The Use of an Interpreter During a Forensic Interview: Challenges and Considerations

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The purpose of this Open Forum is to detail the unique considerations present when using an interpreter in a forensic interview, including whether it is appropriate to take the case, the practical aspects of working with an interpreter, and whether the use of standardized instruments is indicated. While working with the interpreter, a forensic psychiatrist can enhance the interview by discussing the purpose of the interview with the interpreter before it takes place, encouraging accurate translation of information, reviewing incorrect or unusual responses to questions, and considering the evaluee's cultural beliefs. Standardized instruments, which can be very helpful in an English language interview, may be less useful when an interpreter is used.

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In both criminal and civil evaluations, the clinical interview can be a vital tool to obtain the account of an individual, in his or her own words. However, what happens when the meaning, context, and pronunciation of those words are incomprehensible to the evaluator, requiring the services of an interpreter? How does the importance of assessing for malingering complicate the use of an interpreter? How does an evaluator coordinate the complex relationship between medical language, legal language, native language, and culture? These are the challenges of performing a forensic evaluation with an interpreter.

The use of interpreters in a clinical interview is not a concern unique to forensic psychiatry. In psychiatry, few systematic studies have addressed the impact of language proficiency or interpreter use on the quality of psychiatric care. One study attempted to use a quantitative method to support previous literature regarding errors in interpretation during psychiatric interviews (1). The authors compared the results of two psychiatric interviews conducted with the same subject, one conducted directly and one through an interpreter, among ten English-speaking subjects and ten non–English-speaking subjects. Although the authors found that using an experienced interpreter provided a reliable method of collecting information overall, some qualitative distortions remained. For example, when one of the evaluators in the study asked, "How many brothers and sisters do you have?" the interpreter incorrectly translated this information as, "How many sisters do you have?" In a forensic evaluation, mistranslation of even a single sentence could affect the opinion of the evaluator, which suggests the use of caution when utilizing interpreters.

Drennan and Swartz (2) examined the impact of using various languages in institutional psychiatry in South Africa. One of the challenges noted by the authors was that unless the patients were specifically asked, their primary language was often assumed to be English. Even when a patient spoke English, his or her proficiency was not always assessed. Another challenge noted by the authors was that difficulties in communication were sometimes attributed to a patient's clinical presentation, when in fact the miscommunication was a language problem and not a clinical symptom. When specifically discussing some of the problems associated with using an interpreter, the authors noted that disagreements about diagnosis and symptoms can arise when an interpreter without a background in psychiatry fails to recognize subtle features in a presentation. The authors also reported that the presence of an interpreter was not always documented, which was particularly confusing when quotes from the patient were used and were written in English. Although the authors looked specifically at interpreters in a clinical setting, some of the pitfalls and concerns they encountered are also applicable to a forensic evaluation.

A literature review from 2010 concluded that a psychiatric evaluation conducted in a patient's nonprimary language can lead to an incomplete or distorted mental status assessment. Unfortunately, assessments conducted via untrained interpreters may contain interpreting errors, leading to errors in assessment (3). Using an interpreter can also affect treatment outcomes (4) and alter the traditional role of empathy in the treatment relationship (5).

Even if an interpreter does not have mental health training, his or her language proficiency can greatly improve

or inhibit the utility of the interview, suggesting that professional interpreters should be used (6). If an interpreter is not truly competent in the language, he or she may omit important information and editorialize. These types of omissions are particularly concerning in the context of patients with psychosis because leaving out evidence of a disordered thought process may actually affect diagnosis (7).

Language proficiency is not the only factor that can determine the quality of interpretation services. The "cultural competence" (8) of an interpreter is an important aspect of the evaluation process, given that the forensic evaluator should consider the traditions, values, and behavioral norms of the evaluee that are pertinent to the reason for consultation (9). The interpreter's ability to understand not only the evaluee's statements but also the culturally unique meanings attached to those statements can be invaluable in a forensic assessment. The issue of cultural competence is not unique to foreign-born individuals, given that ethnocultural minority groups and racialized groups may face distinctive stressors associated with social status (10). Thus cultural considerations are important in a broad array of interview situations, including the use of an interpreter.

