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LEGAL INTERPRETING: A NORTH AMERICAN SURVEY

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Abstract
This paper presents data collected on North American certified and non-certified, Deaf and non-deaf sign language interpreters relative to the provision of interpreting services in legal settings. The study examined strategies and approaches that interpreters incorporate into their work in legal settings, including working in teams consisting of Deaf and non-deaf interpreters, use of consecutive interpreting, preparation for interpreting in legal settings, and maintaining appropriate roles in the courtroom. Findings suggest that there are practices that support access to the judicial system, while there are others that create challenges for interpreters and consumers alike. A systemic training sequence that addresses many of the deficits in both knowledge and skill currently found in the field is necessary.
Introduction
This paper reports some of the preliminary results of a survey that was conducted in North America, specifically in Canada and the United States of America, with interpreters working in legal settings. The impetus for the survey stemmed from emerging research about best practices in legal contexts, some of which has revealed there are practices in the field of sign language interpreting that may obstruct legal access for Deaf participants (National Consortium of Interpreter Education Centers 2009). Interpreting in legal settings has been seen as an area that requires specialized skills and training (Gonzalez et al. 1991; Hale 2002, 2007; Lee 2009; Russell 2000, 2008). However, apart from this study, there has been little research about signed language interpreting in legal settings that would describe the demographics of interpreters working in legal settings or the training and practices for interpreters who work in legal settings. In an attempt to address this gap in the literature, we undertook a collaborative research project in North America to survey ASL-English interpreters.

The intent of this study was to collect standard demographic information on certified and non-certified signed language interpreters relative to the provision of interpreting services in legal settings. We collected data on the practices that interpreters incorporate in their work in legal settings, with particular attention to working in teams with Deaf and non-deaf interpreters, using consecutive interpreting, preparing in advance for interpreting in legal assignments, and maintaining appropriate roles within the courtroom. Interpreters also were asked to identify their past professional development and education related to interpreting in legal settings and their need for further professional development and education. Additionally, we explored the background of the interpreters who are providing interpreting services in legal settings (e.g., certifications held, years of experience in interpreting in

9 All references herein to interpreters includes Deaf and non-deaf interpreters. We specify when we discuss one or the other specifically.
legal contexts, amount of training in interpreting in legal contexts) in order to examine how their backgrounds influence the integration of recommended best practices into their work. We also collected data regarding the training of interpreters in preparation for the work, given the linguistic and cultural complexity of legal interpreting, and what training they would suggest as helpful in preparing them for legal discourse. This paper reports a small subsection of our findings, which were shared at the World Association of Sign Language Interpreters (WASLI) conference in South Africa on July 16, 2011.

2. Literature Review

2.1 Specialized Nature of Interpreting in Legal Contexts
Studies in the field of interpretation and translation have offered insight into the specialized nature of interpreting in legal contexts in both spoken and signed language interpretation. Over the past two decades, several studies specifically addressed signed language interpreters and explored interpreting practices, interpreting performance, language transfer theories, and strategies that contribute to Deaf people's access to the legal system (Brennan 1999; Fournier 1997; Miller 2001; Miller & McCay 1994; Nardi 2005; Russell 2002; Stevens 2005; Tilbury 2005; Turner 1995; Turner & Brown 2001; Wilcox 2006). There are other studies which highlight the numerous struggles that Deaf people have in participating in the legal system based on effective interpreting services (Brennan & Brown 1997; Napier & Spencer 2008; Nardi 2005; Russell 2002; Russell & Hale 2008).

2.2 Interpreting Paradigms Leading to Effective Work
Several authors have described interpreting as an act that requires linguistic and cultural mediation in order to produce effective interpretation (Gonzalez et al. 1991; Napier et al. 2006; Pöchhacker 2008; Roy 2000; Shlesinger 1991). However, applying this approach to providing meaning based interpretation
to interpreting work in legal settings may vary tremendously across regions and countries. Russell (2000, 2002, 2008) found that interpreters working in legal contexts were able to produce interpretations that were more appropriately linguistically and culturally framed when using consecutive interpreting strategies. In contrast, the simultaneous interpretation was less linguistically and culturally appropriate, heavily influenced with source language intrusions and dependent upon a verbatim or lexically based process. Hale (2002, 2004) found that interpreters vary tremendously in their strategies for handling courtroom discourse, and much of the variance in strategy choices depends on how interpreters view their role and understand the nature of linguistic and cultural mediation. These studies and others conducted over the past twenty years have invited interpreters to see their work in a sociolinguistic context where the interpreter is an active participant, co-constructing meaning in an interpreted interaction (Roy 1999; Russell 2002, 2005; Wadensjo 1998; Wilcox & Shaffer 2005) and to abandon the interpreter conduit model which can lead to misunderstanding and serious interpreting errors in legal settings (Hale 2004; Mikkelson 2000, 2008; Morris 1993, 1995).

