



NATIONAL COUNCIL ON INTERPRETING IN HEALTH CARE

Working with Detained Immigrants in Removal Proceedings

Training Tips for Healthcare Interpreters

with Laura Belous, Esq. and Jaime Fatás-Cabeza MA, USCCI, CHI

NCIHC Home for Trainers Webinar Series

**Wednesday, Dec 4
1:00pm Central**



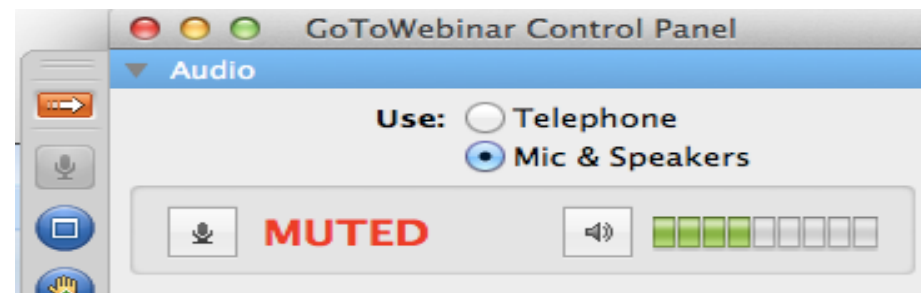


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- Q & A
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Welcome!

Guest Presenters:



Laura Belous, Esq.



**Jaime Fatás-Cabeza,
MA, USCCI, CHI™**

Training Tips for Healthcare Interpreters: Working with Detained Immigrants in Removal Proceedings

PART I

General Legal and Access Issues

Disclosures

- FIRRP's role and history. Laura can speak about the system generally and through experiences of clients she has represented, but cannot make general observations about conditions.
- We are married and have also worked together on cases involved detained immigrants

Definitions and Chart of Agencies Involved

Department of Homeland Security:

- **Customs and Border Protection (CBP, Border Patrol)**
 - Often initial contact with client through arrest at/near border
- **Immigration and Customs Enforcement (ICE)**
 - Agency responsible for internal enforcement, detention removal
- **United States Citizenship and Immigration Services (USCIS)**
 - Agency conducting credible fear/reasonable fear screening.

Department of Justice

- Executive Office for Immigration Review (Immigration Court)
 - Agency responsible for making determinations in removal proceedings

Department of Health and Human Services

- Office of Refugee Resettlement
 - Agency responsible for detaining unaccompanied children

Some of the Basic Health Issues Presented

- CBP arrest—folks often exhausted after very long trip, through the desert, plus dehydration,
- POE arrest—metering, Remain in Mexico, coming in sick and stressed.
- Parole: some family units are released, informal network of hospitality often through churches. Pregnancy, sick kids after long trip, etc.
- Detention: measles, mumps, chicken pox, scabies, TB. Mental health, nutrition issues, limited social activity, education, access to library.
- Trauma is the common denominator in all of these experiences

Who Provides Care in Detention?

- ICE Health Services Corps, <https://www.ice.gov/ice-health-service-corps>
 - “The U.S. Immigration and Customs Enforcement (ICE) Health Service Corps (IHSC) provides direct care to approximately 13,500 detainees housed at 21 designated facilities throughout the Nation to include medical, dental and mental health care, and public health services. IHSC also provides medical case management and oversight for an additional 15,000 detainees housed at approximately 119 non-IHSC staffed detention facilities across the country. In addition, IHSC oversees the financial authorization and payment for off-site specialty and emergency care services for detainees in ICE custody.”
- [Human Rights Watch: Report as to medical neglect inside ICE facilities](https://www.hrw.org/news/2018/06/20/us-poor-medical-care-deaths-immigrant-detention#)
 - <https://www.hrw.org/news/2018/06/20/us-poor-medical-care-deaths-immigrant-detention#>

Provisions for the Right to Health Care Services while Detained

- <https://www.youtube.com/watch?v=VL9IKGoozII#action=share>
- Linguistic access also plays a crucial role in obtaining health care.

