a significant contribution to the success of your investigation.

When dealing with victims it is likely you will have to stabilize them and reintroduce a sense of order and control to their lives. An interpreter the victim feels they can work with, one who stays throughout the case, is one way to help restore that order and control. Frequently changing interpreters erodes the sense of order and may lead to difficulties in re-establishing rapport between investigator, victim and interpreter.

Suspect interviews and surveillance interpretation bring other challenges if the interpreter leaves half way through a case. Vetting may take a long time and is probably not going to be easy or even possible in some cases. Interpreters with the skills to identify when they are hearing something that suggests someone is at risk might be rare.

For all these reasons it is essential that you do all you can to make sure the interpreter is willing to work with you and stay working with you. Obviously, if you find someone is not suitable for some reason you should not continue to use him or her. However, if they are competent you need to keep them. Keeping them involves being honest and open from the outset, finding out what their concerns are, trying to address those concerns, arranging acceptable accommodation, food and breaks for them when they are working with you.



Self-assessment

In what situations may interpreters be required in trafficking in persons investigations?

Why is it important to retain an interpreter throughout a trafficking investigation?



Case example

In a case investigated by an Eastern European prosecutor in June 2006, a victim from a neighbouring country was asked if she considered herself as a victim of trafficking. She replied in the negative. Subsequently, she privately asked the interpreter what the term “victim” actually means. When she was given examples of circumstances and abuses that would make her a victim, she replied that she had suffered much worse treatment.

Planning interpreting services

Interpretation can be a very sensitive and difficult area for investigators to manage. Good practice is to use a person independent from the investigation as the interpreter but this

brings the risk that the interpreter will not be familiar with procedures, may jeopardize the operation and, in some cases, may endanger the victim.

To minimize these risks it is essential to plan as much as possible before you need the services of an interpreter in a “live” investigation. Consider the following suggestions.

Have an approved list of interpreters

The people on the list should have, wherever possible, properly accredited qualifications in interpretation, direction of interpretation (e.g. from English to French, from French to English etc.) and be of both genders.

Some interpreters may not be suitable for certain types of criminal cases, e.g. sexual exploitation cases for a number of reasons which are outlined below.

They should also be vetted against your local intelligence and criminal records systems and, where appropriate and possible, against the intelligence and records systems of other countries where they may have originated or resided in.

You may require a formal contract with an interpretation service. If you do, ensure that the contract is not overly restrictive. Some law enforcement agencies have found contracts do not cover certain languages or the interpreters are not suitable for certain cases but the contract prevents the agency using other interpreters.

Make sure list includes interpreters for languages you need

Globalization and relative ease of movement means that in some locations languages have arrived that were unheard of ten or even five years ago. Do not be complacent and content with a list that may only cover the languages of longer standing communities in your area.

Be proactive and use intelligence to find out which linguistic groups are present now in your area of responsibility.

Speak to law enforcement staff on the ground to find out which languages they are hearing on the street.

Identify any informal arrangements staff on the ground may have that could be formalized by vetting the people they use and establishing what qualifications they have.

Are interpreters psychologically or emotionally suitable?

Interpreters who may be technically very efficient and capable may not necessarily be suitable to use as interpreters in a trafficking case: translating in a case of theft from a shop is not the same as translating in a case of trafficking for sexual exploitation.

Establishing if a person is able to cope with hearing about serious violence, graphic sexual detail and abuse is not easy, but direct questions may help. Direct questions should be handled

sensitively, but you may consider asking how the interpreter would feel if certain topics were discussed. There have been problems in some locations where interpreters have not interpreted exactly what victims have said because they are too embarrassed or because they do not want to use street words for various sexual acts for example. There may be evidence that an interpreter has successfully worked on a potentially disturbing case in the past.

Are interpreters ethnically, culturally or religiously suitable?

