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Interrogation-Related Challenges of Using Interpreters

Analysis and description of problem patterns for the optimisation of interrogation of foreign-language suspects

The use of interpreters in police interrogations often presents major challenges for those in charge. The particular problems of interrogations of foreign-language suspects can lead to failure to meet the interrogation objectives, which may endanger the criminal proceedings as a whole. Interrogation exercises are regularly performed using interpreters at the Police Academy of Saxony-Anhalt. These are subsequently evaluated and analysed with regard to problem situations that have arisen. Problem patterns were identified through systematic evaluations of the exercises performed so far. These are presented in the following article and converted into initial recommendations for the organisation of police interrogation.



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INTERPRETING IN POLICE INTERROGATIONS IN THE CONTEXT OF SOCIAL DEVELOPMENTS¹

Interpreting in a police context has traditionally largely eluded the interest of social scientists and translation scientists. Partly due to restricted access to the field, there is little systematic knowledge of police-related foreign-language interactions and the problem analyses derived from them. The police's use of interpreters and the associated problem situations are traditionally little reflected on by the stakeholders and hardly examined analytically, even though failed interrogations inevitably result in limitation of the investigation strategies and may lead to the loss of essential investigation results. Consequently, at least in Germany, the lower risk of accusation and conviction of foreign-language suspects compared to that of German-speaking

suspects (Reichertz 1998) is linked to the structural problems in investigative practice and a related reduction in the charge (Donk/Schröer 1995). The public prosecutor's office often decides to drop the investigation of foreign-language suspects due to insufficient interrogation results. However, the insufficient effectiveness and efficiency of criminal procedural responses to the delinquency of foreign-language groups could have far-reaching social consequences and further encourage the development of milieus and parallel societies (Rommerskirchen 2011).

The European refugee crisis of 2015 has further exacerbated this problem. Since then, Austria and the Federal Republic of Germany, as the main host countries², have, in particular, been confronted with the influx of asylum seekers and refugees. A more moderate but continuous influx of migrants was also registered in subsequent

years (BAMF 2016–2018). As a result, society as a whole faces new challenges to find answers to the many questions of managing the integration of non-German-speaking foreigners.

The immigration and integration of non-German speakers create problem areas mostly due to cultural differences, but also to language barriers. Through their law enforcement and countermeasures, the police comes into direct contact with the those affected and are increasingly faced with extensive coping tasks. Non-German speakers inevitably come into contact with the police more often as respondents. The use of interpreters is obligatory in such cases and is also regulated by law in Germany.³ The increasing frequency of police interactions with foreign-language respondents poses a number of new challenges for police officers. In addition to confronting and dealing with new languages and cultures, the pragmatic management of the increasingly frequent use of interpreters is also key. Coping practices that rely solely on producing more interpreters underestimate the diversity and complexity of the problems of interpreting police-relevant interactions and are therefore unable to adequately meet the increased demands.

In principle, police interrogation of non-German-speaking witnesses and suspects is more problematic than interactions in the same language. The active involvement of another person whose position in criminal proceedings is only marginally determined by criminal procedural law disrupts the personal atmosphere and the dialogical structure of the interview through their strictly defined roles (Donk 2003). This presents the interrogators with orientation problems and puts them under particular pressure to act. In addition to coping with the existing problems presented by interactions involving police interrogations, they also need to take additional

particulars into account. These include the linguistic-verbal skills of the respondents and the interpreters, the culturally specific differences between all those involved and the lack of a relationship promoting cooperation in shaping interactions. This makes the organisation and implementation of such interrogations considerably more difficult and jeopardises their goals and hence the procedural goals as a whole. Not least because of this, interpreting should be seen as a goal-oriented, strategic action within the criminal investigation process, the focus and problems of which must be subjected to regular interdisciplinary analysis.