What Are Some of the Defining Features of Detention?

- Often remote
- Often run by contractors rather than ICE itself (same with health care)
- No right to a public defender. Over 80% of people represent themselves
- Many people are subject to mandatory detention (arriving asylum seekers, for example)
- For people who are eligible, bond begins at \$1500. There is no max.
- Sometimes people are appearing before a remote judge and interpreter via videoconference

What Does Detention Look Like?



What Languages are Spoken?

Just a few examples:

- Mexican and Central American Spanish
- Mayan languages
- Bengali and Sylheti
- Russian
- Tigrinya

How Immigration Court differs from Superior and Municipal Court

- Respondent has no right to representation at government expense
- Removal proceedings are often adjudicating life-or-death claims, like asylum, in very short periods of time.
- Cultural competency is always relevant
- T/I issues can make or break a case

Attorney's Role

- Providing legal advice and representation for detained immigrants
- Why having reliable, professional, interpreters matters for evaluations, hearings, client meetings (and basically all steps of the process!)

How Does Health Play a Role in Removal Proceedings?

- Documenting medical problems is essential for most types of claims and to ensure adequate care
- We often recruit independent doctors and psychologists to evaluate clients
- The importance of mental health cannot be overstated
- Trauma-informed practice is essential

How do Medical Conditions Impact Legal Cases?

- Competency issues
- Trauma-informed lawyering
- Past harm in asylum cases
- Humanitarian parole
- Hardship (important for certain types of waivers)

What is the Migration Protection Protocols (MPP)?

- Also called “Remain in Mexico”
- The policy forces migrants to wait for months or years in camps in Mexico while their asylum cases are considered
- Has been applied to 55,000 people so far
- Widely criticized by asylum officers, human rights advocates, etc.
- Journalists have reported dangerous and unhygienic conditions, lack of access to employment, victimization by organized crime, etc.

What is Asylum?

- The US is a signatory to the UN 1951 Refugee Convention
- That agreement lays out the rights of people who are afraid to return to their countries of origin, or asylum seekers
- The US has agreed that persons applying for asylum have the right to do so
- The US has agreed not to return persons who can show that they will suffer persecution in their countries of origin

What is Asylum?

- The immigration judge can grant asylum if the applicant
 - is unable or unwilling to return to her country of origin because she has suffered past persecution or has a well-founded fear of future persecution
 - on account of
 - race, religion, nationality, membership in a particular social group, or political opinion.

Scenario Descriptions

- **Types of encounters:**
 - Removal proceedings
 - Bond/custody redetermination
 - Psychological/medical evaluation for counsel
 - Work with social worker (release plans, etc)
 - Medical appointments with providers inside detention centers
 - Over-the-phone interviews with asylum officers for credible/reasonable fear determination

Recent Litigation Around Treatment/Conditions

- SPLC/CREEC sued ICE on behalf of **15 detained individuals, representing a class of approximately 55,000 immigrants imprisoned by ICE** at the 158 facilities across the country **on any given day.**
- [https://www.splcenter.org/sites/default/files/e-filed -
fraihat v ice complaint to file 8 19.pdf](https://www.splcenter.org/sites/default/files/e-filed-_fraihat_v_ice_complaint_to_file_8_19.pdf)

Recent Litigation Around Treatment/Conditions

The plaintiffs, who live with conditions ranging from diabetes, HIV, cerebral palsy and bipolar disorder to blindness and schizophrenia, **accuse the US government of denying jailed migrants food, medicine, surgeries and the most basic accommodations for disabilities, resulting in the**

- delay and outright denial of medical care,
- punitive use of solitary confinement,
- failure to provide mental health care, and
- discrimination against people requiring disability and language accommodations
- **Attorneys said the conditions at some US detention centers were so brutal that migrants who have fled torture and violence “are forced to abandon viable claims for immigration relief and accept deportation out of a desperate desire to escape the torture they are enduring in detention on US soil”**
- **ICE denied the allegations and stated that detainees receive adequate and appropriate care.**