In many parts of the world people who share the same language may have long running inter-ethnic, cultural or religious tension. Simply because a person speaks the same language or comes from the same country does not mean it would necessarily be appropriate to use them as interpreters with individual victims. Even where there is no inter-communal ill feeling there may be simple misunderstanding because the interpreter and interviewee come from different social backgrounds or locations.

Suitability may be obvious in some cases, but not in others. It helps if you are aware of the likely points of tension around individual languages and cultures and can spot some of the more obvious problems. Tactful questioning of the interpreter could also help you to build a picture of the situations where it would and would not be appropriate to use them.

Continuity

If possible, use the same interpreter throughout the process. This reduces the stress on the victim.

Promote awareness of the list

Having interpreters available is not much use if no one knows they are there. Do as much as you can to ensure that staff are aware of the list.

Awareness should not be confined to specialist investigators. One of the essential elements of a successful trafficking investigation is that first responders are able to identify that trafficking may have taken place; this is often only possible if they can understand what the victim or other witnesses are saying. Everyone should know about the interpretation services available.

Get feedback

Wherever you can, get feedback on how a interpreter has performed on a case. Feed this back into any records you may keep about them, ensuring any comments are evidenced and reasonable.

Telephone interpretation

In some jurisdictions, interpretation over the phone may be appropriate in certain circumstances. The same planning considerations should apply to phone as in face-to-face interpretations.

Telephone interpretation is most likely to be suitable only in the very early stages of an enquiry to get the basic details of an account. As with face-to-face interpretation only vetted and accredited interpreters should be used wherever possible.

Some countries and law enforcement agencies have contracts with companies who provide 24-hour interpretation over the telephone for many languages. These services can be very expensive.

Law enforcement agencies in other countries may be able to help with phone interpretation in some circumstances. However, this is not to be recommended as standard procedure as the quality of interpretation may be variable and there could be international cooperation and (possibly) risk assessment issues in some locations.

How much will it cost?

Interpretation services can be very expensive, particularly in trafficking investigations that might be long running and involve a number of languages.

If you have an established list of interpreters you may have an established pay and expenses rate. There may also be fees set by interpretation professional bodies in your country.

If fee scales are not already agreed upon, you should agree on the issue at the planning stage.

It may also be advisable to negotiate an overall contract price for situations where an interpreter may be used for an extended period.

Other related measures

There are a number of other things that you may want to consider that are related to interpretation.

Many countries have produced posters and leaflets in various languages that are specific to trafficking. Simple leaflets can be produced relatively cheaply. If you do not have the facilities to produce them yourself, you may consider contacting other countries who have produced material in the languages you need.

Some countries have used documents that contain visual prompts such as flags to help victims and witnesses identify their nationality. This may be useful in helping identify the language they speak but is not necessarily conclusive.

Technological solutions have been used in some locations such as digital players with messages recorded in a number of languages.

Recorded messages for suspected trafficking victims

One country has obtained a number of digital players through a sponsorship deal with the manufacturer. Messages to suspected victims have been recorded in a number of languages that give information about the investigation process.

What if we don't have time to plan?

Trafficking cases can appear suddenly, apparently from nowhere. Enquiries already underway can take unexpected turns. One consequence of this characteristic of trafficking is that you may find you need interpretation services you have not been able to plan for.

Where this is the case you should use the principles above to identify what you are going to do. This is not ideal, but the structure should give you some idea of the questions to ask and checks to do to minimize the risks and maximize your chances of successfully using interpreters.

“Volunteer” interpreters

There may be circumstances where people “volunteer” themselves as interpreters. It may be tempting to use them, particularly where there are very few interpreters for a language or they are not available.

As far as possible, volunteer interpreters should be avoided in trafficking cases. They may be connected to the traffickers, or at least know the victim and his or her family.

If the use of volunteer interpreters is unavoidable, do what you can to assess if they may be linked to traffickers (using people from the same car for example may be particularly risky), watch for reactions of the person who is being interpreted, keep the use of the interpreter to an absolute minimum and check their interpretation when you have access to an official interpreter.

