

# The impact of court interpreting on the coerciveness of leading questions

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**ABSTRACT** Leading questions comprise a powerful weapon in the tactical arsenal of attorneys because such questions to a great degree control the outcome of witnesses' answers. This paper addresses two research questions. First, 'What characterizes leading questions, from a linguistic point of view?' Second, looking at leading questions in a context of foreign-language interpreting, it asks, 'What impact do court interpreters have on leading questions?' The findings reveal that in judicial proceedings where court interpreters are at work, the coercive force of leading questions systematically tends to be weakened by interpreters. Of all the factors hypothesized to affect the accuracy with which leading questions are interpreted, only mode of interpreting (simultaneous versus consecutive) and type of judicial proceeding (trial versus hearing versus deposition) were found to be significant predictors.

**KEYWORDS** leading questions, court interpreting, Spanish, coercion

## INTRODUCTION

In federal, state, and municipal courts in the USA, judicial proceedings officially are carried out in English, but often much of what is said in court is uttered in a host of other languages.<sup>1</sup> Officially, judges and attorneys make their statements and ask their questions in English, and witnesses and defendants are expected to provide answers in English. However, it is often the case that witnesses and defendants are native speakers of other languages, with either limited or no proficiency in English. Even among those in the population who consider themselves to be bilingual, few come near to that ideal, fictitious state known as 'balanced bilingualism'.<sup>2</sup>

Whether one is a limited-English speaker or a relatively balanced bilingual, persons in the USA who feel they have an insufficient command of English have the right to a free, court-appointed interpreter, within the parameters specified by federal law and numerous state statutes and regulations (see Berk-Seligson 1990a: Appendices 1 and 2). This is so because in American courtrooms, unlike those of Canada, Belgium and South Africa, for example, there is only one language that can count for official purposes. In the USA only the English language counts as far as

the court record is concerned, and the English language alone is entered into the record by court reporters.

So important is the role of English in American judicial proceedings, that when non-English speakers or limited-English speakers testify, jurors who happen to understand the language of the witness are routinely instructed by judges to ignore the foreign-language testimony and to pay attention exclusively to the English-language rendition of the court interpreter. This judicial position has been formalized by the US Supreme Court in the case of *Hernandez v. New York* (1991), in a decision that allows attorneys conducting the *voir dire* proceeding to disqualify potential jurors from serving on the jury panel if the prospective jurors understand the foreign language of persons expected to testify.<sup>3</sup> The primary rationale of the Supreme Court was that bilingual jurors might not listen to the English interpretation of the testimony, the only official version, and instead, might pay attention to the source-language version. Empirical findings resulting from an experimentally designed study (Berk-Seligson 1988, 1989, 1990a), however, indicate that bilinguals placed in the role of jurors do in fact pay a great deal of attention to the English renditions of interpreters, and on certain linguistic dimensions are equally as influenced by those interpretations as are monolingual English speakers.

The US Supreme Court, in rendering its decision, implicitly assumed that the English interpretation of the court interpreter is a faithful rendition of what has been said in the source language. Empirical studies (Berk-Seligson 1990a) of interpreted proceedings in American federal, state and municipal courts have demonstrated, however, that this assumption is not always warranted.

This paper seeks to expand on previous work in the field of court interpreting. To date, studies have focused largely on interpreter-induced alterations in witness testimony (Berk-Seligson 1987, 1988, 1989, 1990a, 1990b), and little scholarly attention has been paid to how attorneys' questions are rendered by court interpreters in actual court proceedings. This is the aspect of court interpreting addressed here. Specifically, this paper will examine the ways in which court interpreters affect the coerciveness of lawyers' questions.

## QUESTIONS AND CONTROL

The accurate interpretation of testimony is, of course, of utmost importance to the defendant who hopes to get a fair trial. It is less often realized that for attorneys eliciting such testimony, the accurate interpretation of their questions is just as crucial. This is so because differences in question form can represent corresponding differences in control over an answer.

### Levels of coerciveness

Analyses of question/answer sequences have shown that questions are used as weapons for the purpose of testing or challenging claims. They are also used as mechanisms for making accusations (Atkinson and Drew 1979; Churchill 1978; Danet & Bogoch 1980). In most contexts questions have the force of a summons (Goody 1978; Schegloff 1972). However, as Walker (1987: 59–60) notes, ‘in a legal adversary interview a question becomes more than that: it becomes an *order* that the respondent’s *knowledge* be displayed in an appropriate form’.