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Working with Interpreters

- In-person, onsite
- outside detention facilities,
- bi-lingual staff,
- ad hoc interpreter,
- referrals to social workers
- Family members
 - FIRRP does not ask family members or children to interpret
- Remote
 - OPI
 - VRI
- Interpreter in the courtroom
- For counsel/client
- As a “check” interpreter
- Languages of lesser diffusion
- Variety, complexity
- Indigenous
 - Mexican
 - Mesoamerican

PART II

Interpreting for Detained Immigrants in Removal Proceedings

Getting Ready: Clients, Goals, and Settings

- **Clients** Professionals: attorneys, healthcare providers, mostly middle-class and White, some minorities
- **Goals** Exchange of information
Stop deportation, obtain residency, asylum
Assess behavioral and health issues for forensic purposes
- **Settings and Working Conditions**
Detention centers and attorney's offices.
Detention centers are like prisons with **MAJOR systemic deficiencies in the provision of access to people with LEP**

Crossover between legal and healthcare that requires preparation in both areas

Examples of Mistreatment Listed in the CREEC Lawsuit (I)

- Never evaluated by a doctor
- Lost pregnancies in custody due to failed medical intervention
During intake, detainee reported acetaminophen and ibuprofen allergy to medical staff; “problem list” was left blank, causing medical staff to dangerously prescribe him 17 doses of acetaminophen and 50 doses of ibuprofen.
- Repeated hospitalization due to anaphylactic shock for lack of treatment of allergic reactions and then placed in “medical segregation” because of allergies, alone in a cell 24 hours a day

Examples of Mistreatment Listed in the CREEC Lawsuit (II)

- Refusal of surgery recommended by a doctor resulting in major health issues
- Left without high blood pressure medication for weeks, when centers run out
- No access to insulin for long periods
- Detainees with HIV have problems getting basic care and safe housing where they won't be exposed to infectious diseases
- Denial of necessities like glasses, hearing aids and mobility devices
- Often unable to use the telephone to call family and attorneys, access a library, or receive recreation

Examples of Mistreatment Listed in the CREEC Lawsuit (III)

- Denied a wheelchair, was unable to get to the cafeteria. Had to rely on others to get food.
- Blind detainee had to rely on cellmates, attorneys and guards to read any documents related to his medical care and immigration case
- Life-threatening medical mistakes by staff members at detention centers
- Detainee had to help interpret for deaf detainees, despite not being fluent in sign language, because they have routinely been denied access to accredited interpreters.

Mentally Ill Inmates at the Centers Languish in Isolation

- Inmate with schizophrenia and suicidal thoughts was isolated in a dorm alone for roughly nine months, leading to “episodes of extreme psychological distress”
- Diagnosed with an anxiety disorder and psychosis while in detention, detainee was put on suicide watch for self-harming behavior and hallucinations; was unable to see a mental health provider for an entire month of detention
- US Marine Corps veteran who completed two tours of duty suffering with depression, anxiety, traumatic brain injury and combat PTSD was subject to solitary confinement, which exacerbated his mental health struggles

Logistics and Technical Aspects

Logistics and Technical Aspects

Nature of the Encounter: Understanding Your Role

- Interviews are functional, purposeful encounters with clear executive and flow parameters
- The original intention in this setting is congenial, collaborative, but it may change (beneficent v. adversarial; impartial-forensic)
- Intersection of legal and healthcare

High stakes It is critical that:

- professionals assess and understand client's needs
- Client understands complexity of their situation and limitations (time, resources) as well as roles of attorney and provider (privileges, rights, consents, etc.)
- Interpreter has operational command of role as *conduit, facilitator, cultural awareness, advocate*

