The Importance of Linguistics in Court Interpreting

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A. INTRODUCTION

With the passage of the Federal Court Interpreter’s Act in 1978 and the parallel efforts on the part of state governments to ensure the due process rights of the non-English speaking and the hearing impaired when they are brought into the judicial system, increasingly one finds in the courtroom a person who makes communication between the legal actors possible: the court interpreter. The interpreter serves two important functions related to the communication of testimony. First, the interpreter serves to make foreign language testimony intelligible to attorneys, judges and jurors, and to make the English questions of attorneys and judges intelligible to the non-English speaking witness or defendant who is testifying. Second, she must interpret the English testimony of witnesses so that it is comprehensible to the non-English speaking defendant. Ideally, interpretation into the target language should be as nearly equivalent to the source language as possible, that is to say, what was originally said in Spanish, for example, should emerge as close in meaning as possible in the English interpretation, and vice-versa. Unfortunately, such a high fidelity rendition frequently fails to emerge. The reasons why high fidelity interpreting frequently is not attained are the subject of this article.

B. METHODOLOGY

The analysis which follows is based on an ethnographic research

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2. Interpreters will be referred to with the feminine pronoun throughout this article, since my study has found that the majority of persons who work as court interpreters are women. Whenever the name of an interpreter, witness, defendant, attorney or judge appears in this article, it does not correspond to the actual name of the person involved. Names of persons, as well as placenames, have intentionally been changed so as to preserve the anonymity of all concerned.
Ethnography is an analytic method used by cultural anthropologists. Ethnographers try to discover all the factors that can explain or account for a given cultural institution or phenomenon. Their approach consists of long-term observation of natives in their local cultural setting, together with extensive interviewing of native informants, through which the researchers aim to find out the natives’ interpretations of why persons in their culture behave as they do. As principal investigator of this project, I observed and tape-recorded courtroom proceedings for nine months in nine courthouses: two federal courts, three state level courts, two municipal courts, and two justice of the peace courts. Most of the observation and tape-recording took place in the Southwest, but a large Northeastern city was also included in the ethnographic fieldwork. A total of 114 hours of judicial proceedings involving the use of a Spanish/English interpreter was taped. These proceedings included initial appearances before a judge or magistrate, arraignments, preliminary hearings, changes of plea, full trials, and sentencings. That is to say, I observed the complete gamut of proceedings at which a criminal defendant might be present. In addition, I taped a small number of civil cases (e.g., failure to pay child support, litigation cases), and misdemeanors.

During the fieldwork, I observed eighteen court interpreters. Twelve of them were women and six were men. Six were federally certified (i.e., had passed the Federal Court Interpreter’s Examination), and the remaining twelve were not federally certified. The employment status of the interpreters was as follows: six were full-time court employees who worked strictly as interpreters for their court; another six were court employees who worked primarily in some capacity other than interpreter (e.g., bailiff, clerk); a final six were free-lance interpreters. A free-lance interpreter is a person who works either through a private agency or else is self-employed, but in either case is called to a given courthouse at a moment’s notice.

I examined this large data base for inaccuracies in interpretation using a qualitative, descriptive method of analysis. In the remarks that follow, I will focus on selected consecutive interpretation sequences typical of ones that I have found to recur regularly in the corpus as a whole. Nevertheless, since no quantitative analysis has been carried out with regard to the relative frequency of interpreter errors and inaccuracies, results of the descriptive analysis remain to be confirmed by further

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3. NSF Grant SES 8114617 and SES 8341766.
4. In consecutive, as opposed to simultaneous interpreting, the interpreter waits for a speaker to finish a thought or sentence before beginning to speak. The consecutive mode of interpreting is the one most often used to render the testimony of a non-English speaking witness into English for the court.
research. A general quantitative finding regarding the discrepancy between source language testimony and interpreter renditions has been carried out, however.\(^5\) A summary of those quantitative findings is provided in the sections below.

C.

THE ROLE OF LEXICON AND THE IMPORTANCE OF LINGUISTIC REGISTER

There is a difference in the bilingual proficiency of interpreters. Some have a much higher command of both English and their foreign language than do other interpreters. While a "balanced bilingualism" would be the ideal sort of prerequisite for competent interpreting, a perfectly balanced bilingual is a rare specimen and probably an impossible phenomenon. Perfectly balanced bilingualism implies equal proficiency in both languages in all domains of language usage. The concept of *domains* of language use was developed by sociologist Joshua Fishman.\(^6\) He suggested that there are certain institutional contexts, or *domains* in which one language variety is more likely to occur than another, depending on constellations of factors such as location, topic, and participants. Typical domains are those of "family," "school," "place of recreation," and "church."\(^7\) For example, in one study of Spanish/English language usage by domain, Laosa found that Mexican-American, Cuban-American, and Puerto Rican elementary school children in the U.S. tended to use Spanish most often in the family domain, less often in the domain of recreation and least often in the classroom setting.\(^8\)

Analyses of actual language use by domain as well as classic treatments of bilingualism\(^9\) explain that perfectly balanced bilingualism is necessarily a rarity. It would be truly a unique person who, without prior preparation and dictionary study, could with equal fluidity and accuracy describe in Spanish and in English the play-by-play sequences of a soccer game, the steps involved in preparing enchiladas, or the rules involved in playing a game of marbles. Clearly, even a monolingual speaker will have deficiencies in one of these domains. Compound the problem of domain with the complication of a second language, and one confronts a built-in measure of unequal knowledge of vocabulary. Gen-

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\(^7\) *Id.*


erally, if a speaker is bilingual, he or she will have a greater command of the vocabulary of that language in which the domain-related activity was experienced. If you learned to play marbles in Spanish, but learned the rules of soccer in English, you probably will have difficulty describing marble game rules in English and similarly, you will have difficulty in describing the soccer game rules in Spanish.

In the sphere of court interpreting, the problem of vocabulary is an important one. In the course of a criminal trial, an interpreter might have to interpret the expert testimony of a physician or a coroner, which will include professional jargon. At another point in the trial, the interpreter may have to interpret the slang-laden testimony of a narcotics pusher, which includes vocabulary used by that social group to keep non-group members from understanding what they are communicating to each other. This use of vocabulary may also be thought of as a kind of jargon, or argot. Interpreters must be able to command the vocabulary of both types of specialized speech varieties. The awareness of professional interpreters of the need to know such specialized vocabularies is evidenced by special sections on barrio Spanish, drug terminology, medical terminology and vehicle code vocabulary, in one highly regarded manual for interpreters.

Beyond the area of specialized vocabulary, interpreters must command a range of styles, in both their languages. These styles ought to range from the most formal to the most casual. In analyses of English, linguists have delineated five styles, or registers, used according to the "communicative occasion;" these are (1) oratorical, or frozen, (2) deliberative, or formal, (3) consultative, (4) casual, and (5) intimate. Bolinger describes the five styles and their use as follows:

The oratorical register is used by professional speakers; it is a self-conscious form of public address. The deliberative register is aimed at any audience too large for effective interchange with the speaker. Both oratorical and deliberative tend to be monologues, though deliberative is not polished as an art form. Consultative is typically dialogue, at the level where words still have to be chosen with some care; most business is transacted in this register. Casual implies the absence of any social barri-

10. While some linguists use the terms jargon and argot interchangeably to refer to in-group specialized vocabulary, e.g., V. Fromkin & R. Rodman, AN INTRODUCTION TO LANGUAGE 277-88 (1988), dictionary definitions emphasize that an argot is especially associated with clandestine or illegal activities. See, e.g., AMERICAN HERITAGE DICTIONARY 70 (W. Morris ed. 1975).


