



## Forensic Translators' Critical Role in Judicial Proceedings

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### Abstract

This research aims to highlight forensic criminal and oral translation in legal proceedings. It also aims to investigate the importance of translation and forensic oral translation in legal contexts, such as judicial proceedings. The role of forensic translators in criminal cases is important to accurately convey the content of the message so that all parties are treated fairly by judges and jurors and have nothing to do with punishment or imprisonment. According to recent studies, legal translators play a crucial role in judicial proceedings, so defendants in criminal cases need legal representation and forensic translation. The study shows the requirements of forensic interpretation as they should have command of the language that extends beyond just witnesses and defendants in the court of law. The role of a forensic interpreter in a courtroom is not to raise or lower the level of guilt of a defendant. They could correct the defendants' grammatical errors during the trial. Faults include omitting repair mechanisms and pauses or filler forms, incorrectly inserting or removing them, and adding courteous manners of address to demonstrate solidarity, comply with cultural standards, and avoid face-threatening behaviors. Translators' language choices had an impact on judges and lawyers. This study's language and translation materials were drawn from various sources and references. There are also several research papers on the subject. Forensic investigations in linguistics and translation make use of the term as an essential aspect of judicial proceedings is the removal of errors and the proper outcome. The researcher comes up with a list of ideas and recommendations.

**Keywords:** Forensic translators, Interpreter, Judicial Proceedings, Forensic Context, Forensic Linguistics



### المستخلص:

يهدف هذا البحث إلى تسليط الضوء على الترجمة الجنائية والشفهية في الإجراءات القانونية. كما يهدف تقصي أهمية الترجمة التحريرية والترجمة الشفهية الجنائية في السياقات القانونية، مثل الإجراءات القضائية. إن دور المترجمين في القضايا الجنائية، يتمثل في أهمية نقل محتوى الرسالة بدقة كي يتم معاملة جميع الأطراف بإنصاف من قبل القضاة والمحلفين، ولا علاقة لهم ولا تأثير لنقلهم على العقوبة أو السجن. لذا ووفقا للدراسات الحديثة، يؤدي المترجمون القانونيون دورا حاسما في الإجراءات القضائية، ولذا يحتاج المتهمون في القضايا الجنائية إلى تمثيل قانوني وترجمة لغوية. وتبين الدراسة متطلبات الترجمة في المجال الجنائي حيث ينبغي أن يتقنوا اللغة التي تتجاوز مجرد الشهود والمدعى عليهم في المحكمة. دور مترجم المجال الجنائي في قاعة المحكمة ليس رفع أو خفض مستوى الخطأ على المدعى عليه. لكنه لديهم الفرصة لتصحيح الأخطاء النحوية للمتهمين أثناء المحاكمة. وتشمل الأخطاء حذف آليات الإصلاح والتوقيات المؤقتة أو نماذج الحشو، وإدخالها أو إزالتها بشكل غير صحيح، وإضافة طرق مهذبة للعنوان لإظهار التضامن، والامتنال للمعايير الثقافية، وتجنب السلوكيات التي تهدد المدعى عليه. لذا قد نجد لخيارات المترجمين اللغوية تأثير على القضاة والمحامين. وقد استمدت مواد اللغة والترجمة في هذه الدراسة من مصادر ومراجع مختلفة، وتوجد العديد من الأوراق البحثية حول هذا الموضوع. وفي خاتمة البحث نجد أن مصطلح الترجمة الجنائية يستخدم في التحقيقات الجنائية كجانب مهم من الجوانب الأساسية للإجراءات القضائية ويسعى إزالة الأخطاء الناتجة أثناء التواصل وتحقيق النتائج المرغوبة. واختتم البحث بقائمة من الأفكار والتوصيات.

**الكلمات المفتاحية:** المترجم الجنائي، المترجم الجنائي شفوي، الإجراءات القانونية، سياق الترجمة الجنائية، اللغويات الجنائية

## 1. Introduction

Over the past few years, linguistics used to be defined linguistics as a science, which included all of its subfields. Due to the term's development and subsequent categorization, it now encompasses many subjects. As a result, new stems appeared. For example, the branch of applied linguistics known as forensic linguistics is becoming more popular. In its broadest sense, Forensic Linguistics refers to applying linguistics to legal or criminal matters.