In court, questions vary according to the degree to which they coerce or constrain an answer. Danet and her colleagues (1978, 1980) have classified courtroom questions in order of coerciveness, and have found declaratives (e.g. ‘You did it’) to be the most coercive.<sup>4</sup> Declaratives are highly coercive because rather than asking a question, they make a statement. Going down one notch in their scale of coerciveness are interrogative yes/no questions (e.g. ‘Did you do it?’), which are also known as ‘grammatical yes/no questions’, and choice questions (e.g. ‘Did you leave at nine or at ten o’clock?’). Third in order of coerciveness are open-ended *wh*- questions, that is, questions that use interrogative words such as *who*, *what*, *where*, *when*, *why*, and *how* (e.g. ‘What did you do that night?’). The least coercive, and simultaneously most polite and indirect, are what Danet and her colleagues have called ‘requestions’, questions which on their surface seem to ask the witness whether or not she or he is able to answer a question, but actually ask for information, although in an indirect manner (e.g. ‘Can you tell us what happened?’).

Several scholars (Danet and Bogoch 1980; Bresnahan 1979; Woodbury 1984) have found that coercive questions are used heavily in cross-examination, but are used in relatively low proportions during direct examination. Furthermore, one study (Danet & Bogoch 1980) found that the frequency with which coercive questions are used is directly related to the seriousness of the offence in question: the more serious the offence, the higher the proportion of coercive questions asked by prosecutors on cross-examination.

### Leading questions

While Danet and Bogoch (1980) demonstrate that attorneys’ questions can be graded on a scale of coerciveness, they make no mention of leading questions *per se*. Yet, no category of legal questions is as coercive as the broad category known as ‘leading questions’, it can be argued. Leading questions are defined as ‘questions that suggest the specific tenor of the answer desired from a witness presumably favourable to the party doing the questioning’ (Wigmore 1942). Similarly, a question is considered to be leading if it ‘suggests to the witness the specific tenor of the reply desired by counsel that such a reply is likely to be given irrespective

of an actual memory' (*United States v. Durhan* 1963, as cited in Ogle *et al.* 1980: 43). Put more simply, leading questions are 'questions that incorporate answer-expectations' (Woodbury 1984: 221). The most common definition of 'leading question' is one that 'suggests the desired answer to the witness' (Mauet 1996: 437), the person desiring the answer being the interrogating attorney (Keeton 1973: 50). From the definitions of these scholars and those who are cited below, it will become clear that leading questions cannot be defined in syntactic terms alone, but that functional notions play an inherent role in their definition.

Leading questions constitute a powerful instrument for attorneys. As one trial manual explains:

The law recognizes the difference between the interrogator questioning his own witness and the interrogator confronting his opponent's witness. The latter has unbridled use of the leading and suggestive question – a tactical tool that is designed to offset the handicap of an unrehearsed and perhaps hostile witness. And a powerful tool it is. The wonder is that it is used so sparingly by many practitioners. It has two obvious advantages: *one*, it permits the advocate to choose his own words in describing the event with which the witness is confronted; *two*, it limits the response requested of the witness.

(Jeans 1993: 431)

One manual that focuses exclusively on conducting cross-examination explains the power of leading questions in this way:

Leading questions give the examiner the opportunity to put the answers into the exact words that he or she wants. What more control can be exerted by a lawyer in the everyday trial situation? Not only does the cross-examiner get to choose what is to be covered in cross, but he or she also gets the opportunity to choose the words he or she wants to wrap around the ideas which are going to be presented to the jury. (Aron *et al.* 1989: 309)

Through the use of leading questions during cross-examination, the examiner can force a witness to limit his/her answers to 'yes', 'no' and 'I don't know' (Packel and Spina 1984: 79).

There are, of course, strict judicial constraints on the use of leading questions. Generally, such questions are prohibited during direct examination, because friendly witnesses are thought to be especially suggestible, but they are permitted during cross-examination (Mauet 1996: 50).

Despite the general judicial policy against the use of leading questions during direct examination, leading questions are in fact permitted in this context under certain special circumstances (Ehrhardt and Young 1995: 402–3; Federal Rules of Evidence, Rule 611(c); Keaton 1973:

50; McElhaney 1989: 104; Pietrafesa 1994: 29). These circumstances include:

- 1 when the witness is hostile, biased, or otherwise unlikely to accept suggestions
- 2 when the matter being asked about is preliminary and undisputed  
(Wigmore 1942: 150–1)

According to one code of rules of evidence recommended for trials, leading questions are allowable *by necessity* when the witness either:

- 1 has exhausted his recollection
- 2 cannot comprehend the subject being asked of him by reason of infancy, illness, diffidence (timidity), illiteracy, or alienage
- 3 when the witness is asked a question regarding the precise words of another person's utterance

(Wigmore 1942: 151)

By 'alienage' one presumes that Wigmore means the inability to comprehend English well enough to understand the questions put to him or her. One has to wonder, however, if this exception to the rule against leading questions should apply to cases where court interpreters are at work. In reality, the factor of 'alienage' may be considered by some to be a moot point when in an American courtroom a non-English speaking or limited-English speaking witness hears a lawyer's question through the mechanism of a court interpreter. However, such an assumption entails the tacit assumption that the interpreting process that is taking place is faultless.