14. Id. at 358.

15. Id. at 359.
ers—the relationship, for example, between fellow students. Intimate adds kinship or close friendship.

Differences in register are manifested linguistically in a variety of ways: phonologically, grammatically, and lexically.\textsuperscript{16}

Phonologically, levels of formality are marked by the presence or absence of prestigious as opposed to stigmatized forms. Labov's research on American English found that the level of formality dramatically affects how frequently certain pronunciations are used.\textsuperscript{17} As a starting point, he observed that speakers along the Atlantic seaboard generally have an "r-less" dialect, that is, the r-sound is often not pronounced when it directly follows a vowel (e.g., car, beard). However, speakers are unconsciously, and sometimes consciously, aware that putting in one's r's where they are found in writing is positively evaluated by most speech communities in the U.S. Omitting the r's is considered stigmatized while putting them in is viewed as prestigious.\textsuperscript{18} His results showed that use of such pronunciations is affected both by socioeconomic status and formality of the speech situation.\textsuperscript{19} In recorded conversations, the use of stigmatized forms increased in frequency as the socioeconomic status of the speaker decreased. When the variable of socioeconomic status was held constant, use of stigmatized forms increased as the speech situation became increasingly informal.\textsuperscript{20}

Similar effects of socioeconomic status and formality have been documented in several dialects of Spanish, for example, Cuban,\textsuperscript{21} Puerto Rican,\textsuperscript{22} Costa Rican\textsuperscript{23} and Panamanian dialects.\textsuperscript{24} Variation in speakers' pronunciation of the /s/ sound has been thoroughly investigated. In many dialects of Spanish, syllable-final/-s/ is usually either "aspirated" (pronounced as an /h/ type of sound), or else omitted altogether. Dialects where this is a regular feature are the Caribbean Spanish-speaking areas (e.g., Puerto Rico, Cuba), parts of Central America (e.g., Nicaragua, Panama), and parts of South America (e.g., sections of Chile and Argentina).\textsuperscript{25} Thus, the prestigious form of estas casas, written phoneti-

\begin{itemize}
\item \textsuperscript{16} Joos, supra note 12, at 13-26.
\item \textsuperscript{17} W. Labov, SOCIOLINGUISTIC PATTERNS 114 (1972).
\item \textsuperscript{18} Id. at 139-141.
\item \textsuperscript{19} Id. at 114.
\item \textsuperscript{20} Id.
\item \textsuperscript{21} Terrell, La aspiración y elisión en el español cubano, in ESTUDIOS SOBRE EL ESPAÑOL HABLADO EN LAS PRINCIPALES CIUDADES DE AMÉRICA 39, 44-45 (J. Lope Blanch ed. 1977).
\item \textsuperscript{22} Poplack, Deletion and Disambiguation in Puerto Rican Spanish, 56 LANGUAGE 371, 376-79 (1980).
\item \textsuperscript{23} Berk-Seligson & Seligson, The Phonological Correlates of Social Stratification in the Spanish of Costa Rica, 46 LINGUA 1, 23-24 (1978).
\item \textsuperscript{24} Cederberg, En torno a la variación de la [s] final de sílaba en Panamá: Análisis cuantitativo, in CORRIENTES ACTUALES EN LA DIALECTOLOGÍA DEL CARIBE HISPÁNICO 35, 40 (H. López Morales ed. 1978).
\item \textsuperscript{25} L. Canfield, SPANISH PRONUNCIATION IN THE AMERICAS, 23 passim (1981).
\end{itemize}
cally in (1) below, would often be pronounced as either (2) or (3), or some combination of aspiration, deletion, and /-s/ pronunciation, as in (4).

(1) [éstas kásas]
(2) [éhtah kásah]
(3) [éta kása]
(4) [éhtas kásas]

If we were to rank the three variants in terms of formality, /-s/ pronunciation would be the most formal, /-h/ pronunciation would be intermediate in formality, and deletion of the syllable final /s/ would be least formal.26

Grammatically, differences in register can be seen in such phenomena as the dropping or contracting of words at the beginning of utterances in casual or intimate English. In an utterance such as (5), what has been omitted is some form of the verb “do” and the subject. Thus, the underlying sentence would be either (6) or (7). The “contracting of words” refers to the pronunciation of a sentence such as (8), in the manner of (9) or (10), or, with less contraction, as in (11).

(5) Hear that?
(6) Do you hear that?
(7) Did you hear that?
(8) Did you eat yet?
(9) Jeat chet?
(10) Ja eatchet?
(11) Didja eatchet?

These facts about American English pronunciation and syntax are discovered by all students of linguistics during their training in phonetic transcription. However, for those who have never tried to do phonetic transcription of casual speech, the reality of how they normally pronounce the words they utter when these words are strung together, and how they omit words they think they are uttering may come as a surprise. Thus, while the pronunciation of [t] followed by [y] is normally “ch” in American English, except in the most formal register, and is not a marker of casual speech, the contraction of “did you” in “jeat” or “ja” is an indicator of casual or intimate speech style.27

Examples of this type of contraction in Spanish casual speech are shown in (12) through (17) below. My observation of many dialects of Spanish confirms the fact that the word para is frequently contracted in

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27. See N. Francis, THE STRUCTURE OF AMERICAN ENGLISH 116-118 (1958) for phonetically-transcribed examples of consultative and casual style. Joos, supra note 12, at 18-21 gives numerous examples of the differences in pronunciation found at each level of formality.
casual style speech to pa', as in (12) and (13). Similarly, the preposition de loses the full vowel [e]; this vowel becomes either a phonetically higher vowel, [i], or a semi-vowel, [y], as in (15). In some dialects, such as in Costa Rican Spanish, I have observed a further contraction where the word y ("and") is omitted altogether, producing (16). In Costa Rica, this expression is used as an informal greeting. Its approximate English equivalent is, "Well, what's new?" A contraction similar to the one occurring in para is that found in the verb form está ("it is") in the Puerto Rican Spanish of New York.

(12) ¿Pa' qué lo hiciste? (Wha' ja do it for?)
(13) ¿Pa' 'onde vas? (Where ya goin'?)
(14) ¿Y de ahi? (Well?)
(15) ¿Y dyay? (Well?)
(16) ¿Dyay? (Well?)
(17) 'Tá bien. (It's okay. or It's all right.)

Where formality differences are probably most common is in the realm of the vocabulary, or lexicon of a language. Vocabulary, more easily than phonology or grammar, can be divided into four to five styles or registers. Bolinger used the following set of words to illustrate the vocabulary progression from least to most formal: to guzzle, to swig, to drink, to imbibe, to quaff.

The notion of register is a useful one; however, it has some difficulties. Essentially, the problem is that register can and often does cut across other speech varieties, such as argot, jargon or slang. To take an example from Bolinger, "tipsy" and "crocked" are equally as casual, but "crocked" is more slangy. The problem, according to Bolinger, is that while slang always belongs in the two bottom levels of formality, casual and intimate register, it does not define them. Thus, a street gang may nearly always use a casual register for intra-group communication. However, it uses other linguistic forms, in addition, which set it apart from other speech communities: a street gang also speaks in argot. Similarly, surgeons engaged in intra-group communication in an operating room setting would speak in jargon.

28. See R. Sánchez, CHICANO DISCOURSE 107 (1983) for examples of this contraction in the Spanish spoken in the southwestern U.S.
31. Id.
32. Id. at 363.
D. LANGUAGE VARIETIES AND THE PROBLEM FOR THE COURT INTERPRETER

The problem for the court interpreter is that numerous speech varieties can and do emerge in the courtroom. Beyond the fact that people of different speech communities appear as witnesses and defendants, even a single individual will shift from one style to another depending upon the topic he or she is discussing. For the court interpreter, it would be convenient if lawyers in the courtroom all spoke in consultative or formal style, at all times. However, this is not the case. Attorneys use different speech varieties depending on the context.

An attorney will use frozen style in reading aloud documents that are obligatorily formulated in preset, invariable, highly ritualized ways, such as birth or death certificates, wills, licenses of various sorts, and contracts. If an attorney were to be sworn in as a witness, he or she would be producing frozen speech in the act of taking the oath.

The same attorney would use formal style in presenting a motion before a judge. Motions are frequently written down before the attorney presents them in the courtroom. Writing per se tends to produce a more formal style of language. The language of briefs and motions normally falls into the formal range.

When attorneys examine a witness on the stand, they tend to fluctuate between consultative and casual style. An examination sequence usually begins in consultative speech style, but falls into casual style as the attorney’s questions become more forceful, intense, aggressive, or emotional. At the outset of the examination an attorney might say, “Don’t you think you should have told him that?”, but later in the questioning he or she might delete various sounds and contract certain words, as is typically done in casual English: “He wasn’t gonna tell ya that, was’er?” In this instance, “gonna” is a contraction for “going to”, “ya” is the casual pronunciation of “you” in unstressed position, “e” is the pronunciation of “he” in unstressed position immediately following consonants, in casual speech. Many lawyers might seem surprised at the notion that they speak this way in the course of trial testimony, yet they would discover that a high proportion of their speech has such elements of casual speech style.

The role of the court interpreter, then, is to convert speech as it is heard in the source language, into its nearest equivalent in the target language. This requires being able to shift from one speech variety—register, professional jargon, underworld argot, slang, and the like—to another, and to do so rapidly, moving from source language to target

33. Fromkin & Rodman, supra note 10, at 355.
language. Unfortunately, some interpreters either do not have a wide enough range of speech varieties in their linguistic repertoire or, alternatively, they establish one particular style or register as their general norm, regardless of the particular way that a given witness, defendant, lawyer, or judge, is speaking. For example, some interpreters, possibly in an effort to produce what they consider to be "correct" English, consistently aim for a register that is too formal for the witness or defendant for whom they are interpreting.

The following three examination sequences (18-20) demonstrate the use of a linguistic register that is no longer commonly spoken in American English, but which is restricted to the written medium. Moreover, this style is not found in every sort of writing. Rather, it is typical of literary writing.

In examination sequence (18) the witness is asked to identify the defendant, who is sitting in the courtroom. The attorney has asked whether the man sitting in the courtroom is the one who had smuggled the witness into the United States. The witness answers in the following manner:

(18)
Witness: Creo que es él.
Interpreter: I believe it is he.