Forensics has evolved into a multidisciplinary field that includes psychology, medicine, law, languages, and translation. Additionally, the word is frequently used interchangeably with linguistics and translation to emphasize the significance of addressing legal forensic considerations. Forensics has evolved into a multidisciplinary field that includes psychology, medicine, law, languages, and translation. Additionally, the word is commonly used as a synonym for linguistics and translation to emphasize the significance of addressing legal forensic considerations. The combination of languages and crowd-detection promotes the legitimacy of criminal legislation in the eyes of investigators. Forensic



toxicology, like forensic chemistry, is critical in arriving at a reliable, if not always expected judgments in criminal cases. The word was frequently used in legal proceedings because of the linguistic diversity of the Arab world.

Non-citizens' trials and cases in which they are accused of any position, misconduct, or crime are assigned forensic translators and interpreters by the Justice ministries of these nations. As a result of linguistic hurdles, legal systems, and cultural differences, it is difficult for monolinguals to communicate effectively with one another. In the face of a massive language barrier, courts are the most appropriate venue for resolving conflicts and ensuring that justice is administered to all. . As a result of their duty to offer the correct conclusion, the judges and attorneys were influenced by the translators' linguistic choices. The researcher laid out a detailed timeline of forensic translation to set the stage for this discussion. In a number of nations, Arabic is the judiciary's official language. For parties or witnesses who are unable to communicate in Arabic, the court will appoint a forensic translator or interpreter. In the majority of circumstances, the translator vows to offer only correct translations.

## 2. The forensic linguistics field's inception

Forensic linguistics spans a wide range of subfields as a relatively new and fast-growing branch of applied language studies. The scientific study of language in the contexts and applications of forensic science is what this discipline is all about. In the 1950s and '60s, the forensic linguistics field began to take shape. Jan Svartvik, a Swedish language expert, discovered it while analyzing a police testimony from 1953, although it was not used until 1968. In 1968, Jan Svartvik coined the term "forensic linguistics" after examining the evidence of Timothy John, a man who was hanged for the murder of his wife and child but was later pardoned posthumously. Since then, little progress has been achieved (Olson, 2004).

Numerous cases involving the authenticity of police testimony were examined in the United Kingdom's early years of Forensic Linguistics. The first time an expert from the witness box testified on this issue was in 1989 in the Old Bailey murder trial when Peter French revealed the existence of a police registry in an allegedly damning statement made entirely by one of the defendants.

The origins of forensic linguistics in the United States were substantially different, with an emphasis on an individual's rights during questioning. As Professor Roger Shuy remarked, other issues arose: my admissions must be voluntary; interrogation must be conducted without coercion; arrestees must be notified of their rights; and so forth. In answer to the first point, they observed that an arrestee is unlikely to submit to interrogation willingly. As the US Supreme Court has acknowledged, questioning is fundamentally coercive. Shuy (1997, p. 180) presents an excellent example of how coercion might be used during an interview. He describes how two police officers escorted a man to the police station in the



rear of a police car after refusing to talk after his Miranda rights were given to him. Another early use of Forensic Linguistics in the United States concerns the legality of trademarks as words or phrases in the language.

Linguists in Australia began convening in the 1980s to explore the application of linguistics and sociolinguistics to legal issues in the 1980s. They were concerned with individual rights in the court process and the difficulties aboriginal suspects face during police questioning. They soon saw that even adverb like "the same language" are subject to debate. A prominent example of this is the dialect used by many Aboriginal people, which is sometimes referred to as "Aboriginal English," which many white Australians mistakenly assume is a flawed variant of the English spoken by whites. It is, indeed, a different dialect. Thus, when faced by police, Aboriginal people bring their interpretation and application of "English" to the proceedings, which may or may not be acknowledged by speakers of the language's mainstream form, i.e., "white English."