In sum, leading questions are vital to lawyers because they enable them to predetermine the substance of an impending answer. In effect, then, leading questions allow lawyers to tightly control what a witness is going to say, which consequently gives them tremendous power over the outcome of testimony.

From a linguistic point of view, the difficulty one has in dealing with leading questions is the fuzziness with which they are defined by the courts. Strikingly, they are generally not defined along the lines of specific linguistic criteria. Trial manuals, whose goal is to prepare and help train lawyers for successful trial work, limit their description of the form of leading questions to providing one or two examples, but do not explicitly inform the reader as to what it is that makes the form of the questions leading (Packel and Spina 1984: 20). Rather than to analyse their formal properties, typical trial manuals account for the suggestiveness of leading questions by referring to their function alone. One notable exception to this general pattern is the work of Ogle *et al.* (1980), which goes into some detail on what gives leading questions their suggestiveness. Not surprisingly, one of the authors, Ogle, is a linguist by profession.

Ogle *et al.* (1980) find two types of questions inherently suggestive: 'tag questions' (defined by them as questions that contain both a statement and a question, as in 'The car was red, wasn't it?') and 'negative yes/no questions' (questions phrased negatively, and requiring a 'yes' or 'no' answer, such as, 'Wasn't the car red?'). They consider tag questions to be suggestive because, 'The questioner is asking the witness to consider whether the statement is true – the implication being that it is in fact true and that the witness knows it to be true', and find negative yes/no questions to be leading because 'the questioner is advancing a proposition he believes to be true, which increases the probability that the witness will agree due to the assumed sincerity of the speaker' (Ogle *et al.* 1980: 45).

Three other question forms are singled out as having the capability of being leading: 'alternative questions' (e.g. 'Was the car red, yellow, or blue?'), 'standard yes/no questions' (e.g. 'Was the car red?') and 'declarations with question intonation' (e.g. 'The car was red(?)'). Alternative questions can be suggestive in the sense that they imply that all logical possibilities have been exhausted, and that the correct answer, therefore, must be among the alternatives offered (Ogle *et al.* 1980: 45). Standard yes/no questions can be leading when they are very detailed, Ogle *et al.* (1980: 45) demonstrate: when the question is filled with detail, it gives the witness the impression that there must be a basis for so much elaboration on the part of the examiner. Finally, declarations with question intonation can be leading because the examiner is advancing a proposition: 'Since the witness is psychologically inclined to believe that the "questioner" would not make a statement without believing it, the witness tends to agree, even if he is not totally sure that he agrees' (Ogle *et al.* 1980: 45).

Whereas Ogle *et al.* (1980) are by far the most detailed and specific among those within the legal profession who attempt to give precision to the term 'leading question', it takes linguists interested in the use of language in legal contexts to classify leading questions most fully and elaborately. Woodbury (1984) is one such linguist. While she does not restrict her analysis to leading questions *per se*, in her effort to place question types routinely used in court on some sort of continuum, she uses the same type of continuum that Danet and her colleagues have used: namely, the continuum of coerciveness, viewed as 'question control over answer'. Among the question types that appear in Woodbury's classificatory scheme are leading questions.

### **A typology of leading questions**

Since Woodbury (1984) has been the most exhaustive in her typology of questions and their degree of control over a witness's answer, I will use hers as a basic framework. However, I have added several subtypes to her

classification, and, in addition, have ordered a number of the question types that she has kept grouped together in a hierarchically undifferentiated way, specifically, the various types of tags.<sup>5</sup> This modified typology can be seen in Exhibit 1, below.

*EXHIBIT 1* LEADING QUESTIONS<sup>6</sup>

- 1 Didn't you enter the house at that time?<sup>7</sup>  
(negative grammatical yes/no question)
- 2 You entered the house at that time?  
(positive prosodic question)
- 3 You didn't enter the house at that time?  
(negative prosodic question)
- 4 You entered the house at that time, did you?  
(copy tag question)
- 5 Is it true (correct) that you entered the house at that time?  
(positive truth-questioning question)
- 6 You entered the house at that time, (is that) right?  
(positive confirmatory tag question)
- 7 You didn't enter the house at that time, (is that) right?  
(negative confirmatory tag question)
- 8 You didn't enter the house at that time, did you?  
(negative checking tag question)
- 9 You entered the house at that time, didn't you?  
(positive checking tag question)
- 10 Isn't it true that you entered the house at that time?  
(negative truth-questioning question)
- 11 You entered the house at that time, isn't that right?  
(confirmatory negative tag question)
- 12 Did you enter the house at that time? Didn't you?  
(grammatical yes/no question + checking tag question)
- 13 (a) It is true, isn't it, that you entered the house at that time?  
(positive truth-questioning question + positive checking tag)  
(b) Is it true that you entered the house at that time, is that right?  
(positive truth-questioning question + positive confirmatory tag)  
(c) It wouldn't be true, would it, that you entered the house at that time?  
(negative truth-questioning question + negative checking tag)

