

U.S. CUSTOMS AND BORDER PROTECTION
Department of Homeland Security

Memorandum

JUL - 7 2003

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TO: Interim Directors, Field Operations
Interim Director, Preclearance Operations

FROM: Assistant Commissioner
Office of Field Operations

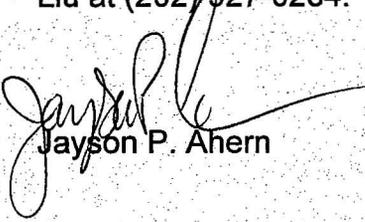
SUBJECT: Guidance on the Use of Interpreters and Interpreter Services; IFM
Update IN03-44

This memorandum and attachment is being issued as field guidance on the use of interpreters and interpreter services when conducting inspections of applicants for admission into the United States. These procedures are effective immediately and will be included in the Inspector's Field Manual (IFM), Chapter 17.18 with a future release of INSERTS.

The appropriate use of interpreters and translators during the inspections process is critical to the determination of admissibility and/or removal of an alien from the United States. The International Religious Freedom Act (IRFA) of 1998 contains provisions designed to ensure that persons with hostile biases, including interpreters and personnel of airlines owned by governments known to be involved in practices which would meet the definition of persecution under international refugee law, not be used in any manner to interpret conversations between aliens and inspectors.

The Office of Field Operations is committed to providing the highest available quality of interpretation and translation to applicants for admission while still ensuring the sensitivity and confidentiality of information discussed during the inspections process. The attached guidelines are intended to encourage inspectors and interpreters to work cooperatively to ensure fair and effective processing of arriving aliens, and will be included in a future release of INSERTS.

Please ensure that all inspectors performing these tasks are aware of this guidance. Supervisory and management officials shall ensure that officers are familiar with, and comply with the contents of this memorandum. Questions regarding the use of interpreters and interpreter services can be directed to Jerry Liu at (202) 927-0234.



Jayson P. Ahern

Attachment

Chapter 17.18. Use of Interpreters and Interpreter Services.

(a) General. In the inspections process, an interpreter may be required to ensure that an alien being interviewed understands the process. The alien needs to be given an opportunity to respond to questions during a sworn statement and to be able to understand and respond to any charges and allegations brought against him or her. It is the responsibility of the officer to read and explain to the alien, in the alien's native language or in a language the alien understands, any determination regarding admissibility and/or removal from the United States. In an interview requiring an interpreter, the role of the interpreter is crucial and any misinterpretation can lead to an incorrect determination of an alien's admissibility.

During the expedited removal process, an interpreter may be required to ensure that the alien understands the allegations and the removal order. As part of the process, the applicant for admission is questioned and a sworn statement taken to establish inadmissibility and to ascertain that the alien has no fears or concerns about being returned to his or her home country or country of last residence. The officer needs to be aware of whether the alien requires an interpreter to convey any concerns or fears he or she may have. Any alien who indicates an intention to apply for asylum or a fear of persecution or torture may not be removed until an asylum officer interviews the alien to determine whether he or she has a credible fear of persecution or torture and warrants a full asylum hearing before an immigration judge.

The International Religious Freedom Act of 1998 (IRFA), PL 105-292, 112 Stat. 2787, section 603, seeks to safeguard aliens against the inadvertent use of interpreters who may have hostile biases. In particular, when interviewing possible asylum applicants, inspectors are prohibited from using airline personnel or other interpreters provided by the airline if the airline is owned by a government that is "known to be involved in practices which would meet the definition of persecution under international refugee law." Since an inspector may not actually know which foreign carriers are privately owned and which are state owned, inspectors should use other officers or commercial interpreters whenever possible.

(b) Interpretations and Translations. Ports of entry (POEs) should accommodate, whenever possible, special requests from an alien, such as a request for a male or female interpreter or request for an interpreter with a specific dialect or from a specific part of the country. Officers are to monitor the quality of interpretation the alien and the translation. If a problem with the interpretation/translation persists, a new interpreter shall be obtained.