Another article directly addressed the use of interpreters in forensic evaluations. Maddux (11) noted that many factors can influence a forensic evaluation, including characteristics of the interviewee, the forensic evaluator, and the interpreter. Maddux also developed recommendations for forensic evaluators, many of which are included later in this Open Forum.

The purpose of this Open Forum is to address the various considerations that may play a role in using an interpreter for forensic evaluations. Starting with the question of whether it is appropriate to take the case, this article addresses the various practical considerations of working with an interpreter and concludes with a discussion of how standardized instruments may apply to this type of interview. The recommendations are based on the previous literature about using an interpreter in psychiatry as well as on my previous casework involving the use of an interpreter specifically in forensic psychiatry. Although this article focuses primarily on the subspecialty of forensic psychiatry, many of the principles discussed can be applied to general psychiatric evaluations as well, including capacity assessments and civil commitment.

Taking the Case and Deciding to Use an Interpreter

The first consideration for a forensic evaluator in accepting any case is to consider if he or she has the appropriate expertise to be helpful. In the case of an evaluee who does not speak the evaluator's primary language, the retaining party should disclose the language and cultural background of the evaluee to the forensic psychiatrist.

The forensic evaluator, after all, may speak the same language as the evaluee, even if it is not the evaluator's primary language. Caution is advised in relying on the evaluator's foreign language skills, which may not meet the level of proficiency required for the task. During a detailed clinical interview, fluency is of utmost importance in fully understanding what the evaluee is trying to convey and in stating the evaluator's questions and remarks. The forensic evaluator should also be cautious in using his or her nonprimary language during the interview, given that a thorough understanding of the evaluee's cultural background can be extremely helpful. As discussed later in this article, failure to appreciate the cultural context of certain words and concepts can often lead to misunderstandings.

Before accepting a case involving an evaluee who does not speak the evaluator's primary language, a forensic psychiatrist should also consider whether someone who speaks that language would be a more appropriate evaluator. In the United States, Spanish is the second most spoken language after English (12). Many forensic evaluators speak Spanish fluently, and some of them may share a cultural background with the evaluee. If such a forensic evaluator is available to conduct the evaluation of a Spanish-speaking individual, a forensic psychiatrist should consider utilizing their expertise. Although a referral might be warranted in such a situation, the forensic psychiatrist should also consider if his or her own specific expertise in psychiatry or in this type of case would outweigh concerns about the use of an interpreter. If the evaluee does not speak a commonly spoken language, there is no guarantee that another forensic evaluator with the appropriate fluency and knowledge of the culture will be available; in those cases, the use of an interpreter would be the most appropriate choice.

The third consideration about whether a forensic evaluator should draw on his or her proficiency in a nonprimary language is the availability of interpreter services. Because the quality of the interpreter will have an impact on the evaluation, the forensic evaluator should be aware of what sort of interpreters are available. Previous literature recommends the use of certified court interpreters (11). These individuals are typically licensed by the state and undergo testing to affirm their knowledge of a language. For example, in the state of California, an advisory board and examination process are required to qualify as an interpreter for the courts (13). These qualified interpreters may have previous experience with the legal system, which would likely be helpful in their understanding of legal terms and concepts. Another advantage of a court interpreter is that he or she may be considered more neutral by both the retaining and the opposing counsel, by virtue of being provided by the court itself.

If a court interpreter is not available—either because the community does not supply this service or an interpreter who speaks a specific language is not available—other sources of interpretive services can be considered, such as a contracted phone service. Studies on the use of a phone service instead of a live interpreter have focused on perceived quality of care in a clinical setting and have found that patients prefer in-person, hospital-trained interpretation services over those offered by phone (14). However, it is easy to imagine situations in which using a local interpreter may

create conflicts. For example, if the language spoken by the evaluee is not a common language in the local region, then the pool of interpreters available and the community surrounding the evaluee may be quite small. An interpreter involved with an evaluee in various stages of the legal process may also know or interact with that person outside a professional context. In these types of situations, using a neutral interpreter by phone may be beneficial.

Multiple options exist for retaining interpreter services. However, in any of the circumstances discussed, the forensic evaluator should work with the retaining party to secure the highest quality of interpretive services (11). Attention to quality is especially vital in light of the potential magnitude of the case being evaluated. For example, whereas a relatively straightforward capacity assessment in a clinical evaluation can require high-quality interpretation services, the interpretation process may understandably be subject to an even higher level of scrutiny in an evaluation of competence to be executed. This scrutiny also raises the possibility of an interpreter's becoming even more involved in the legal process, if he or she is called to testify about his or her interpretation. The interpreter should be aware of the limits of confidentiality, particularly in a forensic evaluation.