The continuum, beginning at the top, displays the least coercive questions, going downward to the most coercive ones. The question type exemplified by (1), the negative grammatical yes/no question – one type of leading question – incorporates the answer-expectation 'no'. At a minimum, questions of this type imply that the speaker thinks that the addressee did in fact carry out whatever act the verb signifies. Depending

upon the intonation with which they are uttered, negative grammatical yes/no questions can be accusatory in tone, and not merely a request for information, although a different intonational contour would block an accusatory interpretation. As Woodbury (1984: 202) puts it, 'Negative grammatical yes/no questions signal the speaker's surprise with regard to information he has just received. When he asks "Didn't you enter the house at that time?" the covert message is "I thought you did, and now you appear to contradict this belief."'

'Prosodic questions' (represented by questions 2 and 3) are 'declarative sentences containing question cues that may be intonational', or they may be 'marked as questions by means of a variety of contextual cues', signalling that the 'speaker believes in the truth of the proposition, as it is formulated in the question' (Woodbury 1984: 202–3). Such questions express the speaker's expectation regarding what she or he considers to be a likely response. Thus, 'positive prosodic questions' (such as 2) indicate that the speaker expects to get 'yes' as an answer, whereas 'negative prosodic questions' (such as 3) signal that the speaker expects to hear a 'no' for an answer. Woodbury (1984: 208, 218) finds that prosodic questions are a device used by lawyers to communicate indirectly with jury members, without seeming to be addressing them.

Tag questions, by definition, are leading questions. Essentially they consist of declarative sentences followed by a tag (tags consisting of a copy of the verb in the main clause, but a negative copy if the original is positive, and a positive copy if the original is negative, followed by a pronoun that corresponds to the subject of the sentence). Tag questions, as a cover term, are the most highly coercive question forms a lawyer will use. With the exception of (5) and (10), all of the question types from (4)–(13)(c) are tag questions.

'Copy tags', exemplified by question 4, are next in coerciveness. They differ from other tags syntactically in that the copy has the same positive or negative value as the verb in the main clause. They will not be discussed further since they occur only rarely in Woodbury's study, and not at all in my own data set, which I describe in detail in the section below.

Next in order of coerciveness is what I am calling here 'positive truth questioning questions' (as in 5). These questions ask whether a given assertion of the lawyer is true or not, and are worded using the phrase, 'Is it true that ...' or 'Is it correct that ...' 'Negative truth questioning questions' (as seen in 10), in contrast, word the defining phrase negatively, thereby making the question far more coercive than its positive counterpart. By saying 'Is it true that you entered the house', the lawyer is implying that he has heard, or has reason to believe that the witness has entered the house. Upon uttering the phrase negatively, the lawyer displays his heightened sense of certainty that the witness has carried out that particular action.

Another major category of tags is the 'confirmatory tag', which is used to confirm the speaker's understanding of the facts. These tags take three

forms: the ‘positive confirmatory tag’ (as in 6), the ‘negative confirmatory tag’ as in (7), and the ‘confirmatory negative tag’, in which the tag, rather than the main clause is negated (represented by 11). The confirmatory negative tag seems to be far more coercive than either of the other two confirmatory tags.

Finally, there is a category of tags called ‘checking tags’, as exemplified by (8) and (9), (8) being a ‘negative checking tag’ and (9) representing a ‘positive checking tag’. According to Woodbury, this tag, rather than merely being an invitation to affirm or deny, functions as a demand to do so. In addition, checking questions suggest that the expected answer will incriminate the witness: lawyers use them when they want to pounce on the witness (Woodbury 1984: 223).

The questions seen in (12) and (13), while appearing at the bottom of the scale, have not been ranked within the scale itself, but have merely been added to the leading question types because they occur in my data. What they share is the blending of two different leading question forms into one construction. Sentence (12) represents an amalgam of a yes/no question and a checking tag. The examples in (13) are all formed by either a positive or negative truth questioning phrase in the first part of the utterance, followed directly by a tag.

## DATA

The findings I am presenting here are based upon 504 leading questions drawn from my tape-recordings and transcriptions of five trials and a number of depositions and hearings before a judge, all of which were conducted with the aid of a Spanish language court interpreter. The decision to classify a given question as ‘leading’ was based upon both structural (i.e. linguistically formal) criteria, namely, did the question conform to the types delineated in Exhibit 1, as well as functional criteria. The functional case for claiming that these types are in fact leading has been presented above, using the arguments of Woodbury (1984) and Ogle *et al.* (1980). In the case of tag questions and negative grammatical yes/no questions, the decision to classify a question as leading could be taken automatically, because of the grammatical construction of the utterance. The determination that a given utterance was in fact a prosodic question rather than a statement was made on the basis of intonational contour cues together with contextual information provided by the larger conversational sequential frame (the lawyer’s line of questioning preceding the given prosodic question and the nature of the witness’s response to the lawyer’s utterance, namely, that it constituted an answer to the question).