SYSTEMATIC INTERROGATION EXERCISES AND ANALYSIS OF PROBLEM PATTERNS

The information underlying this analysis was generated from the analytical findings of special interrogation exercises at the Police Academy of Saxony-Anhalt in Germany. These annual and regular exercises involve students of the “Interpreting and Translating for Courts and Authorities” course at the Magdeburg-Stendal University of Applied Sciences as role players for foreign-language respondents and interpreters. The respective results of the previous exercises were considered, evaluated and finally analysed by the author. A large number of specific problems were identified and evaluated from the exercise situations. These reflect and even supplement the findings of the relevant research. The purpose of this article is to consciously focus on the problems regarding selected aspects within the context of foreign-language interrogations of suspects. The article will discuss the influence of the interpreters on the interrogation setting, the potential partiality of the interpreters, the specific communication problems caused by culturally specific differences and the lack of a personal relationship

between respondents and interrogators. At this point, the complex issues surrounding the general principles of police interrogations (Hermanutz/Litzcke 2005), the quality control of linguistic and content-related aspects of interpreting services (Pöchhacker 2012) and the recruitment of interpreters by the police will not be taken into account here (Kadric 2012).

The author hopes that this article can be used to help translate experience gained from interrogation simulations in student training into criminal police practice for further sensitisation and optimisation of the organisation and implementation of foreign-language interrogations.

Problem 1: The interpreter's influence on the interrogation setting, spatial conditions and effects on the course of the interaction

The spatial framework conditions for the interrogation of non-German-speaking suspects differ significantly from those of other interrogations, in particular the seating arrangement. The interpreter changes the entire personal setting and the interrogation arrangement (Donk 1998) and influences the participants simply through his or her presence. In principle, given the principles of German criminal procedural law, the interpreter must not be assigned a specific place in relation to the spatial setting by the person in charge of the interrogation (Eisenberg 2013). When preparing the exercises, the issue of potential difficulties regarding the seating arrangement was deliberately avoided. The exercises demonstrated practical aspects of the problem with regard to the allocation or choice of seats by the participants in the interrogation room, which often led to interruptions in the orientation phase of the interrogation. These were triggered by the lack of clarity regarding the choice of seat by the interpreters, the interrogators and even the

suspects. All the time, the participants were making a big effort to find a suitable seating arrangement, which was occasionally even changed during the course of the interrogation. The initial allocation of seats for the suspects was unsuccessful simply because the seat was generally also suitable for the interpreters. The seating arrangement then selected subsequently influenced the course of the conversation and the type of interpreting. If the selected arrangement was triangular, i.e. the distance between the participants was roughly the same, the interpretation tacitly switched to consecutive, i.e. interpreting in sections was agreed on and carried out. This interpretation type was maintained in all cases for the entire duration of the interrogation. On the other hand, with seating arrangement with two people sitting opposite each other, the way of interpretation was different. When the interpreters sat next to the suspect, the interpretation was consecutive. When the interpreters sat next to the interrogators, however, simultaneous (real-time) interpretation was preferred in the majority of cases. Simultaneous interpretation in the form of "whispering" into the interrogators' ears frequently led to a great deal of irritation and interruptions in the interrogations. Many students in the role of interrogators reported difficulties in understanding the transmitted linguistic content when it was heard at almost the same time as the source language. Furthermore, the evaluation results suggested that the "one versus two" seating arrangement gave the individuals a sense of disadvantage, which impacted their willingness to cooperate and talk. The students playing the role of suspects facing the interrogators and the interpreters, as well as the interrogators opposite the suspects and the interpreters, were affected during the interaction by a perceived imbalance in the personal relationships. The students playing the role of

the suspects subsequently said that they felt the other two persons – the official and the interpreter – to be superior, which created feelings of resignation and defiance. The students playing the role of the interrogation officer reported growing insecurity and an increasing loss of control triggered by the people sitting opposite them. The seating positions also affected the direction of communication. While with the “two versus one” arrangements, the interviews were directed at the respondents throughout, the interrogators in a triangle arrangement tended to only make contact with the respondents indirectly through the interpreters during the conversation. The interpreting students were asked more and more frequently to ask the respondents whether they could provide insights on the relevant problem area. The interpreters switched their role from a neutral translator to an intermediary. This should be viewed critically from different perspectives. On the one hand, it increases the tendency of the interrogators to involve the interpreters in the interrogation as a kind of auxiliary police officer and, on the other hand, interrogators no longer make direct contact with the suspects.