The interpreter's English version sounds odd. It is of a linguistic style not even used by college-educated monolingual English-speakers in the United States. If this style is used by anyone on the witness stand other than a person earmarked as "an intellectual," it seems peculiar. The witness has already testified in court that he is a campesino ("peasant") and that he has had less than six years of schooling. The disparity between his socioeconomic status and the English interpretation of his answer is striking, since most native English speakers with far more education would say, "it's him" rather than, "it is he."

Similarly, in sequence (19) below, the interpreter's use of the indefinite pronoun "one" is extremely formal. Most English speakers would use the pronoun "you" in place of "one," meaning a generalized, indefinite referent.

(19)
Prosecuting attorney: Do you know an individual by the name of Roberto López Guzmán?
Interpreter: ¿Conoce usted a un individuo de nombre Roberto López Guzmán?
Witness: No lo conozco.
Interpreter: I do not know him.
Prosecuting attorney: Do you know an individual by the name of Pedro Jiménez Torres?
Interpreter: ¿Conoce usted a un individuo de nombre Pedro Jiménez Torres?
Witness: Uno conoce mucha gente pero no de nombre.
Interpreter: Well, you see, one sees a lot of people that one doesn’t know by name so one cannot know the name really.

Even though the indefinite pronoun uno has an equivalent pronoun in English, namely, “one”, the latter is extremely formal and used by either highly educated speakers or by those who wish to appear highly educated. The average high school graduate in the United States would not use the indefinite “one” in speech. Thus, it might seem odd to monolingual English-speakers that someone with an incomplete elementary school education should do so. The witness’ answer in (20) and its English interpretation illustrate a similar disparity.

(20)
Defense attorney: Do you know his name right now?
Interpreter: ¿Sabe usted el nombre de ese hombre ahorita?
Witness: Dicen que se llama Felipe.
Interpreter: It is said that his name is Felipe.

The third person plural in Spanish can be translated into English as an impersonal expression, as the interpreter did in (20). However, such an expression is extremely formal in spoken contexts. Most native English-speakers would say, “They say that his name is Felipe,” using “they” in an indefinite sense, as “you” was used in the preceding sequence.

To sum up, interpreters should bear in mind the linguistic register of the utterances that they are interpreting. If the speech of the Spanish-speaking witness emerges as surprising or odd in its English rendition, then perhaps the interpreter did not choose the best target language equivalent when more than one equivalent was available to her. Striving for “correct English” can result in the type of misalignment demonstrated in sequences (18), (19) and (20) above.

The notions presented above are all useful to demonstrate what interpreters must know about language in order to attain high caliber interpreting. However, these concepts by no means cover all the linguistic realms that need to be mastered by an interpreter. For this reason, the present analysis turns to the field of linguistics known as pragmatics.

E. PRAGMATICS

To date, the linguistic emphasis in court interpreter certification ex-
aminations has been on lexical equivalence—finding a word or expression in the target language that most closely translates into the word or expression in the source language. To achieve lexical equivalence in practice, interpreters must have an ample bilingual vocabulary, one that will enable the interpreter to handle the speech of witnesses and defendants (or plaintiffs) from different social and economic spheres, as well as the speech of attorneys and judges who shift in linguistic style according to the judicial procedure in which they are involved.

The emphasis on lexical equivalence is important, but something vital is being overlooked, and that is sentence meaning. Sentence meaning in context is part of the linguistic study of pragmatics, which is concerned with context-bound meaning. Pragmatics informs the language user that the meaning of an utterance cannot be determined solely by considering information about its grammatical structure. Often, information in the real-world is also needed to make sense of something that a person has just said. For instance, the statement, "It's kind of chilly in here, isn't it?" can be taken to be merely the speaker's observation on the room temperature at the moment. However, given sufficient knowledge as to the relationship between the speaker and the hearer and the speech situation in which they find themselves, the statement can also be interpreted as an indirect request on the part of the speaker that the hearer close the window.

In a similar fashion, the difference in meaning between two sentences may be made by intonation rather than by a difference in wording, as in (21) and (22). These sentences differ, in that (21) has a falling pitch at the end and (22) has a rising pitch.

(21) John came.
(22) John came?

Likewise, in Spanish, the difference between a statement and a question regarding John's arrival can be expressed without recourse to different vocabulary, as in (23) and (24), with the question effect achieved by the rising intonation of (24). The more common way to form Spanish yes/no questions is a change in word order, as shown in (25).

(23) Juan vino.
(24) ¿Juan vino?
(25) ¿Vino Juan?
(26) Did John come?

35. This observation is based on my viewing of two federal court interpreter written examinations and on a description of the federal examination by one who has had a consistent input into its formulation since its inception. See Arjona, The Court Interpreters Certification Test Design in SPANISH LANGUAGE USE AND PUBLIC LIFE IN THE USA 181, 188-190 (L. Elías-Olivares, E.A. Leone, R. Cisneros, & J. Gutiérrez eds. 1985).

36. See S. Levinson, PRAGMATICS (1984) for an overview of areas encompassed by this rapidly expanding field of study.
Sentence (25) is the equivalent of the normal English yes/no question pattern, corresponding to (26). Spanish sentence (24), as does English sentence (22), expresses surprise at John's having come. Both are thus unexpected or "marked" forms of yes/no questions, whereas (25) and (26) are the more expected, or unmarked form.37

While sentences can differ in meaning despite the fact that they comprise an identical set of words, as (23) to (25) demonstrate, sentences may also differ in meaning because of the insertion of linguistic material, either words, phrases or clauses. During the ethnographic stage of my research project, I found that interpreters know the basic rule of interpretation, "Interpret only what was said; do not add to or subtract from the original."38 This is an obvious rule of thumb for interpreters working in courtroom settings, yet frequently the rule is violated. It is violated in a number of different ways.

The thesis of this paper is that one common area of pragmatics where systematic alterations are made by court interpreters is the sphere of speaker specificity, certainty and commitment to the truth of one's assertions. I base this conclusion upon my observations in court and my careful reading of the transcriptions of the proceedings that I observed. I found that interpreters can make an utterance in the source language more certain and sure-sounding in the target language and conversely, can make the utterance less certain, less committing than is the source language utterance.

1. Pragmatic Devices

When people answer questions, they do so with varying degrees of certainty and commitment to the proposition expressed in their utterance, as the following examples will demonstrate. A witness answering an attorney's question can convey a sense of certainty about what he is saying; alternatively, the witness can be seen to be "hedging" in his answer. Of interest to those interested in the bilingual courtroom is the fact that the court interpreter frequently alters precisely that sense of certainty or uncertainty which the witness has conveyed in his or her native language testimony. The linguistic mechanisms that serve to produce a sense of certainty in an utterance or the lack of it fall within the study of pragmatics. In the following analysis, I describe pragmatic devices which are relevant to the issue of interpreting in a legal context.

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37. For some concise explanations of the linguistic notion of markedness, see J. Lyons, INTRODUCTION TO THEORETICAL LINGUISTICS 79 passim (1969) and Bolinger, supra note 13, at 515-516.
38. This formulation of the rule is based on interviews I conducted for this project, as well as my participation in an intensive summer institute for court interpreting at the University of Arizona in June-July, 1983. See, e.g., Almeida & Zahler, supra note 11, at 11, for a more formal statement of this rule.
a. **Hedging** Hedging is one type of pragmatic device often used by speakers of any language. In an extensive discussion of hedging, Brown and Levinson define a hedge as “a particle, word or phrase in a set; it says of that membership that it is partial, or true only in certain respects. . .”\(^{39}\) For example, to say that your car is “kinda old”, using a hedge, means that the car’s membership among the set of old objects is only partial. According to Brown and Levinson, this is the colloquial sense of hedging, and the one used in this paper.

Their definition of hedging extends, in addition, to linguistic forms which indicate that membership of a predicate or noun phrase in a set is more true and complete than perhaps might be expected. Thus, the words “quite” and “absolutely” in the following sentences would be hedges of this type: You’re quite right. You’re absolutely right.\(^{40}\)

Lakoff, who has analyzed hedging as a feature of women’s speech, states that hedges “leave the addressee the option of deciding how seriously to take what the speaker is saying. It is for this reason that ‘John is sorta short’ may be, in the right context, a polite way of saying ‘John is short,’ rather than a scaled-down comment on John’s actual height.”\(^ {41}\)

The reason why hedging is so important in the courtroom is that it can be used by witnesses to mitigate, or soften the impact of the point they are making. After analyzing the question/answer sequences of the Watergate hearings, Danet comments:

> It is obviously in the interest of defendants to mitigate the illocutionary force or point of damaging assertions (“I guess I killed her”) but to avoid mitigating neutral or positive assertions (“I didn’t do it” rather than “I guess I didn’t do it”). “I guess” is a kind of hedge (Lakoff 1970). John Erlichman’s testimony during the Watergate hearings was full of hedges on potentially damaging admissions.\(^ {42}\)

Brown and Levinson state that the Watergate transcripts as a whole, “. . . contain a formidable array of hedges designed to limit criminal culpability.”\(^ {43}\) The following examples of “quality” hedges were among those observed by Brown and Levinson in the Watergate transcripts. Quality hedges “suggest that the speaker is not taking full responsibility for the truth of his utterance.”\(^ {44}\)


\(^{40}\) Id.

