

INTERPRETING FOR TRAFFIC COURT

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Learning Objectives: Part A

Traffic Court Situations:

- * Types of Offences
- * Meeting with the Prosecutor
- * Plea Inquiry
- * Conduct in Courtroom
- * Terminologies

Learning Objectives: Part B

Importance of listening properly

- * Active listening is imperative
- * Recognizing personal listening tendencies
- * Identifying barriers to effective listening
- * Developing better listening habits
- * Learning the Rules of listening and sharpening listening skills through exercises

Part A: Types of Offences

1. Part I Offences deals with

- * majority of minor offences;

- * Speeding,
- * Stop sign violations,
- * Seat belt,
- * Distracted driving,
- * Trespassing, etc.

They carry a prescribed set fine

2. Part II Offences deals with parking offences

3. Part III Offences sets out procedures for more serious offences, e.g., careless driving, stunt driving

Charging Documents

Certificate of Offence: certificate of violation prepared by officer in Part I charges

Offence Notice: document served on the defendant to inform them of the charges “ticket”

Summons: a document issued to defendant requiring attendance in court

Demerit Points

Demerit points are added to one's driver licence, if convicted of breaking certain driving laws.

The rules are different depending on a new driver or have a full licence.

Demerit points stay on record for two years from the offence date.

If one collects enough points, one **can lose** his/her driver licence.

Source: <https://www.ontario.ca/page/understanding-demerit-points>

Meeting with the Prosecutor

- * You will meet with the prosecutor before start of the court.
- * You need to be in court or login 10 to 15 minutes earlier.
- * Is the officer present?
- * If self-represented, prosecutor may offer:
 - * Go for trial
 - * Plead guilty to a lower charge
 - * Demerit points
 - * Fine only
 - * Effects on insurance questions

Plea Inquiry

The Judges may ask the following questions from the defendant wishing to plead guilty:

1. Do you wish to plead guilty?
2. Are you entering the plea voluntarily, on your own free will?
3. Do you know that by pleading guilty you are giving up your right to a trial where the prosecutor must prove the case against you?
4. Are you aware of the nature and consequence of being convicted?
5. Are you content to be proceeding virtually as opposed to being personally present in the court?

Plea Inquiry (cont'd)

Then the Judge will ask the clerk to read the charge, or amended charge, which includes date, time, location, statute etc. and at the end will ask the defendant whether they wish to plead guilty or not guilty.

Then the conviction is entered, the Judge will ask the prosecutor about the fine they are asking for, and then will ask the defendant about their ability to pay. The fine always comes with the Court Cost and Victim Witness Surcharge.

They often ask for time to pay.

Conduct in Court

Do not wear a hat unless for religious reasons

Do not

- eat or drink (only water in a clear cup)
- speak (unless you are addressed by the court or staff)
- read (except for Law Book or Bible)
- look at mobile phone
- put on makeup
- comb hair

Conduct in Court (cont'd)

- Stand up when the judge walks in
- Refer the judge as “Your worship”
- If a lawyer or paralegal is present, your case will be called earlier
- Otherwise wait for the name of the offender to be called by the prosecutor
- You need to put your name on the record, as well as the language
- Interpret everything verbatim
- If a trial is to be held you may have to wait for a good while
- At times, another date will be given to persons asking for a trial

Terminologies

Justice of the Peace: “Your Worship”, a magistrate who presides over proceedings on Provincial Offences Act (POA) Courts

Defendant: One who has been charged with an offence under a statute governed by POA Act

Police Officer: has the authority to lay charges against a defendant

Provincial Offences Officer: has the authority to lay charges for specific type of charges

Representative: a lawyer or paralegal who is authorized to represent a defendant in a POA proceeding

Terminologies Continued

Court Clerk: Ensures POA proceedings run smoothly by providing assistance to the Justice of the Peace

Court Security Officer: Special constable who assists with court security

Prosecutor: an agent of the attorney general who prosecutes the charges against the defendant

Witness: has first hand knowledge of the matter being prosecuted

Terminologies Continued

Set Fine: the amount of monetary penalty determined by the chief justice of Ontario Court of Justice for an offence under Part I & Part III

Offence: A violation of a piece of legislation or of a regulation or a by-law

Limitation Period: the time allowed for an officer to lay a charge against a defendant

Beyond a reasonable doubt: a standard of proof where the prosecution must fully prove that the defendant committed the illegal act to the extent that a reasonable person would not doubt that the act was committed

Terminologies Continued

Strict Liability Offence: an offence which the prosecution must prove that the defendant committed the illegal act. The defendant has the opportunity to prove reasonableness or due diligence (standard of care)

Absolute Liability Offences: An offence which the prosecution must prove that the defendant committed the illegal act. No opportunity for the defendant to argue reasonableness.