Officers are also responsible for informing the interpreter of their role in the process. Below are some guidelines to be aware of when using interpreters.

(1) Interpreters and Translators. If the alien being inspected cannot speak English well enough to fully understand the questions and answer them without difficulty, the alien must be provided with an interpreter. While some aliens can speak and understand English well enough to be interviewed without an interpreter, many aliens may feel more comfortable with an interpreter during the interview.

It is important to know who is qualified to serve as an interpreter and who is not. Officers may use another officer who is fluent in the alien's language, a commercial interpreter services company, a family member, another passenger, an employee or representative from an airline that is not foreign-owned, or on a limited basis, the legacy Immigration and Naturalization Service (INS) New York Interpreters Unit. In sensitive cases, particularly those involving expedited removal, officers should use professionally trained and certified interpreters, rather than family members, other passengers, or airline employees.

(2) Beginning the Interview. Before an interview with an alien, the officer shall emphasize to the interpreter (whether it be another officer, contract interpreter, family member, airline employee, or other individual) the importance of interpreting verbatim, without adding or omitting any information. If a translation of a form(s) in the alien's language is needed, the officer will provide the interpreter with a copy of the form(s), either by physically handing the form to the interpreter, or by faxing a copy of the form(s) to the interpreter before the interview takes place, if the interpretation is being conducted telephonically.

Officers should stress to interpreters the confidentiality of all information discussed, and that the interpreter must remain neutral and objective throughout the interview. The interpreter should also be told that the interviewer or alien may ask for clarification whenever necessary.

(3) Interpreter's Certification. Currently there is no standardized interpreter's certification form. Therefore, a statement must be added at the bottom of the sworn statement. With an expedited removal case, an interpreter's certification may be added at the bottom of the Form I-867B (i.e.; "I _____ certify that I have literally and fully translated the questions asked by the officer into the _____ language and that I truthfully, literally and fully translated the answers to such questions into English.").

(4) Role of the Interpreter. The role of the interpreter is an important one. Interpreters allow the two parties to communicate with each other. Any misinterpretation may result in the applicant for admission being admitted, detained or removed in error. The fundamental role of the interpreter is to faithfully translate everything that is said, and nothing else. The interpreter guidelines specified below do not constitute an exhaustive list but are considered basic interpreter requirements.

- The interpreter must be fluent in both English and a language the alien fully understands.
- The interpreter is to remain neutral and impartial.
- The interpreter must not engage in conversation with the alien during the interview.
- The interpreter must interpret verbatim using the officer and alien's choice of words, rather than the interpreter's choice of words.
- The interpreter should advise the officer if certain terminology cannot be interpreted verbatim and that an interpretation that will accurately convey the meaning of what is being said will be used instead.
- The interpreter should not try to resolve ambiguities or to paraphrase or summarize the exchange with the alien.
- The interpreter should use the same grammatical voice as the speaker (e.g., "I came to visit my family" rather than "He says he came to visit his family").
- The interpreter is not to adopt the role of inspector or take on a primary questioning role, or to indicate in any way his or her opinion of what the alien is saying.

(5) Competency of the Interpreter. Competency of the interpreter is not always easy to determine. There are a number of signs that indicate that there may be miscommunication or that the interpreter is having difficulty interpreting. The alien may indicate non-verbally that he or she is confused or does not understand. It is important that the officer look for signs of miscommunication between the alien and the interpreter. Below are some indications that misinterpretation exists:

- Response to the officer's question does not answer the question or only partially answers the question.
- Officer recognizes words not being interpreted.
- Interpreter uses many more words to interpret the question than the question appears to have.
- Lengthy response from the alien is interpreted from the interpreter as a very brief response.

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- There is back-and-forth dialogue between the interpreter and the alien.
- The alien indicates non-verbally that he or she is confused, concerned, or does not understand.