	Self-assessment
What are the considerations when planning interpretation services in trafficking cases?	

Contacting the interpreter

Are they the right person?

Where you have a list of interpreters, use what information you can to establish if a particular interpreter is appropriate for the circumstances you intend to use them in.

If you don't have a list, consider the questions shown in “Planning interpretation services” to give you some guidance about who you should use. It is acknowledged that in practice your choice may be very limited and time pressing but considering the planning and preparation questions may help you avoid some problems.

What should I tell them?

On first contact with the interpreter give them some details about the job they are being asked to do.

These details should include what type of crime is under investigation, what type of interpretation they will be expected to do (verbal interpretation in an interview, verbal interpretation plus a written transcript of what has been said, etc).

It is very important to give interpreters an estimate of how long they will be involved in the case. This will allow them to make any necessary personal arrangements and plan whether the need to bring extra clothes etc. or even decide they cannot take the job. Interpreters are an essential element to interviews: failing to be honest with them can lead to them leaving after a short time. This can be particularly serious in trafficking victim interviews as it is very important to establish as much stability and continuity as you can.

Enough information should be given to allow the interpreter to decide whether they are willing and able to take the job, but not so much that you compromise the investigation.

Try to make sure they know the interpretation for words they are likely to encounter in the interview. This may be difficult to anticipate but an example may be a woman whose only words in your language describe particular sexual acts; the words she used may be street words the interpreters may not be familiar with. Similarly, in a case of labour exploitation it may be very likely that certain words associated with particular industrial or agricultural processes will be used. Give the interpreter enough information to allow them to do some research before they arrive.

Conflicts of interest

Establishing if there is a conflict of interest in using a interpreter in a particular case is essential. This can be a sensitive area which requires a particularly careful balance between revealing too much and not enough.

Some communities may be very small in your location, meaning that there is a good chance interpreters may know the victim. There is also the possibility that the interpreter knows of the victim or their family through links in their country of origin or residence.

Traffickers have frequently shown they will attempt to infiltrate investigations and using the interpreter is a good way of doing that. Be very careful not to use anyone with links to the traffickers or their associates.

Interpreters may be at risk of intimidation, threats and corruption even though they are not initially associated with the traffickers.

Using separate interpreters for more than one victim-witness and for the suspect

Ideally, in trafficking cases separate interpreters should be used for each victim and suspect. Using separate interpreters reduces the possibility of cross contamination of accounts,

secondary traumatization of the interpreter and attempts by suspects to corrupt interpreters to help intimidate victims.

It is acknowledged that this may not be practical in many situations, but the minimum should be that the very strongest efforts possible are made not to use the same interpreters for victims as are used for suspects.

Costs and personal needs of interpreters

Establish as far as you can how much the interpretation work is going to cost.

If the interpreter needs to stay away from home arrange appropriate accommodation for them. This is the type of consideration that helps ensure a interpreter will stay with the investigation as long as required.

Similarly, do what you can to arrange transport whether that is long distance or daily trips to and from the location of an interview.

	Self-assessment
What actions are required when contacting an interpreter in a trafficking case?	

Preparing for the interview

On arrival give the interpreter more details of the case.

Check if the interpreter feels comfortable being involved in a trafficking in persons investigation.

Check again if there is any possible conflict of interest.

As an interviewer you should make interpreters aware of the following points:

- Interpreters should remain independent of the investigation.
- At the start of the interview, the interpreter should make it clear they are independent to all those present: victim, social supporter and interviewers.
- Everything said in an interview is strictly confidential. Nothing an interpreter hears should be communicated to third parties.
- Their role should be confined to facilitating communication between people who would not be able to communicate without the presence of an interpreter.
- Any interpretation should take place under the supervision of you or another a law enforcement officer.