2.3 Qualifications to Practice
In both the U.S. and Canada, interpreter organizations have been successful in promoting standards for interpreters working in legal settings. Both organizations stress the importance of holding certification prior to working in legal settings. However, despite the standards set forth by the two national professional bodies representing interpreters in the U.S. and Canada, namely the Registry of Interpreters for the Deaf (RID) and the Association of Visual Language Interpreters of Canada (AVLIC) there are numerous jurisdictions that choose to employ interpreters who do not possess the qualifications recommended by the national bodies representing interpreters in North America.
Russell (2002) noted that legal professionals (e.g., judges, lawyers, court officials) often underestimate the level of language proficiency required in legal proceedings. Interpreters who lack the preparation, skills, and qualification to practice, yet provide interpreting services in legal settings, increase the risk of inaccuracy. Such inaccurate interpretation results in a lack of integrity of the judicial process (AVLIC 1996; Berk-Seligson 1990; Colin & Morris 1996). Vernon and Miller (2005:283) referred to this lack of integrity in their description of the risks that Deaf people experience in the American judicial system and suggested that the injustices “result primarily from a lack of understanding of Deaf people on the part of professionals working in the legal system”.

An emerging area of practice has interpreters in video relay services dealing with legal discourse. Mason (2009) conducted a study showing that video relay service interpreters are providing interpreting in courtroom settings when local interpreting services are not available. This growing model of service provision has not been subject to the same hiring practices that are commonly supported for interpreting in legal settings. Interpreters working in these contexts may possess little, if any, specific training for dealing with legal discourse, legal interactions, and legal consequences. Interpreters working in video relay services or in video remote interpreting may or may not hold even the general national certification from AVLIC or RID. The qualifications of interpreters hired to provide video interpreting services should take into consideration the ramifications of legal interpreting. In order to address standards and qualifications to practice in North America, it would be helpful to understand the demographics and backgrounds of the interpreters doing the work.
Russell (2002) discussed the importance of having skilled interpreters in the courtroom, due to the use of specialized language in legal settings. She noted that legal interpreters must understand legal jargon, complicated syntax, and features otherwise typically found only in written language. Berk-Seligson (1990) and Morrow (1994) posited that grammatical features, including passive constructions, unusual conditional phrases, numerous negations and overly compact phrases will further challenge interpreters in legal settings. These phrases may include a great deal of information in one sentence (Berk-Seligson 1990; Morrow 1994). There are additional nuances to consider from within a legal setting that have direct impact on the qualifications needed. Morris (2008) wrote about the dynamics of the courtroom and how apparent breaches of ethical conduct on the part of interpreters may be the result of interpreters responding to the complex use of English and multiple dynamics of the courtroom. This complex use includes long and rambling questions, overlapping speech, speed, and mixed instructions. It is evident from the literature surrounding court interpreting that the interpreters who have the appropriate qualifications and specialized training are better equipped and prepared to handle the complexities of language and the dynamics of the courtroom.

2.4 Consequences of Errors
Inadequacies of interpreters in legal settings obviously result in dire consequences for Deaf litigants and defendants. Brunson (2008) examined access to signed language interpreters in legal settings and how interpreters affected the experiences of twelve individuals in those settings. One of the notable findings of this study was the consistent theme of partial or failed communications occurring due to a lack of understanding on the part of the signed language interpreter and/or the lack of skills in this demanding setting (e.g., language, interpreting, legal discourse, stress management, intercultural communications). Several of the interviewees reported that the
interpreters had little knowledge of the person’s case, and the individuals considered the interpreter ineffective because he or she “didn’t know what I was talking about” (p. 88). Further, the study identified that some interpreters may act unethically and unprofessionally, with little consequence for their actions. Brunson recommended that Deaf people “begin [demanding] that courts, police, and other legal authorities videotape all proceedings in which there is a sign language interpreter. This will provide Deaf people and the courts with recourse when the interpretation is in question” (p. 91).

Kolb and Pöchhacker (2008) also examined the quality of interpretation in asylum hearings. Their findings pointed to lexical errors, semantic inaccuracies, and the omission of tag question forms that would have allowed the applicant to explain his or her actions, if they had known that the opportunity had been there.

2.5 Consecutive and Simultaneous Interpreting

Simultaneous interpreting refers to the process where an interpreter begins the interpretation while another person is still speaking or signing overlapping the original message or source with the interpretation simultaneously [whereas consecutive interpreting is the process] whereby an interpreter waits until a complete thought or group of thoughts has been spoken or signed, in order to understand the entire segment before beginning the interpretation, resulting in a very high standard of accuracy in the interpretation.” Russell (2002:52)

Numerous studies have examined differences between consecutive and simultaneous interpreting, and the findings provide support for interpreters to use consecutive interpreting in order to realize greater accuracy in legal interpreting (Alexieva 1991; Bruton 1985; Russell 2002; Seleskovitch &
Lederer 1995). It is generally agreed that effective interpreting depends greatly upon the interpreter’s awareness of which mode is more appropriate and accurate for the specific discourse and interactive demands in any legal event. The simultaneous and consecutive modes have been adopted into state and federal statutes and the court rules of many judicial circuits (NAJIT 2006), and research supports the practice of consecutive interpreting as more effective for certain legal events (Russell 2002). It is widely accepted that in any legal setting where an individual with limited English proficiency has an active role, consecutive interpreting should be used (NAJIT 2006). Such active participation would be required, for example, when a Deaf person takes the stand during either examination or cross-examination, to give testimony.