Onus: The burden of proof or responsibility for providing that an allegation or defense should apply

Charter Issues: To nullify or invalidate charges against defendant such that the case is thrown out

Part B: The Art of Listening

Listening is not merely hearing. Listening involves:

1. Receiving the message;
2. Interpreting the message received; (processing it)
3. Interpreting the speaker's feelings or tone;
4. Getting the point of the speaker and understanding what the speaker has said.

Active Listening

- * Active listening involves being in the moment and listening to the speaker. It involves concentration and attentiveness.

- * **Nine Rules for Lively Listening**

Rule 1: Decide To Listen

Over time we develop the habit of filtering certain noises or things out, automatically.

- * For example: you filter out the buzzing sound while you are driving on the highway. We don't notice this.
- * Now compare the above to the following: we filter out buzzing sounds in the car while on the highway to concentrate on the traffic report of the broadcaster on the radio.
- * Key Point here: Deciding to listen means concentrating and being attentive to the speaker. Be in the moment.

Rule 2: Avoid Selective Listening

- * Selective listening is listening only to portions of what the speaker is saying. If we only hear what we want to hear, and tune the rest out, what are we achieving?
- * Perhaps we disagree so vehemently that we stop listening to what is being said in order to think up what we will respond with. This is wrong. It's not only harmful to you because you will miss important things, but it is harmful to your clients as well. So, from a professional standpoint, do not be a selective listener.

Really, really listen

- * Really listen to your speaker whether it is the person you are assigned to, counsels or a judge.
 - * You run the risk of missing out on an important bit of information, case, statute, law, regulation that the speaker is saying because you're too busy thinking how you are going to stop the speaker from doing more damage.
 - * MAG Handbook (p37): Do not interrupt. You have more strength to your argument if you listen to everything, take a pause to process and plan your response and then speak carefully. An essential skill that every interpreter must master is active listening. Active listening requires a high level of concentration and implies that the message is not only heard but also understood. This is important since interpreters must process information in the source language and communicate it accurately in the target language.

Always be polite when listening.
But, this is not Hollywood. You are not actors.
You are officers of the Court.

Rule 3: Recognize Non-Verbal Cues

- * *Non-verbal Cues - MAG Handbook p37*
- * The role of an interpreter is to interpret only what is said by a party. However, to do this effectively, they must work hard to ensure they recognize non-verbal cues, which may provide the context for the interpreter to fully interpret what is being said. By emulating the voice tone, pitch, and volume, the interpreter can help communicate the meaning of the verbal message. This requires a high level of concentration on the interpreter's part.

Rule 4: Ask Appropriate Questions

Ask appropriate questions only when it is not clear

Open versus Closed Questions

An open question is one that forces a descriptive response, an elaborate response. Examination in Chief

A closed question is one that commands a yes or no answer. Cross Examination

Rule 5: First Person Interpretation

MAG Handbook p37

Interpreters must work hard to consistently remove themselves from the dialogue and act only as a voice for the party.

Primarily, this means using the first person when rendering what the witness is saying. It also means that when an interpreter has to say something about themselves, they refer to themselves in the third person as "the Interpreter." For example, "Your Honor /Worship, the Interpreter wishes to ask a question of the court."

Rule 6:

Listen with your whole body

- ★ This rule pertains to information you are conveying to the speaker as opposed to the other rules that are for your benefit.
- ★ You are using your whole body to convey to the speaker that they have your attention. If the speaker knows you are listening to them they are continuing their speech.

Rule 7: Note-Taking

MAG Handbook p37

- * Taking notes during interpretation is a useful tool for ensuring the accuracy of the interpretation. It is a good idea for the interpreter to spend some time developing a system of notetaking. An interpreter's notes should reflect their strengths and weaknesses and incorporate words and symbols that have a clear and instantaneous meaning to them.
- * Notes should be geared to an interpreter's individual needs. In some cases, the interpreter may not feel the need to take notes. For example, if a witness is consistently stopping after every sentence and the interpreter experiences no problem remembering every word, notes may not be required. However, it is an important practice to write down dates, names, numbers, etc., as these are very easily forgotten or confused.