Some Sociolinguistic, Cultural and Linguistic Issues to Consider

- Level of formal education
- Other traditions: Non-Western, non-literary, non-numerical, oral tradition
- Cultural differences: (mis)understanding of the underlying concepts/systems, principles.
- Health conceptualization and health literacy
- Register, density, quantity of information
- Use of regional linguistic variations
- Great diversity and complexity

Asylum seekers and refugees: Cultural and socio-political issues come into play

Providing Interpreting Services Inside Detention Center

- Access: Request by attorney required
- Detention facility: Oppressive environment
- Be mindful that non-permanent residents, non-citizens and people with criminal records may have trouble
- Computers and phones: Special request (frequently not honored)
- Interviewing Area: Common or small office
 - Privacy, confidentiality
- Personal safety

Note from provider:

Thank you for your assistance yesterday! I appreciate you not letting the facilities scare you off.

Providing Interpreting Services Inside Detention Center

Protocols

- This is a collaborative, beneficent encounter
- Follow healthcare protocols and situational control guidelines
- Provide protocols at the beginning, during and at the end of interview

PROTOCOLS ARE FUNDAMENTAL AND FREQUENTLY NEGLECTED

Recommendations Issued by the American Psychological Association

Build a provider-interpreter team if possible!

- Define the roles of the interpreter and provider clearly
- Discuss goals for a session with the provider before seeing the client
- Explain “interpreting procedures” to the providers and clients
- Help participants understand the importance of culturally and linguistically sensitive interventions
- **Debrief to summarize information and process potential traumatic stories** heard when interpreting the clients’ experiences
 - **Many interpreters have experienced traumatic events similar to those reported by clients** and may have emotions triggered when hearing clients’ experiences. **To keep the interpreter healthy, debriefing should occur or a support system should be available.**

Interpreter's Opinion May Be Sought

- Quality of communication
- Cultural matters, including
 - History, politics, anthropology, ethnography
 - Race, ethnicity, gender and sexual orientation, religious and political beliefs
 - Perception of health and healthcare services (not) received
 - Nutrition, hygiene, non-scientific beliefs

IF NOT SURE, DO NOT PROVIDE INFORMATION

Clinical Domains

- Legal: Immigration law and procedures
- Healthcare
 - Code of Ethics
 - Standards of Practice
 - CLAS standards Office of Minority Health, Department of Health and Human Service
 - General areas necessary for healthcare interpreting (anatomy, physio, patho, etc.)
 - Medical history-Source and reliability. ANAMNESIS in patient's own words
 - Labs
 - Infectious diseases: epidemics inside detention centers
 - Chronic diseases (heart disease, cancer, and diabetes)
 - Nervous system injuries or diseases that negatively affect memory, thinking, and behavior.
 - Behavioral Health (adult and children)
 - Trauma (general)
 - ❖ Rape. **A high percentage of migrant women and children are victims of sexual violence**

General Resources for Medical Information

- <http://www.medlineplus.com/>
- <https://www.merckmanuals.com/home>
- <https://www.mayoclinic.org/diseases-conditions>
- www.dicciomed.es

Working with Mental Health Professionals in Competency Assessments

Some Commonly Used Psychological Evaluations

- Meyers Briggs test
- Mini-Mental State Exam

Forms

- Confidentiality and Record Keeping Policies
- Authorization to Release Information

Tell trainees to prepare glossaries, translate and study them.

fee file (n., v.)