The trials from which the data were drawn had taken place both in federal and state superior courts, all located in the US Southwest.<sup>8</sup> They involved murder, narcotics trafficking, purse-snatching, and assaulting a

law-enforcement officer. The depositions all involved the transporting of undocumented aliens across the US/Mexico border.

Of the four interpreters who worked in these cases, two were federally certified and two were not.<sup>9</sup> Of the total number of leading questions produced, 72 per cent occurred in federal court, 24 per cent in superior court, and 4 per cent in justice-of-the-peace court. About two-thirds of the questions (67 per cent) were produced by federally certified interpreters, and the remaining one-third by non-federally certified interpreters.

## FINDINGS

The major research question being addressed here is this: to what extent are leading questions interpreted accurately? Accuracy, for the purposes of this study, was limited in scope to pragmatic force. One variable that was hypothesized as being important in predicting the accurate interpreting of leading questions was mode of interpretation: specifically, consecutive versus simultaneous mode.<sup>10</sup> I expected, based upon many months of ethnographic participant observation in federal, state, and municipal courts, that interpreters would do a more careful job, on the whole, when they performed consecutive interpreting than when they used the simultaneous mode.

A surprisingly large percentage of leading questions are interpreted inaccurately, I discovered. The findings reveal that half of the questions (49.6 per cent) in my database of 504 leading questions are incorrectly rendered. By 'inaccurate interpreting' I mean that either (a) the tag, or other leading (i.e., suggestive) portion of the question was omitted entirely in the interpretation, or (b) the nature of the question was changed, making it either more leading or less so.<sup>11</sup> In reality, when the nature of the questions was changed, such changes were nearly always made in the direction of turning a coercive question into a less coercive one. For examples of such downgrading of coerciveness see questions (8) and (10)–(14), (pp. 44–5). However, this type of 'mis-interpretation' of pragmatic force occurred in only 9 per cent of the cases of inaccurate interpreting that could be accounted for. Of the questions that were counted as inaccurately interpreted, 91 per cent were inaccurate because of the interpreter's failure to interpret coercive elements in the question altogether. The following questions and their corresponding interpretations illustrate what is meant here as 'accurately' versus 'inaccurately' interpreted leading questions.

### **Interpreting leading questions**

In the discussion that follows the interpretations of questions (1)–(5) were considered to be accurate from the perspective of pragmatic force.

Questions (6)–(14) (see pp. 44–5), in contrast, were counted as instances of inaccurate interpretations of pragmatic force. Examples (1) and (2) represent cases of formally and functionally perfectly matched source language questions and corresponding target language interpretations, both of them instances of positive checking tags in Spanish as well as in English. Questions (3), (4) and (5) are positive checking tags, while their Spanish renditions are in every case confirmatory tags. Thus, the Spanish interpretations of (1) and (2) completely match their corresponding English source utterances in coerciveness, while the interpretations of (3), (4) and (5) although faithful in the sense that they preserve the leading quality of the English questions, seem to be less coercive in pragmatic force. To a great extent this has to do with the force carried by the negative component ‘not’ in the English tag, and the absence of any type of negative particle in the Spanish rendition.

It is worthwhile pointing out that the English tag could have been interpreted via a negative marker, instead of the positively constructed, *¿es eso verdad?* (is that true?) and *¿es esto correcto o no?* (is this correct or not?). That is, in each of the tag portions of (3), (4) and (5) the interpreter could have rendered ‘did you not?’ ‘were you not?’ and ‘was it not?’ as *¿no?* or *¿o no?* Nevertheless, several native Spanish speaking experts with a high degree of proficiency in English perceived tags such as *¿que no?* and *verdad* or its non-elliptical variant, *es verdad*, to be equivalent to each other, and equally as satisfactory interpretations of the English tags found in (3), (4) and (5). It should be noted, in addition, that Spanish tags are not constructed syntactically in the same way as English tags are: whereas English copies an element of the verb phrase of the main clause (generally a form of the auxiliary ‘do’ to refer to the verb, or some form of ‘be’ when it functions either as the main verb in the clause or an auxiliary in progressive verbal constructions), Spanish cannot copy a verb in the tag. Thus, interpreters going from English to Spanish are highly restricted in the ways in which they can render tags. Essentially they are limited to some form of:

- (1) *¿es (esto/eso) verdad?* *¿es (esto/eso) correcto?* (and their elliptical variants *¿verdad?* and *¿correcto?*)
- (2) *¿que no?*, *¿no?* and *¿o no?*, all of which are used when the declarative portion of the question is worded affirmatively
- (3) *¿que sí?*, *¿sí?* and *¿o sí?*, which are tagged onto negatively phrased statements
- (4) *¿fue así?* (literally ‘was it so?’) and its negative counterpart *¿no fue así?* (literally ‘wasn’t it so?’)