Specific to ASL/English interpreting in legal contexts, Russell (2002) conducted mock trials with interpreters, exploring the use of simultaneous and consecutive interpreting. The results of this study showed that when the interpreter chose to use consecutive interpreting for direct witness testimony and expert witness testimony, the work was more effective and had fewer interpreting errors. Consecutive interpreting provided significantly greater accuracy compared to simultaneous interpreting. In the two trials utilizing consecutive interpreting, accuracy rates were between 95–98%, whereas, simultaneous interpreting accuracy rates were between 83–87%. Chi Square testing was performed on each of the discourse events of direct witness testimony, cross-examination of the same witness and expert witness testimony, and the results demonstrated that the consecutive mode of interpretation was superior to the simultaneous form, when used for all three discourse events. Some of the common patterns of errors made by interpreters in this study included omission of content and reduced answers for the court; inaccurate use of tense (mixing present tense for past tense); inaccurate use of register (more casual in ASL than indicated in the English
source message); deceptive ASL to English messages (message was produced in fluent English, but presented inaccurate content); dysfunctional grammar when representing English to ASL messages; source language intrusions which resulted in form-based or transcoding work; and interpreter-created utterances which were not attributed to the interpreter and not interpreted for all participants. As well, there were patterns of “hedging” in spoken English when the answer was definitive in ASL, and times when the interpreters linked previous utterances to separate utterances which resulted in an answer of “no” when the predicted response was “yes”. However, despite evidence from both spoken and signed language interpreting, and the NCIEC document on best practices (2009) supporting the use of consecutive interpreting, the predominant practice of ASL/English interpreters has been to provide simultaneous interpreting.

2.6 Team Interpreting
There has been a trend to employ teams of signed language interpreters in a number of contexts in order to best address the needs of the interpreting assignment (Russell 2008). The teams tend to consist of two non-deaf interpreters, though there is a trend towards teams of Deaf and non-deaf interpreters whereby there would be a team of 4 interpreters. The rationale utilized for employing a team is often based on the complexity of the work, the importance of providing the most accurate work by reducing the cognitive and mental fatigue that occurs in these assignments, and the length of the assignment (National Association of Judiciary Interpreters & Translators 2007). In many North American contexts, these factors have shaped hiring practices and interpreter education practices.

Shaw (2003) and Cokely (2003) explored the nature of interpreters working in teams. Shaw (2003) examined how interpreters who have been hired to monitor the work of other interpreters working in legal settings function as
part of a legal team. Her findings revealed that the linguistic, cultural and analysis skills of the monitoring interpreters must be of an exceptional quality in order to be able to discern what constitutes an interpreting error and how to bring that to the attention of the attorneys. Her work also revealed the ways in which monitoring interpreters’ interactions with teams of interpreters can affect the quality of the overall work in a proceeding. When major errors in the interpretation were brought to the attention of the appropriate personnel, there were numerous benefits that ranged from saving time in costly postponements and rescheduling to allowing proceedings to continue after the corrections were made in a way that was efficient and supported the judicial process.

The role of a team interpreter as a support in the interpreting process is critical to the success of the team. Cokely (2003) reported significant discrepancies between the behaviours interpreters believed that they would use to ask for support and the actual behaviours that they used to request support. His study showed interpreters in preliminary meetings mentioned seven behaviours that they would use to ask for support, but during the actual interpretation there were 16 different behaviours that they used to request support. His study showed interpreters in preliminary meetings mentioned seven behaviours that they would use to ask for support, but during the actual interpretation there were 16 different behaviours that they used to request support.

Finally, Russell (2008) reported on the preparation conversations held between team members prior to interpreting trials, and on interview data obtained from lawyers, Deaf consumers, and judges about their perceptions of the interpreter’s work. In this study, lawyers reported that they anticipated that interpreters would ask them important questions about the content of the upcoming trial; however, the interpreters generally used the preparation conversation to review logistical matters of positioning or length of interpreter turns, versus preparing for the context and particulars of the trial at hand. This study revealed how the reality of working in teams is often in
sharp contrast to what interpreters purport to do especially in relation to monitoring the accuracy of the work or making decisions that support interpreting effectiveness. Based on studies that address interpreter paradigms, qualifications to practice, modes of interpreting, best practice approaches, and team interpreting, this study addressed the provision of teams for interpreting in legal settings, team roles, and ways in which teams provide support that leads to effective interpretation.

2.7 Best Practices
In addition to the published available literature, The National Consortium of Interpreter Education Centers (NCIEC) brought together a national team of experts to define and document best practices within the field of legal interpreting. This work occurred between 2005 and 2010. This team became the NCIEC Legal Interpreting Workgroup and developed a document, *Best practices: American Sign Language and English interpretation within legal settings*, that offers “an explanation and rationale for a series of practices that are deemed by expert practitioners to result in a desired outcome with fewer problems and unforeseen complications” (NCIEC 2009: 9).

While all of the studies described briefly in this section represent some of the research conducted with spoken and signed language interpreters, what is missing is a demographic picture of those who provide sign language interpretation in legal settings in North America and a descriptive approach to understanding the practices and perceptions of interpreters. This study is an attempt to address that gap in the literature, while gleaning information from the participants on a range of issues that may be critical in defining effective practices and training opportunities.
3. Intent of Study
The purpose of this study was to collect basic demographic and relevant information on ASL/English interpreters relative to the provision of interpreting services in legal settings in North America. In addition, data were collected on the practices interpreters incorporate in their work in legal settings, the professional development they have had, and what they believe they need in the future related to interpreting in legal settings.