\(^{41}\) Id.

\(^{42}\) Id.

\(^{43}\) Id.

\(^{44}\) Id. at 169.
There is some evidence to the effect that...
To the best of my recollection...
I believe. . .
assume

Quoting specifically from McCord's testimony at the Watergate hearings, as reproduced by the New York Times, Brown and Levinson cited the following examples of quality hedges:

(30) As I remember it, would have been. . .
(31) My best recollection is. . .
(32) . . .you might say. . .
(33) (so) I would say. . .
(34) As I recall. . .
(35) I can explain a partial answer to that. . .
(36) Quite candidly, quite frankly, this is exactly my motivation, my reason, the basic motivation of mine for being involved.

The notion of quality hedges comes from Grice's theory of conversational implicature, which identifies a set of general conditions determining the proper conduct of conversation. These conditions are known as "maxims," and are categorized under four headings: quantity, quality, relation and manner. The maxim of quality, which bears on the testimony by McCord cited above, is:

(37) Try to make your contribution one that is true:
   (a) Do not say what you believe to be false;
   (b) Do not say that for which you lack adequate evidence.

Hedges on Grice's maxim of quantity convey to the hearer that information which the speaker is providing is not as much or as precise as might be expected. The maxim of quantity is: (1) Make your contribution as informative as is required (for the current purpose of the dialogue); (2) Do not make your contribution more informative than is required. Brown and Levinson find the following examples to be archetypical of English quantity hedges:

(38) roughly
(39) more or less
(40) approximately
(41) give or take a few

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48. Id. at 47.
49. Id. at 46.
50. Id. at 45.
Spanish has its own comparable expressions for hedging on the maxim of quantity. The following set of expressions (50 through 56) is listed for the sake of comparison with the English ones presented above. Whenever there are equivalencies in meaning between the English and Spanish expressions, a number corresponding to one of the English items above is presented alongside the Spanish expression, preceded by an "equals" sign.

(50) más o menos = (38), (39), (42)
(51) aproximadamente = (40)
(52) diría yo = I would say
(53) hasta cierto punto = (45)
(54) considerándolo todo, a fin de cuentas = (46)
(55) en fin, en resumen = (47)
(56) esencialmente, fundamentalmente = (48)

Grice's third maxim, that of relation, is simply: Be relevant.52 When people know that what they are going to say is not relevant to the topic currently underway, they can use a variety of hedges to mark the change in topic and partially apologize for the change. The following are typical examples of such hedges:53

(57) This may not be relevant, appropriate, timely but . . .
(58) Now is probably the time to say . . .
(59) I might mention at this point . . .
(60) Since I've been wondering, it's been on my mind . . .
(61) By the way . . .
(62) Oh I know . . .
(63) While I remember, think of it . . .
(64) Excuse me if I mention this while I'm thinking of it . . .
(65) All right, now . . .

Some of the hedges above, such as examples (59) and (64), are used in formal contextual settings, perhaps in meetings, rather than in casual conversations with friends. These hedges are extremely polite. Spanish examples of hedges on the maxim of relation are:

(66) Puede ser que esto no sea pertinente, apropiado, oportuno pero . . .

= (57)

52. Grice, supra note 47, at 46.
Different cultural systems place a different value on what is "appropriate" to say in given contexts. Thus, while it is possible to say (64) in Spanish, it is unlikely that a Spanish speaker would ever use such a prefatory remark to introduce a statement. American English has inherited this kind of prefatory remark from British English, where the higher dictates of verbal politeness make it more common for speakers to apologize before taking hold of the conversational floor. British English speakers seem to use this type of hedging more often and in more casual contexts than their American counterparts, whose use of "Excuse me" as a preface to the initiation of a speaking turn marks the context, or the relationship between the speaker and the hearer, as a rather formal one.

In a courtroom setting, lawyers might use such hedges when speaking to the judge or to an expert witness giving testimony. A prefatory remark of this sort serves to indicate that the speaker is about to embark on an elaborated, narrative utterance rather than a concise, fragmented one. It therefore indicates the speaker's sense of control over his or her turn at talk.

Finally, Grice's fourth maxim, that of manner, is: Be perspicuous: (1) Avoid obscurity of expression; (2) Avoid ambiguity; (3) Be brief (avoid unnecessary prolixity); and (4) Be orderly. Hedges on the maxim of manner are expressions such as the following:

(66) if you see what [I'm getting at, I'm driving at, I mean]
(67) to be succinct
(68) in a nutshell
(69) not to beat about the bush...
(70) you see
(71) What I meant was...
(72) More clearly...
(73) To put it more simply...
(74) Now, to be absolutely clear...

Spanish can hedge in the same way, using the following near-equivalents:

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55. I base these conclusions on use of excusatory preambles in hedges of relation on my own observations and comparisons of native speakers. For British English, I draw on seven months' experience living in England, and for Latin American Spanish, on five and a half years spent in Latin America, primarily in Costa Rica and Mexico.
57. Grice, supra note 47, at 46.
Discourse Markers that Serve as Hedges

Discourse markers are linguistic elements which signal some sort of function in the discourse in which they are embedded. These may be as small as individual words, such as "well," or as long as an entire phrase, such as "after watching it go by." A study of hedges reveals that even seemingly "meaningless" words such as "well" can be shown to add a layer of meaning to an utterance, in a way that may not be as obvious as the semantic context carried by nouns, adjectives and verbs.

A number of linguists and sociologists have analyzed the function of "well" in conversation and have discovered several generalizations. "Well" often begins turns at talk as a way of introducing what a speaker is going to say. The marker "well" prefaces insufficient responses to questions. It may also signal that something is about to be said that is in some way negative or dispreferred. "Well" prefaces disagreements, alternating with "yes but" and silences. "Well" can precede an answer in which the speaker cancels the presupposition of a prior question; it may also express the speaker's non-compliance with a request, or a rejection of an offer. Parents preface their responses to their children's requests with "well" more often when their decision is to reject, rather than grant, the requests. Finally, Schiffrin has discovered that "well" serves as a discourse marker that is used by speakers to try to build co-

herence into the discourse. According to Schiffrin, “well” “anchors the speaker in a conversation precisely at those points where upcoming coherence is not guaranteed.”

Because discourse markers such as “well” seem meaningless to the average speaker or hearer, they are easily overlooked by interpreters in two respects. A Spanish-speaker’s pues (“well”) may be deleted in the interpreter’s English rendition. Alternatively, the interpreter’s English rendition sometimes includes “well” although the Spanish-speaker’s utterance did not contain it. The former is illustrated in Example (84) below. The text comes from a preliminary hearing in a justice of the peace court. In this hearing, the justice decides whether there is sufficient evidence against the defendant to bring him to trial in the state level “superior” court. The person testifying is the alleged victim, who has accused the defendant of shooting at him in a parking lot. Note the dialectal form pos, a variant of standard pues.

(84)
Prosecuting attorney: Did you actually see him, witness him taking a gun and shooting it in your direction?
Interpreter: ¿Que si usted actualmente lo miró tomar la pistola y apuntársela en su dirección?
Witness: Pos, ¿cómo lo iba a ver, si yo iba ti-, tirando, en el, en el asiento?
Interpreter: How could I see him if I was thrown on the seat?

The witness in sequence (84) is clearly agitated and indignant. His emotional state is evidenced by his halting speech, that is, the false starts in two instances. The use of pos prefaces his rejection of the lawyer’s insistence on knowing whether he had actually seen the defendant taking a gun and shooting it. The interpretation of the witness’ answer fails to include both the word “well” and the repeated hesitations and false starts. Consequently, it does not convey the witness’ agitation and an-

66. Id. at 662.
68. This sequence also shows another common type of interpreter error, but one which is beyond the scope of this paper: the incorrect substitution of an etymologically related or cognate word for the correct word in the target language. The interpreter’s use of Spanish actualmente for English “actually” is incorrect, since actualmente means “currently.” A correct translation of English “actually” in Spanish might be: “en realidad,” “realmente,” “de verdad,” or some other equivalent of these expressions. While no attempt will be made here to discuss all interpreter errors in the examples presented, it is important to keep in mind that these may also be problematical and lead to confusion. In the particular case from which this example is taken, the question of whether the witness had actually seen the defendant draw the gun was a crucial one, and one which was repeatedly mis-interpreted, using actualmente, by the interpreter. This communication failure, in turn, caused the judge and the prosecuting attorney to become irritated at the witness’ failure to comprehend the question.
noyance at what seems to him to be an unreasonable question, given his circumstances at the moment of the shooting.