With this limited variety of tag forms available to them, a set of native Spanish speaking informants translated the negative checking tag ‘You didn’t enter the house at that time, did you?’ in the following ways:<sup>12</sup>

- (a) *No llegaste a la casa a esa hora, ¿verdad?*
- (b) *Usted no entró a la casa en ese momento, ¿o sí?*
- (c) *No entraste a la casa a esa hora, ¿o sí?*
- (d) *Tú no entraste a la casa en ese momento, ¿no?*
- (e) *No entró a la casa en aquel momento, ¿no fue así?*

It is worth noting that for the speaker who produced sight translation (b), the tag *¿verdad?* would have been substitutable for the tag *¿o sí?* as it would have for most of the other tag questions that she was asked to sight translate. Another consultant, a Spaniard, translated *all* of the tag question types with *¿verdad?* making no distinctions among the various constructions. A third consultant, an Argentine, was careful to provide alternate forms for the tag 'right' in 'You entered the house at that time, right?' offering *¿verdad?* *¿cierto?* and *¿correcto?* as equivalent interpretations.

It is clear from the interpretation of this one question alone that there is variation in the ways in which the English question can be rendered in Spanish. For one thing, aside from the different tags that were produced, some consultants used a subject pronoun (as in (b) and (d)), whereas others did not. Some used the informal second person singular ((a), (c) and (d)), while the others used the formal form of the verb, indicating greater respect for or deference toward the interlocutor. These consultants had not been given special instructions to pretend to be interpreters working in a legal setting, and therefore may have been using the most prevalent norms of the country from which they came, not thinking of the impropriety of addressing a testifying witness with the informal pronoun and its accompanying verbal morphology. However, another Argentine consultant, Porcel (1998), has commented that the very presence of a second person subject pronoun – in contrast to its absence – gives a question a greater degree of coerciveness, since second-person subject pronouns in Spanish are not obligatorily present in utterances (the morphology of the verb is sufficient to indicate person). In fact, Spanish pedagogical texts generally instruct second language learners to limit their use of the subject pronouns, reserving them either for rhetorical purposes (e.g. emphasis) or for the sake of clarity whenever the need for disambiguation arises.

According to Porcel (1998), whenever the subject pronoun is used in a question, its placement with respect to other grammatical constituents can become an additional source of coerciveness in the force of that question. Specifically, when the pronoun is used in its unmarked, or most common, position (i.e., preceding the verb), it gives the question a lesser degree of coerciveness than it does when it is placed in a grammatically marked position, namely following the verb. Thus, questions (f), (g) and (h), all of which mean 'Did you enter the house?' are ordered from less coercive to more coercive, on the basis of (f) not having any subject pro-

noun at all, and the position of the formal pronoun *usted* (you) relative to the verb *entró*.

- (f) *¿Entró a la casa?*
- (g) *¿Usted entró a la casa?*
- (h) *¿Entró usted a la casa?*

Furthermore, affirms Porcel (1998), negating a verb adds a degree of coerciveness to the pragmatic force of a question. Thus, among (g), (i) and (j), (g) is the least coercive for its lack of negative marker, and (j) is the most coercive because of the presence of the negative marker and the placement of the subject pronoun following the verb.

- (g) *¿Usted entró a la casa?*  
(Did you enter the house?)
- (i) *¿Usted no entró a la casa?*  
(You didn't enter the house?)
- (j) *¿No entró usted a la casa?*  
(Didn't you enter the house?)

Beyond the factor of negation, the presence of a subject pronoun in an English tag, says Porcel (1998) (e.g. 'didn't you' 'did you'), which is generally interpreted as *¿verdad?* *¿cierto?* or *¿correcto?* by most consultants, can also be rendered as *no fue así* (wasn't it so?) or *¿fue así?* (was it so?), which can be considered to add its own measure of coerciveness to a question. Thus, leading questions whose tags are realized via a verb phrase such as *¿fue así?* or its negative counterpart may be more coercive than the three more generally used, unmarked tag forms just mentioned.

Finally, just as in English, Spanish suprasegmental elements – specifically, sentence-level word-stress, pitch level, and loudness – can contribute to the pragmatic force of a question. Any deviation on the part of any of these aspects of intonation in the direction of an unmarked (i.e., non-neutral, or unexpected) form can signal a shift in meaning insofar as pragmatic force is concerned. Extra loudness on a word in Spanish is parallel in meaning to extra loudness in English, although the base line for what constitutes 'normal' loudness will vary from any given variety of English to any variety of Spanish. Those familiar with varieties of English, for example, know that what constitutes unmarked loudness for midwesterners or West Coast residents of the USA in public places (e.g. airports, trains, buses) is considerably louder than what is considered to be unmarked for equivalent contexts by those who are speakers of received pronunciation in England, for example. Loudness, stress, and pitch, therefore, need to be considered in relative terms, from the perspective of particular speech varieties and the speech communities that use them, rather than in absolute terms.