The research team, located at three educational institutions, was granted ethical approval for the study by each of their institutions. The researchers prepared a survey, which was then reviewed by a small group of interpreters who specialized in interpreting in legal settings and who are also experienced researchers. Feedback from these reviewers was incorporated into the final version of the instrument.

4. Participants and data collection
Potential participants were identified from the professional organizations of interpreters in the U.S.A. (RID) and Canada (AVLIC). In the U.S., the entire certified membership of RID was invited to participate (the list was purchased from RID) along with non-certified Deaf interpreters throughout the country. In Canada, the entire AVLIC membership was invited, both certified and non-certified, to participate along with non-ALVIC-member Deaf interpreters in that country. All the participants were ASL/English interpreters in the U.S. and Canada. The study targeted current certified ASL/English and selected non-certified interpreters in both countries. The inclusion of non-certified interpreters in the U.S. allowed for the inclusion of Deaf interpreters. The decision to include non-certified interpreters from Canada was due to the fact that there are more working interpreters in Canada who are not certified than those who hold national credentials. Some
of the participants were currently providing interpreting services in legal settings while some of the participants were not.

The names and email addresses of all of the potential participants were entered into the online survey tool, Vovici. During May – October 2009, a total of 6,657 participants were invited to participate in the study via an electronic invitation sent by the survey system. Following a four-week period of initial responses, a follow-up email was sent reminding individuals who had not yet completed the survey about the request for their participation, stressing the value of their input. One additional follow-up contact was made two weeks after the first follow-up, six weeks following the initial contact. This last reminder was only sent to those who had not yet completed the survey. After six weeks, the survey was discontinued. In the end, 1,995 individuals chose to complete the survey. This represents a 30% response rate, which is a robust rate for survey research (Creswell 2002). All participation was voluntary and no payment was offered to those who completed the survey.

5. Instrument
The survey consisted of 64 questions that included closed, multiple choice, and open-ended questions. The survey was divided into 8 sections including General Information, Experience Interpreting in Legal Settings, Training in Interpreting in Legal Settings, Practices Regarding Simultaneous and Consecutive Interpreting, Preparation Strategies and Approaches, Deaf and Hearing Teams, and Protocol. A concluding section requested additional information, final thoughts, and recommendations from the participants. The full survey is available upon request by email to the lead author.
6. Data Analysis Approaches
Once survey data were gathered, a statistical analysis was performed using SPSS and the statistical processes built into Vovici. Qualitative data were analyzed using the computerized software program Nvivo 8. This allowed for the content to be analyzed for themes that emerged in the data and for the participants’ perspectives to be retained in their original words.

7. Results
7.1 Participant Demographics
The majority of participants were female (85%), with only 15% of the research participants being male. With regard to the age of the participants, 58% fell into the range of 30-49 years old, thus making this the largest age category. The second largest age group was those participants who were between 50 and 64 years old, with 29% of the research participants falling into this group. The two smallest groups were those participants between the ages of 18 and 29 (11%) and those older than 65 years of age (2%). Deaf participants made up 3% of the sample, hard-of-hearing participants were 2%, and the largest group was non-deaf (95%).

In Canada, the majority of responses came from the provinces of Ontario (4%), British Columbia (2.5%), and Alberta (2.1%). In the U.S., the three states in which the most research participants reside were California (9.4%), Florida (7%), and New York (6.8%).

7.2 Years of Interpreting Experience, and Academic Degrees
One-third of the research participants (33.3%) had between 11 and 20 years of interpreting experience. Nearly a quarter (24%) had more than 26 years of interpreting experience, and 4.9% of the research participants had more than 35 years of experience. In addition, the data indicated that 43% of the research participants had a four-year degree as their highest academic
degree, and 27.6% had a graduate degree as their highest degree, with 24.1% holding a Master’s degree and 3.5% holding a doctorate degree.

7.3 Legal Interpreting Experience and Training
The results showed that 45.7% of the research participants were currently providing interpreting services in legal settings. Of those who indicated that they currently provide legal interpreting services, 20.4% had only been doing so for 1-3 years, and over half (55.6%) had only been doing so for 10 years or less.

Some 54.3% of the participants did not provide interpreting in legal settings. These individuals were asked to indicate the reasons why they did not choose to interpret in legal contexts. The most frequent response was lack of training, followed by a lack of knowledge of legal discourse and concern for the consequences of potential errors.