Working With an Interpreter

Once a case has been accepted, there are four ways in which a forensic evaluator can use an interpreter to enhance the utility of the clinical interview (see box on this page). The first way is to discuss the interview with the interpreter in advance and make sure that he or she has appropriate knowledge about the purpose of the evaluation (11,15). An interpreter who is aware of the goal of the clinical interview may be able to suggest alternative ways to inquire about the necessary information, based on the individual's language and culture. It would also be helpful to discuss the evaluee's possible symptoms in advance, based on collateral records. This is especially helpful if the evaluee is psychotic and presents answers in a disorganized fashion. Although an uninformed interpreter may tell the evaluator that the evaluee is "speaking nonsense," an interpreter properly informed of the possible symptoms can provide a more accurate translation of the evaluee's words and their meaning. A preevaluation discussion can also help the interpreter avoid attempting to help the evaluee, particularly when probing for symptoms of a disorganized thought process.

The second way to enhance the utility of an interpreter is to ask the interpreter to translate everything verbatim to the extent possible. Languages often do not translate word for word—differences in grammar and sentence structure can alter the way an idea is expressed in various languages. However, for brief answers or answers that are confusing to the interpreter, it can be helpful to interpret the exact words. Many forensic evaluators use quotes in their reports to document exactly what was said by an evaluee, particularly for important topics; in these circumstances, it may be helpful to quote the evaluee in his or her native language, if the statement is particularly important for the evaluation and the English translation is not exact (11,16). If the interpreter informs the forensic evaluator that the evaluee is not making sense, an exact interpretation of each word may give more information to the mental health professional. It may also mitigate the risk of the interpreter's interjecting his or her own attitude or opinion into the translation. However, the entire interview should not be a verbatim, word-for-word translation, which would be far too time consuming and would likely miss some of the cultural meaning behind the conversation. A forensic evaluator should feel comfortable, though, to ask the interpreter to repeat the evaluee's responses back verbatim if there is any confusion or need to know the exact phrasing.

The third way to enhance the utility of an interpreter is to review unusual or incorrect responses with the interpreter. As an example, I once evaluated an individual for competence to stand trial who incorrectly stated that the district attorney was trying to act in his best interest and appeared confused when informed that this was not true. When I asked the interpreter why the evaluee was having difficulty understanding this idea, the interpreter explained that in the evaluee's primary language, the word "attorney" indicated an individual who helps you; thus, the "district attorney" would be working on the evaluee's behalf. Based on this information, I worked with the interpreter to substitute the word "prosecutor," a term that did not have a conflicting meaning in the evaluee's native language. After this portion of the interview was revised, the evaluee was able to correctly identify the role of the district attorney.

A final way to enhance the utility of an interpreter during a clinical interview is to ask the interpreter about any cultural implications of the information being discussed (11,15,17). The impact of culture on an individual's psychiatric symptoms has been a focus in recent literature, including *DSM-5* (18). Although the Cultural Formulation Interview was a major addition to *DSM-5*, the use of this operationalized interview has not been uniformly accepted as a required component of a forensic evaluation. However, key areas of the Cultural Formulation Interview can have major relevance during a forensic consultation, including questions related to the cultural identity of an individual, cultural explanations of an individual's illness, cultural

TIPS FOR WORKING WITH AN INTERPRETER IN A FORENSIC EVALUATION

Discuss the purpose of the interview with the interpreter prior to the evaluation.
Encourage interpretation that is as close to verbatim as possible.
Review unusual or incorrect responses with the interpreter.
Ask the interpreter about any cultural implications of the information being discussed.

factors related to psychosocial environment and functioning, and cultural elements of the relationship between the individual and the clinician (or evaluator) (10).

Asking an interpreter if there was any material during the interview that could have been influenced by a cultural difference may be helpful in analyzing the interview. For example, if the evaluee expresses a culturally accepted belief that is unusual to the evaluator, it may lead down the path of incorrectly assuming an individual has psychiatric symptoms. Of course, the interpreter's feedback on this topic is only one source of information and should be researched further by the forensic evaluator.