Rule 9: Memory

- ★ *MAG Handbook p37*
- ★ An effective short-term memory is a necessary skill for all interpreters. Interpreters will need to retain what is said in the source language long enough to interpret it into the target language. One theory of interpretation suggests that most people have the capacity to retain small chunks of 7-8 words in their short-term memory for only a few seconds. Interpreters should constantly work to improve their short-term memory through memory recall exercises that increase the number of words and details they can retain in the short term.

Gifts

MAG Handbook p65

- * The interpreter plays a vital role in the administration of justice.
- * In the role of the interpreter, you provide accessibility to the proceedings for various parties, including an accused, a litigant/party, a respondent, a witness or the family or a friend of one of the parties. You may be offered a gift or a service as a token of their gratitude. Such gifts may range from a cup of coffee at the courthouse to a sum of money. Regardless of the intention, accepting a gift or service is inappropriate and is in breach of the *Rules of Professional Conduct for Freelance Court Interpreters*. All offers must be declined. This also applies to post-proceeding contact with the parties involved.

Gifts (continued)

- * Interpreters should also refrain from giving gifts to interpreter coordinators and to other court staff. While you may have developed a friendship with the interpreter coordinator or a particular staff member, it is important that you comport yourself professionally and avoid situations that may be construed as examples of bribery or giving kickbacks for receiving more interpretation assignments. As with accepting gifts from third parties, giving gifts to interpreter coordinators and other court staff is inappropriate and may be in breach of Rule #2 and/or Rule #3 of the *Rules of Professional Conduct for Freelance Court Interpreters*.

Court Decorum Etiquette

MAG Handbook p62

- * Remote appearances should be treated the same as in-person assignments. Court decorum and The Rules of Professional Conduct must always be adhered to. This includes dressing professionally, muting your cellphone and not eating while on camera. Interpreters are also expected to appear on video during their scheduled assignment(s) unless otherwise directed by the PJO Presiding Judicial Officer = Justice of the Peace.
- * Unless directed to do otherwise by the PJO, witness testimony is always provided using the consecutive mode of interpretation. Therefore, the Zoom Language Interpretation Feature should not be used when you are providing interpretation for a witness on the stand.

Impact of Interpreter Error

MAG Handbook p62

- ★ Accuracy is essential to providing effective and fair interpretation. If you have made an error interpreting and become aware of it, advise the court, and correct your mistake. If you are unsure about how to interpret a word or expression, explain this to the court, and let the PJO clarify the situation. Similarly, if you lose track of what a lawyer or witness says, turn to the PJO and ask to have the passage repeated.
- ★ As the impact of an interpretation error could have serious implications for all parties involved in the proceedings, it is necessary that the PJO and counsel be alerted of any inaccuracy as soon as possible.

Impact of Interpreter Error (Cont'd)

- ★ On occasion, lawyers or PJOs may understand the two languages being used in the proceeding and may question your interpretation. If this happens, explain your choice of words to the PJO, or, if you have erred, correct your mistake. In the event that a PJO indicates that you are to translate a word in a certain way, accept the suggestion graciously.
- ★ You may also interpret for someone who has requested the services of an interpreter but understands and speaks English. This can be especially challenging as the person may answer in English and complicate interpretation by not allowing you to finish before responding or by questioning the quality of your interpretation. If the person answers in English while testifying, the PJO or counsel may instruct them to answer in the source language as they have been assigned an interpreter.

Interacting with Different Parties outside the Courtroom

MAG Handbook p64

- ★ The importance of your role as an interpreter in the courtroom may draw some attention to you outside the courtroom. Parties involved in the proceeding may identify you as the interpreter, and they may approach you in the courthouse corridors or even outside the courthouse. When this happens, it is important to keep in mind the *Rules of Professional Conduct for Freelance Court Interpreters* as contact with any party outside the courtroom could convey an appearance of bias. You must also be mindful of your personal safety and professional reputation.
- ★ Overall, it is best to remain as inconspicuous as possible when not in the courtroom. Try to find an area that is removed from any potential contact with parties involved in the proceeding.

REMEMBER

- * PAY ATTENTION
- * CONCENTRATE ON THE CONVERSATION
- * HEAR THE SPEAKER: LISTEN, INTERRUPT LONG SENTENCES - Seek Instruction From the PJO
- * RELAX AND LISTEN
- * ELIMINATE DISTRACTIONS
- * LISTEN FOR TONE, LOOK FOR BODY LANGUAGE
- * INTERPRET THROUGH YOUR LISTENING

SKILLS

- * OBJECTIVITY
- * PERCEPTION
- * EFFICIENCY
- * SELF-DISCIPLINE
- * DECISIVENESS
- * PERSEVERENCE
- * RESOURCEFUL