In terms of training, 13.3% of the participants had taken one or more credit-earning courses in interpreting in legal settings or legal studies and 86.7% had taken no courses for credit. Participants were asked if they would be interested in receiving training for interpreting in the legal setting if it were offered for college or university credit (e.g., a "certificate" program in Interpreting in Legal Settings), and 72.3% indicated they would participate in such training. Participants were asked to identify topics about which they needed additional training. Topics most frequently identified included legal vocabulary and terminology, courtroom procedures and protocol, how to interpret the reading of legal rights before being arrested and formally charged, criminal law, legal proceedings, working with Deaf/non-deaf teams, family law, and witness interpreting. Each of these areas is critical to the effectiveness of an interpreter’s work, and the results support that interpreters recognize the need for further preparation in these areas.
7.4 Interpreting Practices in Legal Settings

Participants were invited to respond to a series of questions that examined the extent to which they incorporate certain best practices into their interpreting work. The results showed that interpreters use consecutive interpreting in several key events with varying frequencies (see Table 1). For example, during the direct testimony of a Deaf witness, interpreters reported that 15.6% of the time they *always* use consecutive interpreting, and during the cross examination of a Deaf witness, they *always* use consecutive interpreting 15.5% of the time. This is an interesting finding in that standard, recommended practice for direct testimony of a witness with limited English proficiency is that the testimony be interpreted in consecutive mode (Court Interpreters Act 1978; Gonzalez et al. 1991; NAJIT 2006). Some interpreters reported that they *rarely* or *never* provided consecutive interpreting for direct witness testimony (combined total of 8.1%).

Table 1

*Frequency of consecutive interpreting use with a Deaf witness (as percentage of total response)*

<table>
<thead>
<tr>
<th>Event</th>
<th>Always</th>
<th>Usually</th>
<th>Occasionally</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct testimony by a Deaf witness</td>
<td>15.6</td>
<td>21.9</td>
<td>11.2</td>
</tr>
<tr>
<td>Cross examination of a Deaf witness</td>
<td>15.5</td>
<td>20.5</td>
<td>9.6</td>
</tr>
<tr>
<td>Testimony of a Deaf expert witness</td>
<td>11.8</td>
<td>12.7</td>
<td>7.7</td>
</tr>
<tr>
<td>Direct testimony by a hearing witness</td>
<td>3.3</td>
<td>8.6</td>
<td>17.0</td>
</tr>
<tr>
<td>Cross examination of a hearing witness</td>
<td>3.4</td>
<td>8.5</td>
<td>15.8</td>
</tr>
<tr>
<td>Testimony of a hearing expert witness</td>
<td>3.1</td>
<td>8.0</td>
<td>15.5</td>
</tr>
</tbody>
</table>

In addition to the reports about courtroom interpreting, participants indicated the frequency with which they use consecutive interpreting in legal
events outside of the courtroom which included forensic assessments, attorney-client meetings, domestic violence complaints, child protection investigations, immigration/naturalization events, law enforcement interactions, notary public interactions, examinations for discovery/depositions and aboriginal justice systems interactions. Table 2 shows that the highest report of always using consecutive interpreting occurred for child protection investigations (9%) and law enforcement interactions (9%), followed by examinations for discovery/depositions (8%), and attorney-client meetings (8%). Of particular interest is the number of settings in which discourse often is framed around questions and responses (which lend themselves to consecutive interpreting), yet the participants in this study chose not to use this method.
Table 2
Use of Consecutive Interpreting in Legal Settings (as percentage of total response)

<table>
<thead>
<tr>
<th>Event</th>
<th>Always</th>
<th>Usually</th>
<th>Occasionally</th>
</tr>
</thead>
<tbody>
<tr>
<td>Working in Deaf/non-Deaf Team</td>
<td>17.7</td>
<td>18.1</td>
<td>10.4</td>
</tr>
<tr>
<td>One-to-One interviews</td>
<td>9.6</td>
<td>25.9</td>
<td>24.7</td>
</tr>
<tr>
<td>Forensic Assessment</td>
<td>6.9</td>
<td>10.4</td>
<td>8.6</td>
</tr>
<tr>
<td>Attorney Client Meetings</td>
<td>7.7</td>
<td>24.3</td>
<td>27.1</td>
</tr>
<tr>
<td>Domestic Violence Complaints</td>
<td>6.2</td>
<td>22.8</td>
<td>18.1</td>
</tr>
<tr>
<td>Child Protection Investigations</td>
<td>9.1</td>
<td>21.7</td>
<td>17.9</td>
</tr>
<tr>
<td>Notary Public</td>
<td>1.8</td>
<td>4.9</td>
<td>8.3</td>
</tr>
<tr>
<td>Immigration &amp; Naturalization</td>
<td>5.7</td>
<td>11.4</td>
<td>9.2</td>
</tr>
<tr>
<td>Examinations for Discovery &amp; Depositions</td>
<td>8.7</td>
<td>18.7</td>
<td>18.5</td>
</tr>
<tr>
<td>Law Enforcement</td>
<td>9.1</td>
<td>25.1</td>
<td>19.0</td>
</tr>
<tr>
<td>Corrections Meetings</td>
<td>3.0</td>
<td>12.3</td>
<td>17.9</td>
</tr>
<tr>
<td>Video Relay Services</td>
<td>2.6</td>
<td>8.3</td>
<td>21.4</td>
</tr>
<tr>
<td>Video Remote Interpreting</td>
<td>0.9</td>
<td>3.0</td>
<td>4.4</td>
</tr>
<tr>
<td>Aboriginal Justice Systems</td>
<td>1.4</td>
<td>5.0</td>
<td>3.7</td>
</tr>
<tr>
<td>Evidentiary Hearings</td>
<td>2.7</td>
<td>10.9</td>
<td>15.9</td>
</tr>
<tr>
<td>Opening Statements</td>
<td>2.0</td>
<td>3.9</td>
<td>13.2</td>
</tr>
<tr>
<td>Closing Statements</td>
<td>2.0</td>
<td>3.6</td>
<td>13.8</td>
</tr>
<tr>
<td>Jury Instructions</td>
<td>1.9</td>
<td>5.5</td>
<td>11.8</td>
</tr>
<tr>
<td>Court Ordered Education</td>
<td>2.5</td>
<td>7.3</td>
<td>21.4</td>
</tr>
<tr>
<td>Parole / Probation Meetings</td>
<td>4.2</td>
<td>15.8</td>
<td>20.8</td>
</tr>
</tbody>
</table>
After participants reported frequency of consecutive interpreting, they identified the factors that influence their decision to provide consecutive or simultaneous interpreting. The three most often cited influential factors were complexity/density of the information (46%), type of discourse lending itself to consecutive interpretation (44%), and potential consequences of errors (40%). Other factors were interpreting in a Deaf-non-deaf team (24%), one’s personal confidence in using consecutive interpreting (21%), interpreting for children or youth (20%), government requirements to use consecutive interpreting for direct witness statements given in languages other than English (10%), lack of experience in the use of consecutive interpreting (6%), and lack of training in the use of consecutive interpreting (5%). These factors that influence interpreters’ decisions to provide consecutive or simultaneous interpreting may be a partial explanation for the reason consecutive interpreting is not used by some interpreters and has implications for the training needed if interpreters are to enact best practices.