Kirmayer and colleagues (19) examined the role of culture in forensic psychiatry, noting that in many cases, the primary issue in a criminal case is not whether an act was committed but the meaning and significance of the act to the defendant. This relationship between actions and underlying meaning can often involve the culture and background of an evaluee, which emphasizes why cultural implications are an important consideration when working with an interpreter. Caution should be taken, though, to focus on how the cultural implications affect the individual being evaluated and not paint a broad picture of all individuals who may be from a specific region or speak a common language. If care is not taken to avoid this pitfall, there is a danger that attempts to achieve a cultural understanding can develop into the practice of racial stereotyping (19,20).

Standardized Instruments and the Interpreter

Forensic psychiatrists should be trained in the ethical and appropriate use of specific instruments to assess malingering and structured risk assessments (21). As the use of standardized instruments in forensic evaluations continues to expand, the use of these instruments with an interpreter will come up more and more. Although the use of an interpreter may limit the utility of some of these instruments and assessments, not all standardized approaches need to be excluded in this type of interview.

The development of a particular instrument can assist in deciding whether it is appropriate to use with an interpreter. That is particularly true when evaluating instruments targeted to the detection of feigning or malingering. Some instruments explicitly discourage their use by an interpreter, such as the Structured Interview of Reported Symptoms, 2nd edition (SIRS-2) (22). Others, such as the Miller Forensic Assessment of Symptoms Test (M-FAST) (23) and the Structured Interview of Malingered Symptomatology (SIMS) (24), do not specifically exclude interpreters, but their cutoff scores were validated without an interpreter. Because the cutoff scores of the M-FAST, SIMS, and similar instruments are based on previous validity studies (23,24), their use with an interpreter would not correspond to the regular administration of the test. Although a forensic evaluator could use these instruments to gather information, their utility would clearly be diminished. In addition, the translation of written content to spoken language is difficult (25), and incorrect translation would further decrease the value of using these types of instruments.

An example of a commonly used standardized instrument that attempts to combat this problem head on is the Montreal Cognitive Assessment (MoCA), which has translated both the test and the instructions into multiple languages (26). The MoCA is a clinical screening tool used for assessment of cognitive impairment, so it is not targeted to the detection of feigning, unlike the instruments discussed earlier. The SIRS-2, which has a Spanish-language interview booklet available, is another example of an instrument for which the publisher has provided a translation. However, the authors of the SIRS-2 discourage the use of the Spanish-language translation with an interpreter because of concerns about establishing a rapport prior to the standardized portion of the interview (22).

Not all instruments that use a validated cutoff should be automatically excluded. The Test of Memory Malingering is a symptom validity test with a cutoff determined by previous studies, but it can also provide useful information about an evaluee's responses (27). Another advantage of using this instrument with an interpreter is that it emphasizes recognition of pictures, not words, allowing most of the testing to be nonverbal. This instrument, combined with simple instructions to the evaluee, is far easier to use with an interpreter compared with instruments requiring a solid grasp of English.

Structured instruments involving professional judgment can also be valuable when using an interpreter in a clinical interview. These instruments focus less on standardized questions and instead seek to guide evaluators in considering specific areas of an individual's history and current functioning. An example of this type of instrument is the Historical Clinical Risk Management–20 (HCR-20). The HCR-20 is a checklist of risk factors for violent behavior, involving an individual's social background and clinical history and conceptual risk management areas (28). The goal of the HCR-20 and similar structured instruments involving professional judgment is to structure the evaluator's thoughts, not create a final score.

Conclusions

One of the reasons for the relatively small amount of literature on using an interpreter in forensic evaluations may be that using an interpreter for this purpose is relatively rare. However, as the number of non–English-speaking individuals in the United States increases, the need to use interpreters when conducting a forensic evaluation may increase. Although speaking the native language of an evaluee could be a useful advantage in a forensic evaluation, this must be weighed against also having the appropriate expertise in psychiatry to perform an evaluation and effectively answer the question being asked. There are four main points to remember when using an interpreter during a forensic evaluation, as listed in the box on the previous page. If these factors are considered, conducting a forensic evaluation with an interpreter can be a rewarding and enlightening experience, providing insight into how both language and culture can affect an interview.

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