Adding hedges such as "well" to an interpretation can be just as distorting. The following sequence, (85), taken from a purse-snatching trial, shows the difference between a hedged and an unhedged response to a lawyer's question. The defendant has been asked to describe the house in which he lives.

(85)
Defense attorney: What kind of house is that?
Interpreter: ¿Qué tipo de casa es?
Defendant: Es una casa chica.
Interpreter: *Well, it's a small house.*

The defendant's answer is clear, definite, and certain. The interpretation, in contrast, is a hedged way of offering the information. The use of "well" in the interpretation conveys, "I don't know exactly how to describe it, but..." As a result, it weakens the certainty with which the defendant expressed himself in Spanish. If he had begun his answer with the word *pues*, then it would have been the interpreter's duty to answer in the way she did. However, neither in this answer nor throughout most of his testimony did the defendant make use of hedges.

In examination sequence (86), the witness is testifying against a person accused of smuggling him along with a group of other undocumented persons into the United States. The witness answers clearly, succinctly, and without hesitation. The interpreter nevertheless adds the hesitation particle "uh" together with the hedge "probably." The hedge "probably" makes the witness' estimation of the number of persons accompanying him unnecessarily vague. The particle "uh" makes his recollection appear even more uncertain to the hearer.

(86)
Attorney: Who else was with you?
Interpreter: ¿Quién más estaba con usted cuando usted cruzó?
Witness: Varios hondureños.
Interpreter: *Uh, uh,* several other Hondurans.
Attorney: Approximately how many?
Interpreter: *¿Aproximadamente cuántos en total?*
Witness: Un promedio de veintiuno.
Interpreter: *Uh, probably an average of twenty-one people.*

In sequence (87), another undocumented person is being asked to describe the vehicle in which he entered the United States. His testimony is equally clear and certain, yet the interpreter has added the hedge "sort of," and repeats it. The net result, in combination with the interpreter's changing her interpretation of the word *rayitos,* from "lines" to "stripes," makes the witness' answer appear more hesitant and uncertain in English than it actually was in Spanish.
Witness: Una avioneta pequeña blanca con rayitos azules.
Interpreter: It was a small airplane, white, with a sort of, a sort of blue lines, blue stripes.

Hedging, then, can be considered a pragmatic device that makes the speaker sound less committed to, or responsible for, the truth of what he or she is saying. In a court of law, as opposed to casual, everyday contexts, hedging can have an impact on how jurors evaluate testifying witnesses. As Duke University anthropologist William O'Barr and his colleagues have shown, hedging is one feature of a testimony style known as “powerless style.” Whether a testifying witness hedges or not makes a difference in the way that listeners in the courtroom evaluate him or her. Hedging generally results in negative evaluations of a testifying witness.

2. Politeness

Politeness in speech is important in court talk. It is one of the features that comprise the “powerless testimony style.” In experimental studies, anthropologists and legal scholars have found that powerless speech style is associated with negative social/psychological evaluations of witnesses by simulated jurors. Specifically, powerless speech style leads simulated jurors to judge testifying witnesses as less convincing, less truthful, less competent, less intelligent and less trustworthy than persons testifying in a “powerful” style. A powerful style is one that lacks several linguistic features that have been associated with women's speech style. Women witnesses, however, are not the only ones who use powerless testimony style. Rather, O'Barr and his colleagues found that powerless speech was used by witnesses of low socioeconomic status, who in their study turned out to be mainly women and working class men. Professional women who testified did not use powerless speech style.

One of the most obvious manifestations of polite talk is the use of terms such as “sir” and “ma’am” in addressing an interlocutor. Lawyers frequently use polite address when questioning witnesses. They do this

69. O'Barr, supra note 56, at 64.
70. Id. For further results of collaborative research on this, see also Conley, O'Barr & Lind, The Power of Language: Presentational Style in the Courtroom, 78 DUKE L.J. 1375, 1379-80 (1978) and B. Erickson, E. Lind, B. Johnson & W. O'Barr, Speech Style and Impression Formation in a Court Setting: The Effects of “Powerful” and “Powerless” Speech, 14 J. EXP. SOC. PSYCHOL. 266, 267 (1978).
71. Lakoff, supra note 41, at 64-83. See also Lakoff, Language and Women's Place, 2 LANGUAGE IN SOCIETY 45, 53 (1973).
72. O'Barr, supra note 56, at 64-70.
73. Id. at 69.
to display to the jury either that they have a high estimation of the testifying witness or that they are trying to treat the witness kindly. Witnesses also vary in their use of polite address terms when answering a lawyer's questions. When witnesses use "sir" and "ma'am," these are typically conclusions to brief, "yes" or "no" types of questions.

Relevant to the issue of court interpreting is the fact that norms of polite speech usage differ from culture to culture. The use of señor, seño-rita, and señora is probably much more prevalent in Latino societies on the whole than the use of "sir" and "ma'am" in Anglo-American society. This disparity can be most obviously noted in asymmetrical social relationships, such as those between children and parents, children and schoolteachers, employees and employers. Whenever social distance and social power between two speakers is significant, the use of polite address forms on the part of the person of lower social standing is expected, and given, in large sections of Spanish-speaking Latin America. From what I have observed, the use of polite address terms in the United States is much more restricted. Such usage is typically found in the military, used by lower ranking personnel in dialogue with higher ranking officers, and by children of military officers in addressing their parents. Salespeople often use polite address terms when talking to customers, and office receptionists use these terms when talking to clients.

In Spanish-speaking societies, it certainly would not be unexpected for witnesses or defendants of low socioeconomic status to answer attorneys' questions with "Si, señor/señorita," or "No, señor/señorita." My own observation in court confirms the common use of such polite address forms during examination sequences. What is surprising about the use of such terms in interpreted proceedings is that interaction between the court interpreter and the witness or defendant for whom she is interpreting produces an independent cycle of polite address. Specifically, even when the examining attorney has not initiated the use of "sir" or "ma'am" with the person testifying, the interpreter often addresses the witness or defendant using these polite forms. The interpreter's use of polite forms in turn elicits reciprocal polite address on the part of the person testifying. Often, however, the witness' or defendant's polite address term is not interpreted in English, as examination sequence (88) shows. In (88), the fact that the interpreter herself is Latin American by upbringing accounts for her general use of señora to address the witness.

Once the interpreter establishes the polite relationship, the witness is culturally constrained to reciprocate.

(88)
Prosecuting attorney: Would you state your name please?
Interpreter: Señora, tenga la bondad de decir su nombre.\textsuperscript{75}
Witness: Mirta Chamorro.
Interpreter: Mirta Chamorro.
Prosecuting attorney: And, uh, what is your occupation?
Interpreter: ¿Cuál es su oficio? ¿De qué se ocupa usted, señora?
Witness: En Colombia vendía lotería.
Interpreter: In Colombia I sold lottery tickets.
Prosecuting attorney: And, uh, where were you born? In Colombia?
Interpreter: ¿Dónde nació usted? ¿Nació usted en Colombia, señora?
Witness: En Bogotá.
Interpreter: ¿Colombia?
Witness: Colombia.
Interpreter: I, uh, I was born in Bogotá, Colombia.
Prosecuting attorney: And are you a citizen of Colombia?
Interpreter: ¿Es usted ciudadana de Colombia, señora?
Witness: Sí, señora.
Interpreter: Yes, I am.
Prosecuting attorney: Are you a citizen of the United States?
Interpreter: ¿Es usted ciudadana de los Estados Unidos?
Witness: No, señor.
Interpreter: No, sir.
Prosecuting attorney: Uh, did you enter the United States, uh, on May the fifteenth of nineteen eighty-three?
Interpreter: ¿Entró usted a Estados Unidos, señora, el día quince de mayo de mil novecientos ochenta y tres?
Witness: Sí, señora.
Interpreter: Yes, I did.
Prosecuting attorney: Uh, when you entered did you have any papers or documents that allowed you to enter or gave you permission to enter?
Interpreter: Cuando usted entró, señora, ¿tenía usted documentos o papeles que la autorizaran a entrar legalmente a este país?
Witness: No, señorita.
Interpreter: No, sir.
Prosecuting attorney: Did you know you were entering the country illegally?
Interpreter: ¿Sabía usted,— puede usted contestarle al licenciado—Excuse me, I'm advising her not to answer “yes, Ma’am” or “no, Ma’am”
because I'm just the interpreter. Excuse me.—Señora, cuando usted con-
teste, conteste al al licenciado porque yo no más como una mani, ma-
, maquinita que le están traduciendo.—Cuando usted entró a este país, se-
ñora, ¿sabía usted que estaba entrando ilegalmente?
Witness: Sí, señorita.
Interpreter: Yes, sir.
Prosecuting attorney: And did you pay anybody money in Colombia to
make arrangements for you?
Interpreter: ¿Y le pagó usted a alguien dinero en Colombia para hacer
los arreglos para su entrada a Estados Unidos, señora?
Witness: Um, nos cobraron noventa y cinco mil.
Interpreter: We were charged ninety-five thousand.
Prosecuting attorney: Uh, that would be Colombian pesos?
Interpreter: Noventa y cinco mil pesos colombianos, señora?
Witness: Colombianos.
Interpreter: Yes, Colombian pesos.
Prosecuting attorney: When you entered the United States, when you
actually entered the United States, were you in an aircraft?
Interpreter: Cuando usted entró a los Estados Unidos, cuando de hecho
entró usted al territorio norteamericano, ¿estaba usted en un avión?
Witness: Sí, una avioneta era.
Interpreter: It was a small airplane—a small aircraft.
Prosecuting attorney: Was the girl that testified here before you also in
that aircraft?
Interpreter: La, la señorita que acaba de atestiguar aquí antes que usted,
¿también estaba en esa avioneta junto con usted?
Witness: Sí, señora.
Interpreter: Yes, sir.