7.5 Preparation for Working in Legal Settings
Participants who indicated that they interpret in legal settings were provided a list of preparation strategies and asked to indicate which ones they use in their interpreting practice. Fifty-one percent (51%) of all research participants indicated that they receive preparation information from the referring agency. Forty-one percent (41%) indicated that they conduct preparation meetings with other interpreters on the interpreting team, 38% conduct preparation meetings with experienced interpreters who are not involved in this interpreted interaction, and 38% conduct preparation meetings with interpreters who have previously worked the assignment (i.e., with the same client). Participants also reported conducting preparation meetings with the attorneys (32%) and the Deaf individual(s) prior to the event (32%), and some include the training they have taken as a form of preparation in their work (34%). Participants reported that they conduct
preparation meetings with the involved non-deaf person prior to the event (24%); however, those who meet with attorneys did not specify whether the attorneys are non-deaf or Deaf, nor did they specify what role the non-deaf person played in the event, (i.e., an attorney or a legal assistant, police officer). Only 27% of the participants said that they prepared by reading case files; however, not all legal events are case related or have files. Participants reported using online dictionary resources 27% of the time. Twenty-six percent (26%) of the participants reported that they observe legal situations as a form of preparation, and 23% reported observing interpreters in legal settings as a form of preparation.

Participants were asked to identify benefits of conducting preparation for their legal interpreting assignments. They reported that preparation helped them increase their confidence and reduce their nervousness prior to assignments. They also reported that preparation allowed them to produce interpretations that are processed at the contextual level, versus only a lexical or phrasal level. They reported that preparation enhanced their understanding of the event, allowing them to interpret with a greater degree of accuracy. Other themes that emerged from this qualitative data included message delivery with appropriate affect, increased prediction skills, improved receptive understanding and expressive production of messages, and better vocabulary selection. The following comments sum up many of the themes:

“The kind of preparation I would like to have is often not available, but I do the best I can with what people provide me.”

“It’s imperative! Without the preparation I would not have the confidence to do the work.”

“I am as prepared as I can possibly be. Because I have as much information as I can get, my interpretation is smoother and more accurate.”
Participants reported that lack of preparation has a negative impact upon the interpreting work, creating a sense of nervousness and adding to the stress of working in legal environments. They indicated that they feel more intimidated, uncomfortable, and unqualified to do the interpreting without appropriate preparation. They also noted a direct relationship between the lack of preparation and increased interpreting errors that could potentially mar a legal proceeding. When the interpreters lacked the scope and context of the case, they reported there was an increased need for clarification and interruption of the proceedings. Additional themes addressed the quality of the interpretation and the overall fluidity of both the interpreting product and the process and the very specific ways in which the Deaf consumer is affected. For example, participants reported that when the interpreter is less than fully prepared, Deaf consumers may become nervous, agitated, frustrated, and confused. All of those emotions can lead to misunderstandings and can have legal implications for the Deaf consumer.

7.6 Composition of Interpreting Teams
The data revealed that interpreters feel it is beneficial to have input regarding the composition of the team and selecting the interpreters with whom they will work. This includes input about how the team approaches the work and how the complementary skill sets of the interpreters can meet the needs of the assignment. Table 3 shows the frequency with which participants had a vote in choosing their team interpreters on legal assignments. Only 9.4% said they always have a choice, while 30.2% said they usually do, which indicates only 40% of the participants are or consider themselves to be in a position to do so on a regular basis.
Table 3

*Ability to Choose the Interpreter Team*

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Always</td>
<td>9.4%</td>
</tr>
<tr>
<td>Usually</td>
<td>30.2%</td>
</tr>
<tr>
<td>Occasionally</td>
<td>22.6%</td>
</tr>
<tr>
<td>Rarely</td>
<td>16.2%</td>
</tr>
<tr>
<td>Never</td>
<td>10.4%</td>
</tr>
</tbody>
</table>

These data raise the question of whether the participants in this study realize the benefits of selecting their teammates (e.g., similar approaches to the work, qualifications that meet the needs of the assignment, complementary skill sets) and whether they see the team composition as a working condition that is negotiable when being hired for an interpreting assignment in legal settings.

