

2.05 Testimony through Interpreter

You are about to hear testimony from _____ who will be testifying in [language to be used] through the interpreter. You should give this testimony the same consideration you would give it had the witness testified in English.

Although some of you may know [language to be used], it is important that all jurors consider the same evidence. Therefore, you must accept the English translation of [his] [her] testimony.

If, however, you believe the interpreter translated incorrectly, let me know immediately by writing a note and giving it to the [clerk] [bailiff] [deputy]. You should not ask your question or make any comment about the translation in front of the other jurors, or otherwise share your question or concern with any of them. I will take steps to see if your question can be answered and any discrepancy can be addressed. If, however, after such efforts a discrepancy remains, you must rely only on the official English translation as provided by the interpreter.

Notes on Use

This instruction should be given before a witness testifies in a language other than English and an interpreter translates that testimony for those in the courtroom, including the jury.

Comment

This instruction is premised on the principle that jurors have to decide the case based on the evidence presented in court and cannot add their own specialized knowledge to the evidence presented. *See* IPI 1.01[11] (“[Y]our verdict must be based only on the evidence presented in this courtroom . . .”).

It is misconduct for a juror to retranslate for other jurors testimony that has been translated by the interpreter. *People v. Cabrera*, 230 Cal.App.3d 300, 303, 281 Cal.Rptr. 238 (1991). “If [the juror] believed the court interpreter was translating incorrectly, the proper action would have been to call the matter to the trial court’s attention, not take it upon herself to provide her fellow jurors with the ‘correct’ translation.” *Id.* at 304.

Instruction, Notes on Use and Comment revised November 2016.