- Interpreters should avoid becoming personally or emotionally involved in the case. Ideally, interpreters should have the same access to psychological help as law enforcement officers investigating the case.
- If they are approached by anyone outside the interview (victim, witness, suspect, defence lawyer or other third party) they should report the approach to you or another law enforcement officer.
- If at any point it becomes apparent to the interpreter there is a conflict of interest they should bring it to your attention immediately.
- Where the person being interviewed suggests that any person is in danger, the interpreter should bring it to your attention immediately but as discretely as possible.
- Explain how the interview will be recorded and how you would like the interpreter to keep records. This may be determined by regulations or practices in your jurisdiction. Depending on domestic legislation, translators may be required to keep notes in both languages, record the question and replies in the same language or questions in one language, responses in another.

Consider giving the interpreter the “Guidance for interpreters” found in annex 1.

Allow interpreters time to prepare for the interview when they arrive. Interviews may be urgent in some cases but even a small amount of preparation time for interpreters can improve the quality of the interview.

If appropriate, check again if they feel there may be technical or street terms they may need to research before the interview starts.

Further guidance on trafficking in persons interviews of victims may be found in module 8: “Interviewing victims of trafficking in persons who are potential witnesses”.



Self-assessment

What actions are required when preparing for an interview in a trafficking in persons case that requires an interpreter?

Summary

- Unless it is absolutely unavoidable, do not use “volunteer” interpreters.
- Interpreters interpret the spoken word; translators translate the written in word.
- In the majority of trafficking in persons cases the requirement is likely to be for interpreters not translators.
- Situations where interpreters may be required in trafficking cases include raids, recovery of victims, use of specialist techniques and interviews of victims, witnesses and suspects.

- It is very important to retain an interpreter throughout a trafficking investigation.
- Have an approved list of interpreters.
- Ensure the list includes interpreters who:
 - Can interpret the languages and dialects you require;
 - Are psychologically and emotionally suitable;
 - Are ethnically, culturally or religiously suitable.
- Make staff aware of the existence of the list.
- Negotiate fees before using an interpreter.
- Consider planning for and using telephone interpretation services where appropriate.
- Always check that the interpreter knows the language and dialect involved before using them.
- Brief the interpreter on:
 - The length of time they may be away;
 - Any technical or slang words they may need to research.
- Check there is no conflict of interest;
- Give enough information to allow interpreters to decide if they will take the case, but not so much it compromises the investigation.
- On arrival at the location an interview is going to take place, check again they can speak the correct language etc.
- Give the interpreter more information about the case.
- Consider giving them a copy of annex 1, "Guidelines for interpreters".

Annex 1. Guidelines for interpreters

Purpose of a law enforcement interview

The purpose of any law enforcement interview, whether of witness or suspect, is to:

- Establish the facts in a case;
- Obtain all possible information;
- Collect evidence to allow a decision to be made on whether to prosecute or not.

It is not necessary to obtain a confession.

The role of an interpreter in a law enforcement interview

The role of the interpreter in a law enforcement interview is to accurately interpret questions put by the interviewer to a witness or suspect and the response to those questions.

It is not the role of the interpreter to act as a social worker or counsellor to a witness, or to provide any form of guidance or suggestions to the person being interviewed.

You should not be asked to guard a person or remain with them without the interviewer or other law enforcement officer being present. You should decline to do this if you are asked to do so. If you are left alone with the person being interviewed you should leave.

When your services are requested by law enforcement

When you are asked to attend an interview, let the interviewer know when you will be able to arrive at the interview location. This is very important for investigators as there may be legal time limits on how long they can hold a suspect or speak to a witness.

Ask the interviewer how long he or she thinks the interview will take. Let the interviewer know if you have any other commitments during this time. It is not acceptable to let the interviewer know about a pre-planned commitment during the interview.

Ask the interviewer to give you a summary of the case. This summary should be brief.