digital disclosure

licensed psychologist

psychometrics

record

Working with Mental Health Professionals in Competency Assessments

The American Psychiatric Association (APA) www.psychiatry.org

Database of articles, **DSM V**, in English and *español*

Diagnostic Criteria and Codes	Criterios diagnósticos y Códigos
Neurodevelopmental Disorders	Trastornos del desarrollo neurológico17
Schizophrenia Spectrum and Other Psychotic Disorders.	Espectro de la esquizofrenia y otros trastornos psicóticos ... 49
Bipolar and Related Disorders	Trastorno bipolar y trastornos relacionados71
Depressive Disorders	Trastornos depresivos.....103
Anxiety Disorders.....	Trastornos de ansiedad.....129
Obsessive-Compulsive and Related Disorders	Trastorno obsesivo-compulsivo y trastornos relacionado ... 145
Trauma- and Stressor-Related Disorders.....	Trastornos relacionados con traumas y factores de estrés ..159
Dissociative Disorders	Trastornos disociativos175
Somatic Symptom and Related Disorders	Trastorno de síntomas somáticos y trastornos relacionados181
Feeding and Eating Disorders	Trastornos alimentarios y de la ingestión de alimentos.....189
Elimination Disorders	Trastornos de la excreción199
Sleep-Wake Disorders.....	Trastornos del sueño-vigilia.....203
Sexual Dysfunctions	Disfunciones sexuales.....225
Gender Dysphoria	Disforia de género239

The American Psychological Association (also APA--it gets confusing!) (www.apa.org): mental health resource network and best practices when working with migrants.

Specificity of the Work with Mental Health Professionals in Competency Assessments: Need to Preserve Form and Content

- Choice of terminology, syntactic structures, paralinguistic elements and cultural interpretation/adaptation can have clinical consequences.
- **Useful concepts related to the preservation of form and content:**
 - Legal Equivalence, Adaptation, and Conservation
- **Legal Equivalence**
- *The interpreter is required to render in a verbatim manner the form and content of the linguistic and paralinguistic elements of a discourse, including all of the pauses, hedges, self-corrections, hesitations, and emotion as they are conveyed through tone of voice, word choice, and intonation*

Specificity of the Work with Mental Health Professionals in Competency Assessments: Need to Preserve Form and Content

Adaptation attempts to “bridge” the cultural gap by including **explanatory information** in the rendition through the **intentional alteration of the source material in order to accommodate** the language level, educational background, interests, and preferences of the listener. It is a functional interpretation directed to the receiver.

Conservation requires the interpreter to attempt to provide a **linguistically true** in which the **form and style** are **equally important**, so the rendition is **legally appropriate** and acceptable. It is a functional, impartial interpretation.

Cultural and Linguistic Issues with Potential Mental Health Implications

- The stigma associated with mental health may influence interpreters
- Limited language skills of the interpreter can be misinterpreted clinically as rudimentary language usage by client
- Rendering client's use of unusual speech such as word salad, fragmented or non-sequential speech, delusional narratives, narrative for hallucinations, dreams and nightmares
- Client refers to him/herself using third person, impersonal (and interpreter does not)
- Clients may speak in more than one language and/or a mix of languages or variations (and interpreter does not document it)

Interpreting for Children / Minors

- Communicating with children is difficult
 - Even when language is shared
 - Very young children language can be hard to understand
- The difficulty of communicating through an interpreter and cultural barriers add another layer of complexity
- Interviewing children can be **emotionally charged**
 - Check your emotions, be supportive but detached

Child Centered Interviewing

- Explain Your Role
- Keep It Simple
- Engage in Active Listening By Adopting the Child's Use of Words
- Build Rapport by:
 - Informing Participants About Issues that May Require Intervention
 - Managing Expectations
 - Encouraging Participation
- Invite to Ask Questions
- Be Explicit. Avoid Assumptions
- Keep in mind:
 - Health and Legal Literacy
 - Developmental Disabilities

Child-Centered Interviewing

Successful Techniques

- Follow the Child's Lead
- Build Trust Through Empathy and Active Listening
- When Clarifying, Use the Funnel Technique: From General to Specific Questions
- Repeat
- Demonstrate
- Remind
- Address Difficult Issues Directly
- Separate Empathy from Emotion

Working with Indigenous Language Speakers

- Differences in cultural, social and political systems can be huge and very relevant to the provision of reliable services.
- Frequently misclassified as *fluent* speakers of hegemonic language in their area
- Ascertaining language/dialect can be difficult
- Interpreters for indigenous languages are scarce
- Cultural differences and literacy issues need major support, not available
- Courts not prepared or willing to acknowledge the issue -Got notice of new office in Federal Court