An attempt was made to produce a rank-ordered scale of coerciveness for the Spanish equivalents of the English questions listed in Exhibit 1. This attempt did not succeed for two reasons: (1) the Spanish translations that the informants generated were not identical (for the reasons given above, i.e., the translations differed with respect to the inclusion/exclusion of subject pronouns and in regard to type of tag formation chosen); and (2) the task itself, of ordering eleven questions, is cognitively a difficult one. Nevertheless, the scales that were produced by the two key informants who generated the rankings show a high degree of correspondence with respect to the English and Spanish tag questions, but less correspondence among the non-tag question types. For example, the grammatical yes/no question was ranked as third by one informant and fourth on the scale by the other one, whereas it is first (i.e., lowest in coerciveness) on the English scale. However, the positive prosodic and negative prosodic questions were ranked in the same order in Spanish, by both informants, as they are in English. Similarly, the Spanish positive confirmatory tag question and its counterpart negative form were ranked in the same order as are the English source questions. Furthermore, the Spanish negative truth-questioning question and the confirmatory negative tag question were ordered by both informants at points on the scale that are identical with those of their English counterparts. So, on the whole, there is a great deal of similarity between the judgements of the native Spanish speakers and the thinking of investigators such as Woodbury and myself.

Thus, as mentioned in the introduction to this section, the examples that follow, (1)–(5), represent English questions from my data set that I consider to be accurately interpreted, accuracy viewed from the standpoint of pragmatic force.

- 1 Defence attorney: And you admitted your guilt to that, did you not?  
Interpreter: *Y usted admitió su culpabilidad a ese cargo, ¿que no?*<sup>13</sup>
- 2 Prosecuting attorney: That wasn't a trial that you were supposed to show up for, it was a sentencing, wasn't it?  
Interpreter: *Y no era un juicio para lo que usted tenía que presentarse el día 25 de febrero, era sentencia, ¿que no?*
- 3 Prosecuting attorney: You told Inspector Jones that you were a United States citizen having been born in this country, did you not?  
Interpreter: *Usted le dijo al inspector Jones que usted era ciudadano americano que había nacido en este país, ¿es eso verdad?*
- 4 Prosecuting attorney: Mrs. Rivera, you were present in a large room with many people coming and going, were you not?  
Interpreter: *Señora, usted estaba presente en un cuarto muy grande con muchas gentes yendo y viniendo en ese tiempo, ¿es esto correcto o no?*

- 5 Defence attorney: And so, and the day that you went to interview Mr., ah, Mr. Gomez, was after the day of the indictment, was it not?

Interpreter: *La fecha que usted fue al Centro de Corrección Metropolitana y que entrevistó al señor Gómez fue después de la fecha de la acusación del gran jurado, ¿es esto correcto?*

[The day that you went to the City Corrections Center and interviewed Mr. Gomez, was after the date of the grand jury's indictment, is that correct?]

Examples (6)–(14) below illustrate what I have counted as ‘inaccurate’ interpretations of pragmatic force. Either the interpreter has turned an English leading question into a question that is not leading at all in Spanish (as in (6) and (7)), or she has converted the question into a significantly less coercive one (the case of (8), (10), (11), (12), (13), and (14)), or occasionally to a more coercive one (as in (9)).<sup>14</sup>

- 6 Defence attorney: You made a report about this incident, did you not?

Interpreter: *¿Hizo usted un reporte de este incidente?*

[Did you make a report about this incident?]

- 7 Defence attorney: When you testified, you were walking on your own, weren't you?

Interpreter: *Cuando estaba tes-, cuando testificó usted, ¿iba caminando solo?*

[When you were tes-, when you testified, were you walking on your own?]

- 8 Defence attorney: So you never told him that you didn't have any documents either to cross into this country, is that right?

Interpreter: *¿Usted tampoco le dijo en ningún momento que usted no tenía documentos para cruzar a este país?*

[Nor did you tell him at any point that you didn't have any documents for crossing into this country?]

- 9 Defence attorney: In your report you stated that in the back of the truck area she pulled your right arm away and made another strike, is that correct?

Interpreter: *Eh, en su reporte usted dice que en la parte de atrás del, del troque ella le jaló el brazo derecho, ¿que no es esto correcto?*

[Uh, in your report you say that in the back part of the, the truck, she pulled your right arm away, isn't that correct?]

- 10 Prosecuting attorney: But you were told that a car would pick you up, isn't that correct?