In examination sequence (88), the lawyer never once addresses the
witness with a polite address term, but the interpreter does so throughout
most of the examination. The reason for such polite address may be two-
fold: (1) the interpreter is trying to treat the witness with respect and
dignity, and (2) empathizing with the witness' probable fear and intimi-
dation, the interpreter is trying to help diminish the witness' anxiety.76
As soon as the witness begins answering the yes/no type questions, she
begins reciprocating the polite address forms initiated by the interpreter.
However, what becomes clear is that the witness is addressing the inter-
preter, not the attorney, since, with one exception, she consistently
chooses the feminine address terms señora and señorita. Only once does
she answer with the masculine form, señor. It must be pointed out that
the attorney is a man and the interpreter a woman. The tendency of

76. This explanation is based on inferences I drew from observing the interpreter's communi-
cative behavior, as well as on personal knowledge about her sympathy for undocumented persons
who become caught up in the judicial process. I believe that the fact that the witness was a woman
may also be a factor in the interpreter's use of highly formal and polite speech.
testifying witnesses and defendants to speak directly to the interpreter rather than to the examining attorneys is pervasive in court-interpreted proceedings. Nevertheless, the degree to which this occurs has not been measured in any quantified fashion. During a great deal of the examination, the gaze of the witness or defendant is upon the person who is speaking their language, the interpreter. Court interpreter manuals make explicit mention of this fact and warn interpreters to train witnesses to address the examining attorney rather than themselves.

The interpreter's difficult task is to interpret the utterances of the person testifying with the highest possible degree of fidelity to the original. In situations such as sequence (88), this would mean rendering the English interpretation with a feminine address term, and thereby possibly embarrassing or demeaning the attorney. In order to avoid such a potentially embarrassing situation, the interpreter chooses in some cases to drop the polite term altogether, and in other cases to interpret señorita and señor as "sir." The issue becomes so problematical that the interpreter feels compelled to speak directly to the witness about the problem of polite address. She asks permission to do so, as is required, and explains to the court what she is saying in Spanish to the witness. She attempts to give the witness a short lesson in working with interpreters so that the witness does not continue to respond inappropriately. The witness, however, does not understand the point, perhaps because of nervousness and lack of familiarity with the American courtroom setting, and continues to use feminine polite forms.

Overall, the problem of witnesses addressing the interpreters rather than the examining attorneys is a serious one in court interpreting. How serious it is, in terms of frequency of occurrence, is not known. Nevertheless, it is very difficult for interpreters to give every testifying witness a crash course on how to speak through an interpreter. This situation might be remedied or ameliorated if attorneys helped prepare clients or witnesses to testify properly through an interpreter. In the case above, the interpreter's quick lesson in midstream had no impact on the witness. Her rendition of señora and señorita as "sir" throughout the latter half of the sequence may have been better than to have dropped the polite form entirely, since dropping it would have conveyed an impression of the witness that was a distortion of her spoken intention. That is, the witness was being verbally polite in Spanish, and should have emerged polite in English. The question remains, however, to what extent the witness

78. Almeida & Zahler, supra note 11, at 7.
would have used fewer polite forms if the interpreter had not addressed most of the questions to her with a polite address term.

3. Definiteness

The interpretation of testimony can make the answer to a lawyer’s question in the target language either more or less definitive than the witness’ actual reply in the source language. Some interpreters, perhaps out of a desire to be precise and specific in their interpreted rendition, employ two linguistic devices which result in utterances that convey greater definiteness than does the source language original. Those devices are (1) the use of uncontracted forms, and (2) the insertion of linguistic material thought to be implicit or implied in the source utterance, but not verbally expressed.79 A third linguistic device, not as commonly found, is the use of the definite article (“the”) rather than the indefinite article (“a”). While the difference between “a” and “the” would seem to be a minor one, this device has been shown to have a powerful influence on eyewitness testimony.80

Examination sequences (89), (90) and (91) below exemplify the first two devices. Both serve to make a witness’ answer sound more definite in English than it did in the original. The use of uncontracted forms, in addition, alters the register of the utterance, distorting it from the source language in a second way.

(89)
Prosecuting attorney: What kinda car was this?
Interpreter: ¿Qué clase de carro era, qué tipo de carro era?
Witness: Pues no sé, no más vi que era verde, nada más.
Interpreter: I cannot tell you, I just saw that its color was green, that’s all I could see.
(90)
Prosecuting attorney: Would you state your name please?
Interpreter: Diga su nombre por favor.
Witness: Fernando Gómez Blanco.
Interpreter: Fernando Gómez Blanco.
Prosecuting attorney: And how old are you?
Interpreter: ¿Qué edad tiene usted?
Witness: Treinta y nueve años.
Interpreter: I am thirty-nine years old.
Prosecuting attorney: And what is your occupation?
Interpreter: ¿Cuál es su ocupación, en qué se ocupa usted?
Witness: Campesino.

Interpreter: I am a farmer.
Prosecuting attorney: And of what country are you a citizen?
Interpreter: ¿De qué país es usted ciudadano?
Witness: De México.
Interpreter: I am a citizen of Mexico.
(91)
Defense attorney: Were you told that if you cooperated things would go easier for you?
Interpreter: ¿Le dijo alguien a usted que si usted cooperaba las cosas iban a ser más fáciles para usted?
Witness: No.
Interpreter: No, we were not told that.
Defense attorney: Have you had discussions with any officials since you’ve been arrested?
Interpreter: ¿Ha tenido usted alguna plática con alguno de los oficiales desde que lo arrestaron a usted, señor?
Witness: No.
Interpreter: No, I have not.
Defense attorney: Did you give a statement to any officials?
Interpreter: ¿Dio usted una declaración, le hicieron a usted un interrogatorio alguno de los oficiales?
Witness: No.
Interpreter: No.
Defense attorney: Do you know— did he ever visit the man we know as Oscar Hernández Crispín?
Interpreter: Que usted sepa, ¿visitó él en alguna ocasión al hombre que conocemos como Oscar Hernández Crispín, señor?
Witness: No.
Interpreter: Not that I know of.

4. Use of Uncontracted Forms

Sequences (89), (90) and (91) above contain several instances of the use of uncontracted rather than contracted forms: In (89), “I cannot tell you” rather than “I can’t tell you;” in (90), “I am thirty-nine years old” rather than “I’m thirty-nine years old,” and similarly, “I am a farmer,” and “I am a citizen of Mexico.” In sequence (91), uncontracted forms are “No, we were not told that,” rather than “we weren’t told that,” and “No, I have not,” rather than “No, I haven’t.”

In spoken American English, uncontracted forms comprising the copula “be,” auxiliaries such as “have,” or modals such as “will” occur as uncontracted forms whenever the copula, auxiliary or modal is given heavy stress in the sentence, or when a negative word following such grammatical function words is stressed. Stress can occur because of the speaker’s desire for either emphasis or contrast. Otherwise, the speaker
will generally contract the copula with the subject (e.g., "I'm", “she's”)\textsuperscript{81} or the auxiliary with the subject (e.g., "I've,” “she's”). In the case of negatives, the usual spoken pattern is contraction of the auxiliary with the negative marker, as in “hasn't” or “haven't.”

A similar pattern occurs in the case of modals (e.g., “I'll”, “she'll”).\textsuperscript{82} Modals contract with the subject, but in the case of negatives, modals contract with the negative marker (e.g., “won’t”, “couldn’t”).

The auxiliary verb “do” normally contracts when followed by a negative (e.g., “don’t,” “doesn’t”) unless the speaker wishes to emphasize the negative marker, in which case heavy stress is placed on the marker “not.”