Working with Indigenous Language Speakers

- Indigenous speaker may be under suspicions of malingering—
Understands but pretends not to
- Mention relevant language and cultural issues to attorney, psychologist so they can take them into consideration and maybe bring them to the Court's attention.
- Linguistic presence is a fundamental element of meaningful participation and can have MAJOR legal and healthcare implications

Immigration Court Hearings

- VRI
 - Quality concerns
- Services provided by contract interpreters
 - No team interpreting, long hours
- The “check” interpreter: Quality control

Self-care for Interpreters

- Infectious diseases: epidemics inside detention centers
- Trauma
 - Process the traumatic stories heard through debriefing with provider to avoid retraumatization or secondary trauma (vicarious trauma)
- Burnout: Ran out of Compassion
- Oppressive, depressing conditions and topics
- **Antidote:** Think about the outstanding service you provide

Business Aspects

- Potential for expanding your services and getting income
- Good professionals value good professionals and will support and put a premium on good interpreting services

Conclusion and Actions You Can Take (I)

We Can and Must Do Better!!

- Prepare yourself
- Mind the importance of OUR professional ethics: commit to and advocate for humanitarian principles and values
- Support Non-profit networks and organizations that provide services to this population
- Educate professionals and the public about the importance of linguistic and cultural access
- Professionals and non-profits should be aware of the difficulty of interpreting, and need to work with professional—certified, accredited when possible—interpreters.

Paucity of Research on Effective Communication with People with LEP in Deportation Proceedings

Special Attention to:

Speakers of Indigenous Languages

Children

**“The true measure of a man [*person*] is how
[s/]he treats someone who can do [her] him
absolutely no good.”**

Samuel Johnson

Brief Bibliography and List of Resources

Culturally and Linguistically Appropriate Services

National Standards for Culturally and Linguistically Appropriate Services in Health Care

<https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>

Aronson-Fontes, L. *Interviewing Clients Across Cultures*

<https://www.guilford.com/books/Interviewing-Clients-across-Cultures/Lisa-Aronson-Fontes/9781606234051>

González, R. et al. (2012) *Fundamentals of Court Interpretation*, 2012

Mental Health

Practice-Based Guidance for Working with Interpreters in Mental Health Settings

<file:///C:/Users/Jaime%20Fatas/Dropbox/0%20WWG%20WEBINAR%20IMMIGRATION/00%20THESE/American%20Psych%20Ass%20Tips%20interpreters.pdf>

Tips for Mental Health Interpretation. The Center for Health and Health Care in Schools. School of Public Health and Health Services The George Washington University

<http://www.healthinschools.org/wp-content/uploads/2016/10/MH-Int-Tips.pdf>

Bot, Hanneke: *Dialogue Interpreting in Mental Health*. Rodopi, 2005.

Brief Bibliography and List of Resources

Interviewing Children

Interviewing the Child Client. Prepared by the Children's Rights Committee American Bar Association
Video and materials for lawyers representing minors. <https://www.youtube.com/watch?v=OYLWkVHvgOM>

Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody. U.S. Department of Health and Human Services. Office of Inspector General

<https://oig.hhs.gov/oei/reports/oei-09-18-00431.asp>

Toxic Stress in Children (Harvard study)

https://www.americanbar.org/content/dam/aba/publications/litigation_committees/childrights/child-separation-memo/Introduction%20to%20the%20Effects%20of%20Toxic%20Stress%20on%20Children.pdf

Many useful resources here:

<https://www.americanbar.org/groups/litigation/committees/childrens-rights/trauma-caused-by-separation-of-children-from-parents/>

[PBS NewsHour](#) DHHS report examines the health risks of detaining children

<https://www.pbs.org/video/separated-families-1567811412/>

Fontes, L (2005) Working with interpreters in child maltreatment. In *Child abuse and culture: working with diverse families*.

Time allowing,

Q&A



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