Problem 2: The interpreter as an auxiliary police officer

Within interpreting science, not only were criteria developed to make interpreting services quantifiable, objectively measurable (Kadric 2012; Pöchhacker 2012) and controllable (Scheffer 1997), but also sociological and interactionist perspectives on the interpreter during the process of interpreting were defined. The role of the interpreter is ideally seen as a “non-person” (Kadric 2012), which has to be limited to the transmission of the language in the sense of a neutral “translation machine” (Donk 1994b). “The interpreter [should] not play the role of a person, should not

act nor think, but only translate in good faith” (Horn 1995). Police requirements for interpreters go beyond simply transmitting the language. The already widespread tendency of interpreters not to be content with the role of the translator, but rather to shape it with the attitude of an auxiliary policeman (Donk 1998), is reinforced by pressure from the interrogators (*ibid.*). This tendency has to be critically examined for two reasons. First, the contents of the translations cannot be checked by the police, and second, the criminological impulses of the interpreters can neither be checked nor controlled. The interpreter intervenes in the judicial process by assuming the role of an auxiliary police officer, despite lacking the relevant training and the necessary criminological socialisation. Relevant studies have shown that interpreters comply with the more or less subtle requests to assume the role of an auxiliary police officer, but then can only implement inadequate solutions (Donk 1994a). The misconduct analysed ranged from overly distant, authoritarian behaviour towards the suspect to coming across as an informer during the interrogation (Donk 1994b). While the former can counteract the efforts of an officer seeking to establish contact and a cooperative relationship, the latter usually leads to a loss of trust on the part of the suspect (*ibid.*).

The exercises carried out at the Police Academy of Saxony-Anhalt brought to light the shifting of the role of the interpreter towards independent criminological efforts, as well as the corresponding pressure by the interrogators on the interpreters. On the one hand, this may have been due to the focus of the exercises, which was more geared towards interacting with the interpreters and less towards designing and implementing the interrogation of a suspect. On the other hand, it must be assumed that the Police Academy students

have hardly any advanced and well thought out criminal tactical knowledge that can be incorporated into the interrogation in a structured and targeted manner. During the theoretical preparation of the exercises, the students on the interpreting course made it clear that they were aware of their neutral and impartial role as interpreters according to the interpreting science approach. However, in almost all cases, they reported that they were very influenced by the criminal acts of the suspects, which became increasingly apparent during the interrogation. The students playing the role of interpreters described how, during the conversations, they developed an increasingly clear idea of the underlying criminal act, which was then increasingly assessed morally and emotionally. Remarkably, the interpreting students only realised after the end of the exercise during a qualitative evaluation of the interrogation that the emotional evaluation of the crime and the suspect's person galvanised their motivation to participate in the investigation of the crime. When asked whether they would like the suspect to be convicted and sentenced, and whether they were willing to make the effort to actively expand the "pure" act of translation, all students playing the role of interpreter answered "yes". However, the majority of police students playing the role of interrogator also clearly stated after looking back at the exercises that they wanted the interpreters to assist in the investigation. In particular, the lack of direct personal contact with the suspect and the impossibility of establishing a cooperative relationship were the most common reasons for this.

Problem 3: Loss of the communicative embedding of the statement

For the design of successful interrogations of German-speaking respondents, crime tactics can rely on numerous re-

search findings from social, psychological and sociological studies (Linsen 2012) as well as statements from many interrogation theories (including Hermanutz et al. 2008; Malinowski/Brusten 1977). It is therefore well-known that, in addition to many other aspects, the non-verbal evaluation of the content of the statement and the perception of the respondent's direct response to questions are of great importance for the criminal procedural success of interrogation in terms of comprehensive information gathering (Hermanutz et al. 2008). These scientific findings are largely useless for the organisation of interrogation of non-German-speaking suspects. Even trained and practiced interrogators in everyday⁴ police work quickly noticed that the interposition of an interpreter in the conversation leads to the loss of the necessary connections for active and circular interrogation. First, the verbal statements have a time lag compared to the non-verbal information from gestures, facial expressions and intonation, resulting from the act of translation. This changes the interpretation of the statement by the interrogator, which in turn affects the subsequent questions and investigative approaches. On the other hand, the interrogator misses the opportunity to judge the context and credibility of the content of the answer given by direct reflex by the suspect and ultimately recognising nuances of meaning.

