

62 PRELIMINARY INSTRUCTION: USE OF AN INTERPRETER FOR THE DEFENDANT

TO BE GIVEN ONLY UPON THE DEFENDANT'S REQUEST

The defendant requires help from an interpreter. The role of the interpreter is to provide communications assistance, so that the defendant can hear the evidence, understand the proceedings, and communicate with defense counsel.

ADD THE FOLLOWING IF APPROPRIATE:

[Keep in mind that a person might speak some English without speaking it fluently. That person has the right to the services of an interpreter. Therefore, you must not give greater or lesser weight to a person's translated statements based on your conclusions, if any, regarding the extent to which that person speaks English.]

COMMENT

Wis JI-Criminal 62 was approved by the Committee in August 2002.

This instruction was based on suggestions of the Wisconsin Supreme Court's Court Interpreter Committee. A Code Of Ethics For Court Interpreters was adopted as Chapter SCR 63, effective July 1, 2002.

Two other instructions address the use of an interpreter: Wis JI-Criminal 60 is intended for cases where a witness uses an interpreter; Wis JI-Criminal 61 is intended for cases where a juror uses an interpreter. See State v. Santiago, 206 Wis.2d 3, 556 N.W.2d 687, which discusses the different functions of an interpreter.

The Committee concluded that this instruction should be given only if requested by the defendant, because the defendant may prefer not to call attention to the need to use an interpreter.

In cases where the defendant uses a court-appointed interpreter it may be appropriate for the court to assure that the defendant has been made aware of the following admonitions, also suggested by the Court Interpreter Committee:

An interpreter is prohibited from becoming personally involved in this case in any manner. The interpreter may not offer any information or advice to you. If you have any questions during this trial, you should ask your attorney or this court. The interpreter is permitted to interpret such questions but not to answer them. Please do not try to engage the interpreter in any conversation, about this case or about anything at all. If you cannot understand the interpreter, please tell the court.

Because this information is not directed primarily to the jury, the Committee concluded that it need not be published as an instruction. It is included here as a potential resource for the courts.