If you are told anything that suggests there is a conflict of interest or any other reason why you cannot do the interpretation tell the interviewer immediately. The interviewer will decide if it is appropriate to use you.

Ask the interviewer if there are any slang or technical words you may need to research before you start the interview.

Check the language and dialect the person is speaking. Do not rely on the interviewer to do this as they may not be able to identify the language. The best way to this is to ask for the person to be brought to the phone and listen to the person speak.

At the interview location

The interviewer should give you a more detailed account of the case under investigation.

You will be asked if there is any conflict of interest in acting as interpreter for a particular witness or suspect. There may be a number of reasons why there might be a conflict of interest. Common examples are knowing the person or knowing members of their family.

Tell the interviewer about anything you think might be a conflict of interest. The interviewer will decide whether he or she feels this will affect the case. They may decide it is not appropriate for you to continue as interpreter.

If anything happens during the interview which suggests there is a conflict of interest you didn't know about tell the interviewer immediately.

In particular, let the interviewer know immediately if there is any attempt to corrupt or threaten you while carrying out your duties.

Ask the interviewer where he or she wants you to sit in the interview room. The interviewer may ask you to sit out of the immediate view of the interviewee.

In the interview

If you have not had the opportunity to check the language and dialect spoken by the person being interviewed you should do so now. Do not discuss the case. Be brief, conversational and confine yourself to establishing the language and dialect spoken.

The interviewer should introduce you to the person that is being interviewed.

The interviewer must stress the fact you as an interpreter are independent, and that you are not:

- An investigator;
- Involved in the investigation in any way;
- A lawyer, judicial advisor, social worker, etc.;

and

- Your only role is to facilitate communication between people who speak a different language.

If the interviewer does not do this, ask him or her to do it.

Accurate interpretation of the language used by the interviewer and person being interviewed should reflect the level of language used and the exact words and phrases used.

You should not change the grammatical structure of the questions and responses.

It is very important that you do not change the meaning of words that you may find embarrassing or disturbing.

You should not add anything to what was said.

The interviewer will put his or her questions directly to the witness or suspect. For example a question should be “Where were you at the 10 in the morning?” not “Ask him where he was at ten in the morning”.

How the interview is recorded will depend on the rules of the jurisdiction and whether it is a suspect or witness interview. It may take the following forms:

- Writing responses down as a general text;
- Writing the questions and responses in a question and answer format;
- Recording the interview on audio tape;
- Recording the interview on video tape.

Questions should be asked one at a time. The interviewer should pose the question, you should interpret it for the interviewee, allow them time to respond and then interpret the response for the interviewer.

Do not put questions in the third person. “Where were you?” should not be translated as “She is asking where you were”.

Do not change the structure of the question. Open questions need to stay open. “Where were you?” can not be changed to “Were you there?” ...

In general, interpreters should not ask questions or intervene in the interview except in the following circumstances:

- If you don't understand a question or response to clarify what was said;
- To indicate to the interviewer that the person being interviewed does not understand what a question means;
- To point out any cultural differences between interviewer and the person being interviewed that are relevant to communication. An example is nodding, which in some cultures means “Yes”, in others means “No”.

If you have to intervene, tell the interviewer why.

Wherever possible avoid putting your home or business address on any document that may be disclosed to a defendant in a case. It is permissible to give the police station or other law enforcement premises as a contact address.

Do not have a conversation in a language that one of the people involved does not understand. Always interpret what was said.

Report any form of threat to the interviewer. You always have the right to stop the interpretation for such reasons.

Make it clear to the interviewee that he can not give you any information that he or she doesn't want you to report to the interviewer.

As a general rule you should never have confidential conversations with the interviewee whether they are requested by the interviewee or the interviewer.

In some exceptional cases you may have a confidential conversation with a victim of crime. This should be very carefully managed. If you do have such a conversation you must always make the interviewee aware you will inform the interviewer of the content of the conversation.



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