Several Arab countries, notably Iraq, Saudi Arabia, and the United Arab Emirates, have instituted forensic translation in Judiciary Proceedings of law. The primary purpose of appointing forensic interpreters was to translate and interpret all evidence presented in a courtroom, including testimony from witnesses, defendants, judges, and jurors. Forensic translation is becoming an essential part of judicial processes in the United Arab Emirates, notably under Article 70 of the penal code. According to the article, investigations should be done in Arabic, but translators should be hired if any involved parties do not know the language. The interpreter is usually sworn in." Since Forensic Linguistics became a legitimate scientific discipline, its scope has grown tremendously. Experts in linguistics have testified in various instances, including detecting the authorship of terrorist acts, finding the source of product contamination, and establishing the time of death by analyzing cell phone text messages. This is an ever-changing list. Forensic Linguistics may be summed up in two aspects:

1. Forensic Linguistics must be evaluated as an expert witness in the legal system to assess its scope and effectiveness.
2. Forensic linguistics processes need to be developed and made more accessible to non-linguists.

According to Coulthard and Johnson, Forensic Linguistics has advanced in recent years. In 1993 and 1994, the International Association of Forensic Linguists and the International Journal of Speech, Language, and the Law were created. The International Association of Forensic Linguists also held a biennial international conference.

According to Olson (2004), criminal investigations and trials are "a blend of the scientific disciplines that deal with language and the law." This situation has a linguistic element, and forensic linguistics focuses on studying language about legal and judicial proceedings.



Forensic linguistics is not a one-size-fits-all field because of the wide range of professionals and academics. Linguistic information is used in judicial procedures and disagreements between persons that might lead to legal action. Forensics is all about this. These findings have prompted an increased focus on language as an investigative tool in applied linguistics."

Forensic translations, involvement in court proceedings, and written law are all elements of Applied Linguistics. "Forensic Linguistics" covers legal language, courtroom talk, and even plagiarism, according to Coulthard & Johnson (2010, p. 1). You can testify as an expert witness in various fields as an applied (forensic) language specialist, including blackmail, trademarks, and warning labels.

### **3. Using forensic linguistics as a tool**

Language study encompasses a wide range of topics and has various subfields. Linguistics and how languages operate are examined in different ways by each kind. On the other hand, applied linguistics focuses on language education, training, and actual usage. On the other hand, forensic linguistics examines language in a legal setting. In legal situations, it may be used to determine the speaker's voice, assess the meaning of written and spoken statements (such as confessions), and even identify the author of written and spoken declarations. Forensic translation and interpretation, forensic linguistics, and an analysis of the language used in court by trial participants (such as jurors, attorneys, and witnesses) are all examples of forensic linguistics (McMenamin, 2002).

### **4. Forensic translation features**

In any legal setting, forensic translation and court interpretation and translation are included in forensic translation. Legal, judicial, or forensic interpreting provides translation services for Judiciary Proceedings of law or legal procedures. Gonzalez et al. (1991) describe "legal interpretation" as providing interpretation in a courtroom or attorney's office during a legal proceeding or activity. A subtype of judicial interpretation is court interpreting, sometimes known as quasi-judicial interpreting. The number of persons interested in practicing it and the number of fields and sub-disciplines within its scope—for example, forensic linguistics—has risen dramatically.

Translation plays a vital role in forensic investigation and evidence analysis as a new multidisciplinary discipline in Translation Studies. Several factors contribute to the importance of this translation. First and foremost, it safeguards the rights of the accused. To aid the judge, a translation or interpreter may be able to deduce that an innocent person is in jail while the guilty are released. They are involved in various criminal justice-related activities, including investigating crimes and the dismissal of those who have been falsely accused.

### **5. The text of forensics and its context**



Every piece of written or spoken language has a forensic context. One utilized in a court of law or criminal inquiry is considered a forensic piece of writing. From a parking ticket, you may create various legal documents. Parking tickets can create forensic records (Olsson, p. 5). However, only a few text types, some of which are present in the forensic text itself, have been focused on when it comes to actual application in crime scene investigations. Language and non-linguistic discourse are dynamic and socially generated within the rich law environment. Ordinary individuals fill this "mini-nation" "lower levels," led by judges, attorneys, police officers, and other law enforcement personnel (Coulthard and Johnson, 2010). Forensic development requires communication in both languages between the persons involved. Lawyers and judges tend to be excellent language users because they dedicate much time to language studies. Investigation, trial, and appeal are the three main steps of judicial processes. All three of these steps are included in the "forensic context." At every level, translators and interpreters must work together. Few examples of human behavior may be discovered in the forensic literature. What matters most is how forensic experts are treated in courtrooms, such as in an "adversarial" or "magisterial" setting. One significant distinction between the two systems is that juries are purposefully chosen for their lack of understanding in the issue under consideration. To utilize the services of a Forensic Translator when necessary.