Students were also able to gain corresponding experience during the exercises. Although unlikely to have extensive experience in carrying out interrogations in the same language, many students playing the role of the interrogator reported irritation at the challenge caused by the delay of facial expressions, gestures and intonation for linguistic understanding after interpretation. In matters relating to the preparation of the exercises, the students playing the roles of the interrogators were encour-

aged to build up the interrogation pressure according to the theoretical principles of interrogation with the aim of extracting a confession from the suspects. These, however, were asked to disclose crime-relevant information only very slowly and only under appropriate pressure. It was evident from observing the interrogation interactions that it was difficult for the interrogators to generate such pressure. The questions asked were predominantly of a normative character, including the mindless clarification of factual specifics, and rarely addressed contradictions between the content of the statement and non-verbal signals. The students playing the role of the suspects stated that they had felt little or hardly any pressure from the interrogator. They also felt that the time lag between the questioning by the interrogator and the translation was an advantage in this regard. However, since the students playing the role of the suspects had already understood the source language, no general conclusions can be drawn from these assessments. Yet, it could have a positive impact on the suspect's defensive stance if the intonation and facial expressions of the interrogator convey the context of the question before the content is understood.

Problem 4: Culturally specific differences

In police practice, the use of language mediators in criminal interrogations often raises the question whether a literal translation or a rough translation should be used when transmitting the information. However, a literal transmission cannot be successful simply because the meaning of linguistic terms is embedded in their respective culturally specific framework for action and orientation (Donk 2003). The interpretations of the interaction contributions must therefore take into account the reconstruction of the culturally shaped meaning horizon. As a rule, due to the lack

of cultural congruence, the interrogator will not be able to fully understand the "foreigner" even in the German language. Taking this into account, professional interpreters should, on the one hand, enable understanding in the target language based on the principle of communicative effect equivalence (Herbert 1995) and, on the other, achieve the desired effect on the listener (Kadric 2012). This requirement also includes compensating for culturally specific problems of understanding. In addition to the simple language conversions, the interpreter is also tasked with actively designing the conversation, which must be viewed critically. The interpreter becomes a cultural mediator who independently intervenes in the interrogation process. In order to address misunderstandings, they explain culturally specific peculiarities and differences without being asked and take them into account in the translation act. In this role, there is room for manoeuvre that the person responsible for the interrogation cannot control. Moreover, the quality of role fulfilment by the interpreters largely depends on their culturally specific socialisations, professional qualifications, interpreting experience and professional self-image (Kadric 2012). This also means that inadequate sensitivity or qualification on the part of the interpreters can negatively influence the course of the conversation in this regard. The investigation could thus be stalled during the interrogation due to different cultural backgrounds or destroy the police interrogation strategies (Pöllabauer 2005). There is also the risk here that the public prosecutor will not press charges in the event of inadequate and incomplete clarification of the facts or that the court will get no conviction (Donk/Schröer 1995).

Culturally specific differences in different languages also emerged during the interrogation exercises. It was observed that

the interpreting students frequently asked the accused persons supplementary questions, which were only subsequently explained to the interrogators in a few cases and only when specifically requested. Occasionally, the interactions between students playing interpreters and suspects became independent for the duration of several conversation sequences. However, these were only followed by brief explanations, which in turn led to irritation and enquiries by the students playing the interrogators. The students in the interrogator roles reported in the analysis discussions that they were very unsettled by this incomprehensible “palaver”, which even led to the abandonment of the intended interrogation strategies. The students in the interpreter roles justified their independence in the evaluations by saying that, in their opinion, it was impossible to translate certain culturally specific terms, idioms and phrases directly, since the respective semantics in the source language were different to those in the target language. The unsolicited enquiries directed at the respondents as well as the conversations between the interpreters and the respondents were therefore, according to their input, absolutely necessary for full understanding.