7.8 *Deaf and non-deaf teams*

Given the increased use of Certified Deaf Interpreters in many North American interpreting settings, participants were asked to identify factors that influence the decision to work in a Deaf/non-deaf team. They identified the top four factors as language issues, the availability of a Deaf interpreter, the complexity of the case, and the Deaf consumer’s linguistic needs. When asked to identify the individual factors of the Deaf consumer that influence the decision to work in a Deaf/non-deaf team, participants cited age of the consumer and cultural complexity as the two top reasons. Participants also cited the following factors as they relate to the Deaf consumer, signing style, level of familiarity with legal processes, level of education, cognitive ability,
and mental health issues. Table 4 illustrates the frequency that the
participants work in Deaf/non-deaf teams in legal settings.

Table 4

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Always</td>
<td>0.5%</td>
</tr>
<tr>
<td>Usually</td>
<td>3.4%</td>
</tr>
<tr>
<td>Occasionally</td>
<td>15.1%</td>
</tr>
<tr>
<td>Rarely</td>
<td>21.2%</td>
</tr>
<tr>
<td>Never</td>
<td>26.8%</td>
</tr>
</tbody>
</table>

Given that 48% of all participants never or rarely work with a Deaf
interpreter, it is important to explore who makes the decision that there is a
need for a Deaf/non-deaf team. Participants indicated that more than 53% of
the time, it is either the non-deaf interpreter or the contracting agency that
makes the determination most frequently that a Deaf/non-deaf team is, or is
not, needed (see Table 5). This is an area that warrants further discussion in
our field.
Table 5  
*Decision Maker on Deaf Interpreter*  

<table>
<thead>
<tr>
<th>Response</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual non-deaf interpreter</td>
<td>29.5%</td>
</tr>
<tr>
<td>Contracted agency</td>
<td>23.7%</td>
</tr>
<tr>
<td>Deaf consumer</td>
<td>14.8%</td>
</tr>
<tr>
<td>Court Personnel</td>
<td>13%</td>
</tr>
<tr>
<td>Attorney</td>
<td>10.2%</td>
</tr>
<tr>
<td>Monitor Interpreter</td>
<td>7.1%</td>
</tr>
<tr>
<td>Law enforcement personnel</td>
<td>3.2%</td>
</tr>
<tr>
<td>Expert Witness</td>
<td>2.1%</td>
</tr>
</tbody>
</table>

The following quote exemplifies the challenges that face non-deaf interpreters wishing to work with Deaf interpreters on a regular basis. The comments also point to the need for education about the need and efficacy of working with Deaf interpreters.

“I refuse to do the job if the client is minimal language [sic], or foreign language, without a deaf team. However, there are times I feel a youth or certain deaf person would definitely benefit from a Certified Deaf Interpreter (CDI), but since I live in a remote area and they come from 3 hours away, I have reserved the request for the most dire cases. (My request was declined by a court before for a youth). I feel it is going to take time for the courts in these rural areas to be more open to CDIs. Availability of CDIs in the rural setting is an issue.”
7.9 Recording interpretations
The data revealed that 65% of interpreters responding to the survey have never been video recorded in the course of their work in legal settings. The data also revealed that interpreters who are always or usually recorded in specific contexts such as police interviews, examinations for discovery/depositions, courtroom proceedings, child protection matters, and forensic assessments, are by far in the minority. For example, 53% of research participants reported they are never recorded for police interviews, with another 10% indicating that they are rarely recorded. Recording in courtroom proceedings showed similar results with 68% of participants indicating they are never recorded, and 15% are rarely recorded. Seventy-seven percent (77%) of interpreters reported they are never recorded while working in forensic assessments and 65% reported they are never recorded while working in child protection matters. Finally, some 62% of research participants say they are never recorded while working examinations for discovery or depositions. When asked how often the interpreter initiates the recording, only 11.6% of participants indicated that they always initiate the recording. Another 12% report that they usually initiate recording. Twelve percent (12%) report they occasionally initiate this process, while 10% rarely do, and 54% indicate that they never initiate the procedure.

Video Relay/Video Remote interpreting
Participants were asked if, in the course of their work in Video Relay Interpreting Services (VRS) or in Video Remote Interpreting (VRI) centers, they handled calls that were of a legal nature. Forty-nine percent (49%) indicated that they do not work in VRS or VRI environments. Of the remaining participants who do work in such settings, 46% indicated that they take calls of a legal nature, and 5% indicated they do not take such calls. When asked if they feel prepared and/or comfortable taking calls of a legal nature, 61.7% responded that they do not feel prepared and/or comfortable.
Additionally, 32.1% indicated they pass legal calls on to another interpreter if they feel unprepared or uncomfortable and another 5.4% report they do not pass calls on to another interpreter. What is not known is the level of training that VRS interpreters have for identifying calls of a legal nature or that have a legal consequence, or whether or not they have any training for interpreting legal matters. Given the pressure to use the simultaneous interpreting mode in an environment where the interpreter has no specific assignment preparation, this should be an area of concern for our field.