In sequences such as (89)-(91) above, the interpreter rendered answers in English in the uncontracted from, but did not lay heavy stress on the words that normally receive heavy stress for contrast or emphasis. The net result is a very stilted, bookish-sounding style of English, one which I have not heard spoken by native English speakers in the United States. Such an interpretation is particularly odd-sounding when it is combined with the insertion of linguistic material that might have been implicit in the witness’ utterance in Spanish, but which was never explicitly stated in his utterance. In sequence (90), for example, the witness’ reply to the question regarding his occupation is one word, “Campesino.” The English rendition, “I am a farmer,” diverges from the original because the witness did not use any verb at all. Even if he had said, “Soy campesino,” the best equivalent in spoken American English would have been, “I’m a farmer.” Thus, the interpreter has converted an abbreviated source language response into a hyper-formal, stilted, and unnatural English version.

The interpreter's addition of linguistic material implicit in the source language utterance is most striking when witnesses answer in one-word or two-word replies, and the interpreter renders them in full, elaborated form. In sequence (90), for instance, when the witness is asked what country he is a citizen of, his answer is a two-word, “De Mexico.” The interpreter’s rendition is, “I am a citizen of Mexico.” The nearest equivalent in English would have been, “Of Mexico,” or “Mexico.” Similarly, in (91), when the witness is asked if he was told that things would go better for him if he cooperated with the authorities, his answer is sim-

\begin{itemize}
\item \textsuperscript{81} Labov, \textit{Contraction, Deletion, and Inherent Variability of the English Copula}, 45 \textit{Language} 715, 736 (1969). Labov has analyzed the factors that determine when a speaker is likely to contract or delete the copula \textit{be}, and has found that when the copula occurs immediately following a pronoun, it is almost always contracted.
\item \textsuperscript{82} Modals in English are auxiliaries such as “may,” “might,” “must,” “can,” “could,” and “should.”
\end{itemize}
ply, "No." The interpretation, which includes both the use of uncontracted "were not" and the addition of a whole phrase, "we were not told that," makes the witness' answer in English far more definite and assertive than his one-word answer in Spanish. Thus, the interpreter has changed the whole tone of his response. Probably the most divergent interpretation is the one in sequence (91), where the witness' answer, "No," is rendered as, "Not that I know of." Here the insertion of linguistic material can in no way be deduced from the original answer in Spanish. In fact, this particular addition is a hedged answer, when the Spanish answer was not. Such an addition clearly goes against the ground rules of competent interpretation.83

The use of uncontracted forms and the insertion of implied material not only affect the register of witnesses' utterances; these devices also produce a significant effect on persons judging the testimony.84 Contrary to my expectation, persons listening to testimony judge speakers who use this extremely formal speech as more competent and intelligent than they do speakers who use a register that is more generally found in transactional interactions, namely consultative speech style.85 This finding comes from an experimental research project in which 551 persons participated as "mock jurors." Approximately half of the listeners heard a consultative interpretation of the witnesses' testimony, and the other half heard a "hyperformal" rendition characterized by uncontracted forms and the insertion of implicit material.86 Spanish/English Hispanic bilinguals in the study showed an even stronger effect of hyperformal style. They judged the witness whose testimony was interpreted in hyperformal style as not only more competent and more intelligent than the one whose English testimony was consultative in nature, but also more trustworthy. The Hispanic bilingual mock jurors, therefore, were as influenced by the interpreter's English rendition as were the non-Hispanic mock jurors, and even more so. The court interpreter's rendition of testimony, therefore, affects listeners' impression of testifying witnesses. In

83. Almeida & Zahler, supra note 11, at 77.
85. Id.
86. The notion of "hyperformal" speech style as presented here should be distinguished from the concept of "hypercorrect" as used by O'Barr and by variationist linguists such as Labov. O'Barr's notion has to do with the misapplication or overgeneralization of linguistic rules, seen in errors of word choice and grammatical form. Some examples are: the use of "comatose" for "unconscious," expressions such as "not cognizant" for "unaware," and "I know not" for "I don't know." See O'Barr, supra note 56, at 83-87 (1982).

Labov uses the term "hypercorrect" to mean the use of prestigious forms more frequently than would be expected, given the speaker's socioeconomic background and the formality of the speech situation. See Labov, supra note 17, at 126, 179-80.
addition, hyperformal speech style, which is linguistically marked, or unusual, for speakers of American English, is evaluated more positively than an unmarked speech style. The speaker whose testimony was interpreted in hyperformal style had revealed by his answers that he had attained very little formal schooling. Thus, the discrepancy between his reported low socioeconomic status and his bookish, or artificially elevated speech style is particularly striking. Judging from the evaluations of the mock jurors, the elevation of this witness' speech register served only to enhance him in the eyes of the evaluators.

One final device which conveys greater definiteness in the target language utterance than in the original is a shift from the indefinite article (“a”) to the definite article (“the”). In a case involving the transporting of undocumented persons across the U.S. border, the interpreter consistently changed the attorney's repeated references to “a Cuban” to “the Cuban,” as she interpreted his questions for the witness. The questions and their interpretation are presented below.

(92)
Attorney: Mr. Gutiérrez, did you, did you give any money to, to a Cuban?
Interpreter: Señor Miranda, ¿le dio usted dinero al cubano?

. . . .
Attorney: Did you have any conversation with a Cuban?
Interpreter: ¿Conversó usted algo con el cubano?

. . . .
Attorney: Did you tell a Cuban that you were a Mexican citizen without documentation to enter into the United States?
Interpreter: ¿Le dijo al cubano que usted era sin documentos?

While the difference between “a” and “the” may seem trivial, there is a crucial difference between them. The definite article, “the,” carries with it the presupposition that the thing to which it refers exists. In contrast, the indefinite article “a” carries no such lexical presupposition. Psycholinguist Elizabeth Loftus and her colleague G. Zanni have demonstrated that after showing subjects in an experiment a film of an auto accident, those subjects who were asked if they had seen “the broken headlight” were more likely to report having seen the headlight than were subjects who were asked if they had seen “a broken headlight.”87 In fact, no broken headlight had appeared in the test film. Thus, the use of the definite article in the question of a lawyer can induce eyewitnesses to recall having seen an object that they had never really seen. Therefore, it is crucial for court interpreters not to casually interpret the article “a” as el or la, los, or las, no matter how insignificant those words may appear to be. The existential presupposition of the definite article leads

87. Loftus & Zanni, supra note 80, at 87.
the witness into talking about the person or object as if he, she or it did in fact exist.

5. **Repeating and Rephrasing**

Court interpreters very frequently resort to repeating or rephrasing portions of their own interpretations. Repetition regularly goes on despite the fact that it is considered inappropriate. The inappropriateness of interpreters' repetitions is implicit in the fundamental rule that court interpreting, be it simultaneous or consecutive, must be verbatim, even in the event of a witness' non-responsive answer to a question. When phrases or expressions are reworded in Spanish for the benefit of the witness or defendant, it is done primarily for the purpose of ensuring greater comprehension on his or her part. When rephrasing is done in English, for the benefit of the examining attorney or judge, it is usually done to achieve greater accuracy, or precision in interpreting. Accuracy is sought for the benefit of not only the attorney and judge, but also for the court record. Court interpreters are very conscious that what they say out loud in the course of consecutive interpreting goes into the record, as transcribed by the court reporter.

Sequence (93) below is a good illustration of how interpreters rephrase a question in several ways, so that the witness may understand it fully. In the interpretation of the attorney's second question, regarding where the witness was planning to go, the interpreter phrases the question in four different ways. Literally, the English translation of her Spanish rendition is as follows: What were your plans? Where were you heading to, what was your goal, your destination?

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(93)
Prosecuting attorney: Have you ever been in the United States of America before, sir?
Interpreter: ¿Ha estado usted antes de esta ocasión en los Estados Unidos?
Witness: No.
Interpreter: No.
Prosecuting attorney: How well,—where were you planning on going?
Interpreter: ¿Cuáles eran los planes de usted? ¿Hacia dónde se dirigía usted, cuál era su meta, el lugar de su destino?
Witness: No, pues buscar trabajo por, ah, donde hallara.
Interpreter: I wanted to look for work wherever I could find it.
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In examination sequence (94) each time the interpreter interprets the word "refuse" into Spanish, she does so by rephrasing. She uses three different methods of rendering the phrase "he refused" in Spanish: él dijo que "no"; él se rehusó; él se negó.

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88. Almeida & Zahler, supra note 11, at 11-12.
Defense attorney: Did he have, after you asked him to take you across the border, did you have any conversation with the driver of the automobile, Mr. Davis?

Interpreter: Después de que ustedes le preguntaron, si, al señor le pidieron que los trajera a este lado ¿tuvo él alguna conversación con el conductor, con él que manejaba el vehículo? (addressing the attorney: Davis, did you say, sir? Davis?) Con el señor Davis, con el señor Davis.

Witness: No.

Interpreter: No.

Defense attorney: In other words when you asked Mr. Badilla, he refused?

Interpreter: En otras palabras, cuando ustedes le pidieron al señor Badilla, ¿él dijo que “no”? ¿El se rehusó?

Witness: ¿De qué?

Interpreter: What do you mean? He refused to do what?