Implications for interrogation practice

The orientation or contact phase can be adversely affected by the special spatial interrogation setting through the participation of an interpreter as a third active person. This also jeopardises the course of the interaction of the entire further interrogation process in terms of the intended interrogation goals. Prior agreement between the persons in charge of the interrogation and the interpretation for determining the seating position of all parties involved could avoid disruptions that can be traced back to seat selection at the be-

ginning of the interrogation. In the event of insufficient experience with simultaneous interpreting, consecutive interpreting should be preferred. In addition, it should be noted that simultaneous interpretation through whispering is linked to a seating arrangement that has a negative impact on the willingness of the respondent to talk and cooperate. The persons in charge of the interrogation must continuously ensure during the interrogation that they maintain direct conversation with the suspect and do not force the interpreter into the role of an active interrogator, which can have an overall negative impact on the course and outcome of the conversation.

The analyses of the interrogation exercises clearly show the different expectations of the role of the interpreter as well as the process of re-shaping the roles. They also demonstrate the interpreters’ tendency to support the police objectives of the interrogation process in an emotionally driven manner. They also make it clear that the interrogators not only accept the interpreter’s extension of their role, but are even willing to actively use it. In order not to jeopardise the interrogation interaction, the interrogation preparation agreements between interrogators and interpreters should be broadened to include the respective role expectations and anticipation of potentially role-influencing dynamics in the upcoming interrogation. Moreover, it could have a positive effect in this regard if the interrogator realises that the active criminal-tactical involvement of the interpreter may have a negative impact on the objectives of the investigation due to their lack of criminal police socialisation. Ultimately, the responsible stakeholders, as well as the interpreters, should once again reflect on their respective assigned function and objectives within a police interrogation during the joint preparation of the interrogation.

The time lag between spoken language and understanding, with its negative effects as described, is an inevitable result of the involvement of an interpreter in the police interrogation. Therefore, options for dealing with the adverse consequences are very limited. A deliberate limitation of the conversation sequences to short sections could at least partially mitigate the loss of criminal tactical opportunities. In the author's view, it is advisable for interrogators to prefer short questions without extensive descriptions and explanations when asking questions. Likewise, more intensive observation and awareness of the non-verbal signals during suspects' statements and their immediate reflexes to the questions from the interrogator could help join the distorted parts of the communication again, which, to some extent, could counteract the loss of investigative strategies.

There is no doubt that interpreting is not a mere translation of words into another language. Even same-language communication follows the rules of symbolic interpretations. This means that language can only ever be understood interpretatively against the background of the subjective sense. This knowledge is of particular importance when interpreting, as the interpreter has to transmit not only the statements, but rather their culturally specific interpretations. The interrogators are ultimately even de-

pendent on the interpreters to bring their cultural understanding into the translation. In order to reduce the uncertainty caused by the meaningful negotiations between the interpreters and the suspects, which the interrogators cannot understand, an active awareness of the need for corresponding conversation sequences could be helpful. Moreover, it could be pointed out in preliminary talks with the interpreter that, although the interpreter should also play a cultural mediator role in the interrogation, the interactions required for this must, without exception, be transparent.

The regular interrogation exercises with police and interpreter students have not only resulted in learning effects for those involved in the design of appropriate settings; the evaluations of these events have also made it possible to identify various specific problems that can provide the basis for several solutions for police interrogation practice. The recommendations made for improved interrogation organisation are conclusions from the analysed interrogation simulations, which, however, cannot replace empirical studies of the forensic interrogation reality. Interpreting in criminal interrogations has still not been adequately researched scientifically and has hardly been empirically investigated. The author would like to expressly call for this to be changed.

¹ The following article is a revised version of the article published in 2018 in the "Polizei & Wissenschaft" magazine: "Zu den Problemen beim Verdolmetschen von kriminalpolizeilichen Vernehmungen – Eine Analyse von Interaktionsstörungen und Handlungsempfehlungen für die Vernehmungsorganisation".

² In terms of the relationship between the number of asylum seekers and the num-

ber of inhabitants (per 100,000), Germany has the most and Austria the third most.

³ Provisions on this can be found, inter alia, in Section 187(1) Sentence 1 of the Court Constitution Act (GVG), Articles 3(3) and 103(1) of the Constitution (GG) and also Article 6(3e) of the European Convention on Human Rights (ECHR); as administrative regulation No. 181(1)

of Guidelines for Criminal Proceedings and Fines Proceedings (RiStBV).

⁴ The author, for example, has had the same experience as a comparatively experienced interrogator when using interpreters.

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