The right to a fair trial under international law requires the use of interpreters. Under international treaties and agreements, everyone accused of a crime has the right to free translation services. If an accused person does not understand or speak English, the court must provide them with the assistance of an interpreter to ensure a fair trial. The constitutions of many countries offer this right to freedom of expression. Article 6 (3) of the European Convention on Human Rights permits the use of an interpreter or translator during a criminal prosecution (Vandenberghe, 2003; Vanden Bosch, 2003). Translation services are provided free of charge for defendants who cannot speak because of language issues under this statute. A free translation service is available for people who cannot comprehend or talk about the language spoken in court. The service is funded by those who can.

#### 6. The Forensic Translator's Responsibilities

Even within the legal profession, a skilled legal translator realizes that different areas of law require other translation techniques: a contract has nothing in common with a will, an administrative certificate, a court judgment, or legislation, to mention a few examples. They realize that they must study not just a legal dictionary but also the relevant treatise and that the use of those bilingual dictionaries, although beneficial, must be used with caution. The professional legal translator must be aware of the document's intended use, impacting their technique and content. A vocabulary of words and phrases (tone). It is essential for the translator first to determine if the source material is "unintelligible to laymen but not to the professional, or just unintelligible," in the words of the author Holly Mikkelson. When



translating a meaningless original, the translator must consider if the target language's translation should be as useless, even if it means intentionally generating nonsensical material. Forensic interpreters and translators play an essential role in the courtroom because of the importance of fair trials for criminal defendants. Each of these parties is critical to the other's comprehension and interaction. To qualify as a forensic translator, a set of prerequisites must be met.

### 7. The fundamentals of legal interpretation and translation

There are some skills and standards that a forensic interpreter/translator should have to do their job effectively, according to Hewitt and William (1995). Being well-versed in and knowledgeable about a subject

2. Reliability and thoroughness
3. Preventing any potential prejudice or conflict of interest.
4. Confidentiality

Constraints on the Advancement of Professional Practice

When translating a conversation, the interpreter/translator must ensure that the source language transcript is correct and that the target language translation is comprehensive, accurate, and unbiased.

### 8. Methods and Techniques for Forensic Interpretation and Translation

Legal translations are complex and time-consuming due to law and the legal language. Complicating matters further requires a translation between two distinct languages and legal systems. Legal translation challenges arise due to various circumstances, including systemic inconsistencies in the law, language variations, and cultural distinctions. All of these subjects are inextricably linked. Comparative legal research is harmed by the absence of a specific link between legal concepts and categories across legal systems. Sarcevic (1997, p.11) contrasts prescriptive and descriptive texts in legal documents with works that incorporate both forms of information (e.g., judicial decisions, appeals, petitions). This definition eliminates texts whose primary role is expressive.

Forensic interpreters use one of three interpretation techniques in courtrooms: sequential, simultaneous, or sighted. Interpreters can take notes to assist them in recalling what was said when working in sequential mode, which begins after the speaker has stopped speaking and continues until the speaker has done speaking. A technique known as simultaneous interpretation entails having the interpreters read aloud the written translation while the speaker is saying it. On the other hand, Sight translation requires the interpreter to read aloud from one language into another to be effective. The interpreter should be well-versed in the courtroom environment's processes and norms. In addition, the interpreters must speak effectively with all members of the court's staff, including the judges and jurors. Both their oral and written communication talents should be of the highest caliber.



### 9. When does a lawyer require the services of a forensic linguist?

Historically, witnesses were expected to identify themselves for their testimony in court to be more easily understood by the jury. Each player on the court has a unique set of objectives. For example, depending on the trial conditions, the lawyer's purpose may be to persuade the jury of the defendant's guilt or innocence. During this phase, the linguist's purpose is to explain and clarify the defendant's intended point of view. Despite their divergent viewpoints outside the courtroom, they work together to advance the case and find the truth.