Defense attorney: Guide you across the border.

Interpreter: ¿El se rehusó, se negó a traerlos a, a, a través de la frontera?

The interpreter's interpretation of the witness's answer, “¿De qué?” also is rendered in two ways. The second interpretation adds to the witness's brief answer, making it more complete and more understandable.

The interpreter also rephrases her own version for the better comprehension of the witnesses, as in examples (95)-(97).

(95)
Prosecuting attorney: What kind of car was it?
Interpreter: ¿Qué clase de carro era, qué tipo de carro era?

(96)
Prosecuting attorney: And what is your occupation?
Interpreter: ¿Cuál es su ocupación, en qué se ocupa usted?

(97)
Defense attorney: Did you give a statement to any officials?
Interpreter: ¿Dio usted una declaración, le hicieron a usted un interrogatorio alguno de los oficiales?

In (95), the interpreter gives two versions of the prosecuting attorney's question concerning the car. The two are identical in meaning. The only difference between them is the rendering of the English word “kind” as either clase or tipo. Similarly, in (96), the interpreter renders the question, “And what is your occupation?” in two ways. The English equivalent of her interpretation is: “What is your occupation? What do you do for a living?” Finally, in (97), the interpreter rephrases a portion of the attorney's question regarding whether the witness gave a statement to some officials. The rewording in this instance is unusual, because the first version, although incomplete, conforms closely to the meaning of the English original: “Did you give a statement?” The rephrased version
puts the witness in the more passive role of recipient of the action rather than agent of the action, since it asks if any of the officials questioned him. Perhaps the most striking example of interpreter rephrasing is (98) below. In this sequence, the interpreter renders the lawyer's question, "Who drove the car?" into four different Spanish versions.

(98)
Defense attorney: How did you, uh, travel to the airport from the hotel in Chihuahua?
Interpreter: ¿Cómo es que llegó usted desde el hotel al aeropuerto de Chihuahua, señor? ¿Cómo viajó usted del hotel al, al aeropuerto de Chihuahua?
Witness: En un carro. Del hotel a, al aeropuerto en un carro.
Interpreter: In a car. From the, from the hotel to the airport in a car.
Defense attorney: Who drove the car?
Interpreter: ¿Quién manejó el, el carro? ¿Quién conducía el carro en que viajó usted del hotel al aeropuerto de Chihuahua? ¿Quién lo manejaba, quién lo iba conduciendo?

F.
THE IMPORTANCE OF PRAGMATICS IN THE COURTROOM

The various pragmatic features that have been discussed in this article are important in the courtroom in two different ways. First, when interpreters add hedges, polite forms, uncontracted forms, implicit linguistic material, and repetitions or rephrasings, witness testimony as rendered in English tends to emerge as longer (measured in words per answer) than did the Spanish source utterance. Thus, interpreted answers tend to be fuller, more elaborate answers than Spanish source language answers. This finding is based on my analysis of the testimony of twenty-seven Spanish-speaking witnesses, as interpreted by six interpreters.89 The finding that court interpreters tend to lengthen utterances when they interpret in the direction of Spanish to English is surprising, since one's expectation based on a knowledge of the syntactic structure of English and Spanish is that in the interpretation of Spanish into English the output should be shorter than the input, in terms of words per utterance.90

Why is length of answer important in the courtroom? Witnesses who testify in longer, more elaborate, fuller answers tend to be evaluated more positively by simulated jurors than are witnesses who give brief, incisive answers.91 O'Barr and his colleagues have called the former "narrative testimony style" and the latter "fragmented testimony

89. Berk-Seligson, supra note 79, at 1101.
90. See G. Vasquez-Ayora, INTRODUCCIÓN A LA TRADUCTOLOGÍA 336 (1977) and McEwan, Spanish Interpreters Take to the Airways, 16 POLYGLOT 5 (1986).
91. O'Barr, supra note 56, at 76-78.
Specifically, witnesses who testify in narrative style are judged to be more competent and more socially dynamic. Furthermore, simulated jurors assume that witnesses who testify in lengthier answers do so because the interrogating attorney relinquishes some of his power over the witness; jurors assume that the attorney has a high estimation of the witness.

Pragmatic features of interpreter-lengthened testimony fit under the rubric of what O’Barr and his colleagues have called “powerless testimony style.” In particular the use of hedges, polite forms, hesitation forms (“ah,” “uh”) and other “meaningless” particles (“well”) fall into the realm of powerless speech. As noted above, powerless speech is associated with negative social/psychological evaluations of witnesses by mock jurors. By adding such “powerless” elements to the answers of Spanish-speaking witnesses, interpreters might be serving to make them look less competent, less intelligent, less truthful and less honest than they did in their original Spanish testimony. However, the negative effect of the presence of such features in interpreted testimony must be considered empirically. Thus far, one of these interpreter-induced features, politeness, has been shown to have an enhancing effect on listener evaluations of the witnesses.  

Finally, interpreters sometimes convert witnesses’ answers into an excessively formal register, one that is appropriate only for written communication or used by highly educated English-speakers in very formal contexts (e.g., college lectures). I had hypothesized that when interpreters use this style in interpreting for Spanish-speaking witnesses of low socioeconomic status, it would sound stilted and odd to a jury. Features of this hyperformal style, avoidance of contracted forms and inclusion of material thought to be implied in the original, I believed, would strike mock jurors as odd and discordant, given the admittedly low socioeconomic status of the Spanish-speaking witness. Surprisingly, the rendering of testimony in hyperformal style has been shown to produce significantly more positive social/psychological evaluations of witnesses whose testimony is interpreted in this manner. The raising of a witness’ speech register to a level higher than the one he or she is using results in listeners obtaining a more positive impression of that witness, particularly in the dimensions of intelligence, competence, and trustworthiness. Moreover, the impact of this kind of English interpretation on Hispanic bilinguals is the same as its effect on non-Hispanic mock jurors.  

92. Id. at 80-82.
94. Berk-Seligson, supra note 84, at 12-16.
95. Id. at 11-12.
implication of this striking finding is that Hispanic listeners are influenced by the interpretation of the court interpreter, even though they have had access to the Spanish source language testimony. The influence of the court interpreter, therefore, is very powerful.

G. CONCLUSION

This article has demonstrated that there are various linguistic elements that should be brought to the attention of those currently working in American courtrooms as interpreters and those who aspire to become court interpreters. Specifically, the role of pragmatics is important, in that insertion or omission of elements such as hedges, polite forms, hesitations or particles like "well" in the interpretation of witness testimony can create a different impression of the witness whose Spanish answers have been converted into English. The interpreter has the power to make a witness' answers sound more definite than they were in the Spanish original. Conversely, she can make the answers sound less definite and less certain. Furthermore, the interpreter can provoke cognitive dissonance in the hearers. This occurs when she renders English interpretations in a register or speech style that is hyperformal and atypical of ordinary, spoken American English. This dissonance is especially striking when the Spanish answers provided by persons of particularly low educational attainment are rendered into English in a form that is rarely used for speaking by even college-educated monolingual English speakers, but tends to be used primarily for formal or literary writing. However, the dissonance apparently serves only to enhance the image of the witness in the eyes of mock jurors. To understand what constitutes good interpreting, one must understand the concept of linguistic register. Good interpreting, ultimately, means high fidelity to the source language utterance. Interpreters are not supposed to make witnesses and defendants look any more convincing, intelligent, and trustworthy than they sound in their native language. Conversely, they are not allowed to make them appear less so.

Finally, linguistic spheres above and beyond vocabulary need to be given greater attention in the on-going training of future interpreters. The issue of appropriate register involves choice of morphological form and syntactic rule. Thus, the difference between "It is he" and "it's him" involves pronominal selection and the option of contracting or not contracting the copula "be." The realm of pragmatics involves discourse function, and goes well beyond the bounds of the sentence as a linguistic unit. In other words, there is a lot more to good interpreting than getting the lexical equivalent in the target language of a word or expression uttered in the source language. Linguistic concerns beyond vocabulary and
idioms need to be kept firmly in mind. What is called for is heightened consciousness of these concerns on the part of the court interpreting profession, and an awareness of an aspect of interpreting which until now has been given little attention. With a little effort, these goals can certainly be realized.

Many of the difficulties encountered by the court interpreter have to do with the fact that attorneys, clients, and even judges often do not understand how they are to behave linguistically in relation to the court interpreter.96 If some of the current problems are to be ameliorated, attorneys and judges should receive training and orientation in how to work with court interpreters.

In addition, there is a need for new research, specifically in the area of cross-cultural differences in ways of speaking and the implications these differences have for proper witness examination techniques. Finally, given the paucity of empirical studies of interpreting in legal settings, there is a need for research that can determine quantitatively the precise impact of various interpreting techniques and the impact of the numerous linguistic features that enter into a witness' or defendant's testimony. My investigations referred to earlier constitute efforts in this direction. They are however, just the beginnings of research in this fertile new area of investigation.