If the officer notices any indication that the alien and/or interpreter do not fully understand each other, or if the officer and interpreter do not fully understand each other, the officer must stop the interview and contact another interpreter as soon as possible. The officer will note on the sworn statement or in a memo to the file that a second interpreter was obtained and include the reason. The officer, in consultation with the supervisor, has the discretion to obtain another interpreter for the interview. A statement/question should be added to the sworn statement to verify that the alien fully understands and feels comfortable with the interpreter (i.e.; "Do you understand and are you satisfied with the translation provided to you?")

(6) Factors Affecting the Accuracy of the Interpretation.

- The interpreter may not be sufficiently competent in English or the other language.
- The interpreter may have biases.
- The interpreter may have difficulties interpreting from one language to another.
- The alien and interpreter may be communicating through a second language.
- The alien and interpreter may speak different versions of a language.
- Either the interpreter or the alien may exhibit unprofessional behavior.
- The alien may not know how to best communicate through an interpreter.
- There may be cultural differences between interpreter and alien.
- The disposition of the interpreter may not foster good communication.

(7) Ways to Facilitate the Interpretation Through an Interpreter.

- Address the alien directly, not the interpreter.
- Avoid conversations with the interpreter in front of the alien that are not interpreted to the alien.
- Be conscious of your speech patterns.
- Choose your words carefully and avoid idioms.
- Be conscious of the use of certain pronouns and avoid them if possible (i.e.; he, she, they). It is better to use words that denote relationship or refer specifically to an individual (by using name, position, etc.) rather than certain pronouns.
- Speak clearly, and when necessary, speak slowly.

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- Ask straightforward questions and avoid making statements disguised as questions.
- Keep questions clear and simple, asking specific questions one at a time.
- Break down what is to be said into reasonable amounts of information.
- Ask the alien to break his or her statements into short segments so the interpreter can interpret accurately.
- Repeat the question/statement slowly or rephrase it if the interpreter does not appear to understand.
- Check with the interpreter to be sure that he or she understands what is being said, particularly at the beginning of the interview.
- Speak with both the interpreter and alien as soon as it appears that there is a problem in interpretation.
- Remind the interpreter of his or her role when necessary during the interview.

(8) Ending the interview. Before ending the interview with the alien and the interpreter, the officer shall stress to the alien the need for any information relevant to the case and address the alien's questions and concerns. With an expedited removal case, the mandatory closing questions on the Form I-867B must be asked. An interpreter's certification statement should be added at the bottom of the Form I-867B (see subsection "(c)" above, "Interpreter's Certification"). The sworn statement must be read back to the alien, and a copy of the statement given to the alien after the alien and the officer(s) sign it. If the alien is being referred for a credible fear interview, the officer must provide the alien with the Form M-444, Information About Credible Fear Interview. This information should be provided while the interpreter is available, in order to ensure that the alien understands the information and to address any questions the alien may have. The 3/22/99 revision of Form M-444 has been translated into Mandarin, Arabic, Haitian Creole, French, and Albanian. If available, the officer should provide the alien with a Form M-444 in the language the alien understands. The officer must make sure that all needed interpretations and translations are completed before dismissing the interpreter/translator.

(c) Interpretation/Translation Services. When the officer cannot find an interpreter/translator at the POE, he or she should use an interpreter service. Each field office should have arrangements with one or more commercial interpreter services for telephonic interpretations 24 hours a day, 7 days a week. These services either have a contract with the agency or accept payment with a government credit card. Certified interpreters may also be available on a limited basis through the legacy INS's New York Interpreters Unit.

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Following is a list of available commercial interpreter services. Others companies may also be available.

AT&T Language Line Services	(800) 419-9206
CyraCom International	(800) 713-4950 (520) 745-9447
Language Learning Enterprises	(800) 234-0780
Language Line Services	(800) 874-9426 (800) 523-1786
Language Services Associates	(800) 305- 9673
TransPerfect Translations:	(212) 689-5555