### 10. Cultural aspects in forensic translation and interpretation

Cultural differences exacerbate the difficulty of legal translation. Language, culture, and social contexts are all inextricably linked. To paraphrase Halliday (1975), culture is an informational system of meanings or meanings encoded in people's behavioral potential, as defined by him. Integrating a translator's work around the idea that culture is a collection of knowledge and skills is at the heart of Snell's (1988) integrated approach to translation, which served as the motivation for this project. In this sense, legal culture is described as persistent, historically conditioned ideas regarding the essential nature of law and the correct design and operation of a legal system (Merryman et al., 1994, p. 51). Law is a kind of cultural expression shown via the use of legal language. As with other types of language, legal language is a social activity, and legal texts have traditionally reflected that practice or organizational environment (Goodrich 1987, p. 2). Each country has its own legal language, which reflects the social realities upon which its legal system is founded (Sarcevic 1985, p. 127). Legal document translators must overcome cultural barriers between the SL and TL.

### 11. Training in Forensic Interpretation

It is essential to have both theoretical and practical training in order to do forensic translation and interpretation. It is not necessary to be multilingual or to have a high level of proficiency in two languages to train as an interpreter. Interpreters play a critical part in legal procedures. Re-enacting what the speaker heard and understood, s/he must translate the discourse into another language. There's no doubt about it: Jones (1996: 6).

Consequently, no translation is error-free, and mistakes must be corrected immediately. Misunderstandings and erroneous translations might be the difference between life and death in a global trial. Even the tiniest piece of information may have a significant impact on a case because of the surge in criminal and terrorist activities. An interpreter's oath ensures that an interpreter who lacks experience will offer a high-quality interpretation (Berk-Seligson, 2002, p. 204).





## 12. In order to be a forensic translator, you must have the following requirements:

An interpreter's capacity to work in legal contexts is most heavily influenced by their code of ethics, which is why Gonzalez et al. devote 42 pages to the issue Frishberg, (1996); Sussman and Johnson (1996). When it comes to public events like congresses, assemblies or press conferences, interpreters need to have the confidence and ability to speak in front of a big audience. Additionally, court interpreters are supposed to take cultural differences into account while interpreting. When it comes to teaching clients about cultural differences, they are severely limited (Gonzalez et al., 1991). As a result, they are specialists in their field and recognize the importance of mastering the language and subject matter pertinent to their field (Seleskovitch, 1978a; Gonzalez et al., 1991).

Students participating in these forensic linguistics and legal translation programs get education in systematic linguistic theories, applied linguistics, and law science, equipping them to address linguistics and translation difficulties that emerge in the legal sphere. Forensic Linguistics, for example, is a program at Guangdong University of Foreign Studies that aims to offer professional language and law personnel a firm foundation in legal theory and the practice of forensic language analysis and related application talents. This goal will be accomplished by providing internship opportunities in the legal and translation professions, Chan (2020:94).

## 13. Conclusion

This research emphasized the critical nature of forensic translation and interpretation in courtrooms. This procedure involved translators, judges, juries, and attorneys. The forensic translation was proposed for use in Judiciary Proceedings of law in locations where no other mode of communication existed.

Because most lawbreakers are monolingual, translation is necessary to ensure fair trials and justice. The term "forensic translator" refers to a skilled interpreter who possesses significant linguistic ability and complete awareness of both cultures. They should be able to display memory sensitivity, the ability to develop rapport, and the ability to inspire others' trust. Additionally, they should engage in encounters with impartiality, diplomacy, tolerance, and patience. They must develop a greater understanding of its cultures, civilizations, and politics. Along with the ability to read and write effectively and succinctly, they should be able to listen carefully, analyze what is said, and then correctly repeat what was heard. Forensic translation requires excellent hearing, a clear peaking voice, physical and mental stamina, and a robust nervous system.



#### 14. Recommendations

The following suggestions are given in light of the findings:

1. Acquiring the necessary skills for forensic evidence translation.
2. Criminal investigations and prosecutions should be the primary focus of emphasis.
3. The bodies of justice must immediately establish a training unit.
4. It is essential to have specialized training and accreditation in legal interpretation.
5. In the future, do further forensic interpretation research.
6. The government and the judiciary have recently recognized that forensic interpreting is a highly specialized field requiring university training and a salary commensurate with its intricacy.
7. Through specialized training, attorneys and judges alike should appreciate the importance of correct translating and the obligations of an interpreter in a courtroom situation.

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