8. Discussion and Recommendations
The results of this study have a number of implications for practitioners as well as educational institutions and professional organizations. One of the key implications from the review of data is that interpreting in legal settings is not appropriate for all interpreters. As a specialization within the field, interpreting in legal contexts requires not only specialized, focused training but also unique vocabulary and skill sets. Access to training and education in these areas is another key factor to consider. In terms of practitioner implications, there are a number of themes that address the consequences of preparation for the work (or lack of preparation), the need for consecutive interpreting training, and how best to work in Deaf and non-deaf teams. As well, the issue of initiating video recording of legal events is one that deserves attention. Finally, the issue of working in video relay settings and handling calls of a legal nature is one of grave concern that warrants attention from all stakeholders involved.

There are also recommendations for interpreter educators to consider based on the findings of this study. It is clear that specialized training is needed for those who are interpreting, or intend to interpret, in legal settings. Interpreter educators, including those who primarily provide professional development training, need to develop and deliver effective trainings that are
drawn from best practices. The participants in this study indicated that training is needed in topics such as the use of consecutive and simultaneous interpreting in legal settings, message analysis and correction, effective case preparation, legal discourse and interaction, and awareness of how the system works and the protocols it uses. An additional need in the field is for trained, credentialed interpreters working in legal settings to serve as mentors for new interpreters in an effort to model best practices and engage in on-going dialogue about the effective provision of legal interpreting services. There is also a need for training in identifying the need for working in Deaf-non-deaf teams.

Likewise, the data from this study have implications for educational institutions and professional interpreter associations. A critical component of effective change in the specialty field of interpreting in legal settings will be the delivery of training and education that is grounded in current and best practices and is accessible to interpreters throughout North America. Though not discussed in this article, data from this study strongly suggest that weekend trainings and blended (online and face-to-face) training opportunities are most desired by interpreters. Institutions should consider alternative delivery models that will reach across North America and not just to a local area. Additional models of certificate programs, both graduate and undergraduate, in interpreting in legal contexts should be developed and implemented to meet the need of further education in the specialization. As noted earlier, 72% of the participants indicated that they would participate in such a program, if it were available.

There are several recommendations that emerge from this study for practitioners. The most urgent of these recommendations are the following:
Interpreters need to concentrate on gaining linguistic fluency and cultural adeptness required for interpreting in legal contexts and work that has legal consequences. This will require that interpreters appropriately assess their own qualifications and skills to deal with the nature of the work, including the linguistic demands, protocol knowledge, and the processes of effective teamwork. Linguistic fluency and cultural adeptness should be a prerequisite skill set to develop early in the process of specializing.

Interpreters providing services in legal settings should have a clear understanding of the work that needs to be done and have the necessary knowledge and experience to facilitate the provision of best practices. The incorporation of a Deaf interpreter or the determination of when to use consecutive interpreting are two examples of key aspects of the work within legal settings that are not used as much as they should be.

Serious consideration should be given to the development of a systematic training sequence that would address many of the deficits in both knowledge and skill currently found in the field. We suggest that such a structured developmental sequence would include orientation to the legal system; legal discourse; types of law; self-assessment and analysis of interpretations; discourse, interaction, and text analysis-based translation, sight translation, consecutive interpreting, and simultaneous interpreting training; preparation in general and specific to legal settings; team processes, specifically D/n-D teams; protocol – video recording, qualifying, conflict of interest checks, preparation strategies; case preparation; message analysis and error correction. Although at least one such systematic sequence is available in the United States at the University of Northern Colorado, more training programs are needed. This area is one where we envision international collaboration to create a model curriculum of interpretation in legal settings that would serve as a common starting point for developing legal interpreter
training. Though legal systems and interpreter education differ around the globe, the need for effective and accurate interpretation and translation in legal settings does not. In an area where consequences for people’s lives are grave, it would behove us to work in collaboration across countries to improve the services we provide in this area. This research and the best practices discussed in North America can be applied and steps be taken to standardize our teaching and approaches globally.

Personnel in the legal system need significant education about the practices presented in this study. Collaboration is needed between interpreters, Deaf clients, agencies and the legal entities that hire interpreters to facilitate a greater recognition of the need for minimum qualifications for legal interpreters to include both specialized training and credentials. Few requirements exist that require interpreters who work in legal settings to have specific training in legal work.

9. Conclusions
This article has described some of the major findings of this North American survey of interpreters in legal settings. The aim of the study was to offer demographic data about interpreters working in legal settings in North America and to explore the use of effective practices in this specialized area. Quantitative and qualitative processes were used to analyze the data. What also stands out in the data is a need for advanced training of interpreters in legal settings, and that more interpreters may choose to provide interpretation in such settings if they had the foundational skills and knowledge. The data show that there is the need for discussion about the composition of teams working in legal settings, and the strategies teams use to manage legal discourse. While the findings are drawn from North American interpreters there are several aspects that are salient for
interpreters throughout other countries. The data will continue to be analyzed and reported in future publications.

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