Interpreter: *Pero a usted le informaron que un carro los iba a levantar, ¿es esto correcto?*

- [But you were told that a car was going to pick you {plural} up, is that correct?]
- 11 Prosecuting attorney: And is it also not true that it was necessary for another officer to come and assist?  
 Interpreter: *¿Y es cierto que fue necesario que otro oficial viniera y ayudara?*  
 [And is it true that it was necessary for another officer to come and assist?]
- 12 Defence attorney: Is it true that you never spoke with the woman?  
 Is that correct?  
 Interpreter: *¿Es cierto, señor, de que usted nunca habló con la mujer?*  
 [Is it true, sir, that you never spoke with the woman?]  
 Witness: No.  
 Interpreter: Yes, it is correct. I did not speak to her.  
 [No.]
- 13 Prosecuting attorney: You were under oath at that time, is that not correct?  
 Interpreter: *Usted estaba bajo juramento entonces, ¿que no? ¿Le habían tomado juramento de decir la verdad?*  
 [You were under oath at that time, weren't you? You had been sworn to tell the truth?]
- 14 Defence attorney: And when he consented, it's true that at that time Mr. Chavarria pointed out to you the bags at which you testified about and identified earlier, is that correct?  
 Interpreter: *Cuando dio su consentimiento, ¿en ese momento el señor Chavarría le indicó las bolsas que ha mencionado en su testimonio e identificó anteriormente?*  
 [When he consented, at that moment did Mr. Chavarria point out to you the bags you that you've mentioned in your testimony and identified earlier?]

The Spanish interpretations of the English leading questions found in (6)–(14) are discrepant in a variety of ways. Questions (6) and (7) are positive checking tags in English, which have been converted into plain yes/no questions in Spanish, and thus are lacking the force of a leading question. The question in (8) is a negative confirmatory tag in English, and a negative prosodic question in Spanish. The Spanish version is far less coercive than the English original. The English question in (9) is a confirmatory tag, but the Spanish interpretation is a confirmatory negative tag, which is far more coercive than the English source. In the case of (10), a confirmatory negative tag in English becomes a positive confirmatory tag in Spanish, and hence less coercive in force. Example (11) shows how a negative truth-questioning question in English becomes far less coercive in Spanish, as it is turned into a positive truth questioning question. It is not only the presence of the negative marker in the English

question that makes the question more coercive than its Spanish interpretation, it is also the lack of contraction between the verb 'is' and the negative marker 'not' that adds forcefulness – a distinctly emphatic quality – to the English question, which is absent from the Spanish rendition.

The question/answer sequence displayed in (12) is interesting not only from the point of view of a markedly discrepant interpretation of a witness's answer, but also in the clear-cut absence of badgering in the interpreter's rendition: the Spanish is simply a positive truth-questioning question, whereas the attorney's English question is far more forceful in its use of a confirmatory tag directly following a positive truth questioning question. The example in (13) shows how an interpreter takes a relatively highly coercive question type, a confirmatory negative tag, which in this case is particularly commanding because of the lack of contraction between 'is' and 'not', and turns it into the less coercive positive checking tag. In addition, she rephrases her interpretation, and in the process produces the least coercive question format distinguished in this typology, a simple yes/no question. Finally, (14) demonstrates how an attorney affirms the truth of a proposition (that Mr. Chavarria has pointed out to the witness the bags about which the latter had testified), and follows it up with a confirmatory tag, while the interpreter weakens the force of this type of questioning by changing the question into a positive prosodic question, one entirely lacking a suggestive component. In fairness to the interpreter, however, the phrasing of the question by the lawyer is quite convoluted and inherently difficult to interpret because of the unusual ordering of its grammatical constituents. The complexity of the syntax no doubt must have had its impact on the interpreter's task.

### **Quantitative analysis of the data**

The fact that only half of all leading questions were interpreted accurately is a striking finding, especially in light of the position of the US Supreme Court. It means that whatever coercive power the examining attorneys may have held in asking the questions, the force of their questions was systematically weakened by the interpreters.

It should be kept in mind, however, that the 50 per cent incorrect figure includes both simultaneous and consecutive interpreting. It was expected that the percentage of errors for consecutive interpreting would be lower than that for simultaneous interpreting. This expectation derives from the role of consecutive interpreting in the courtroom. Consecutive interpreting is conducted out loud, for everyone in the room to hear, either at the witness stand or standing before the judge, and in its English version, is intended to be entered into the court record. Simultaneous interpreting, in contrast, is performed in a hushed voice or whisper, and is intended strictly for the ears of the defendant. It is not entered into the record, and is overheard perhaps only by the defence counsel (who may

or may not understand the language of the defendant, and therefore is not likely to be in a position to judge the quality of the interpreting being rendered).

As had been expected, interpreters do a far better job of interpreting in consecutive mode than in simultaneous (70.6 per cent accuracy, N=163, versus 33.3 per cent, N=91, respectively). Nevertheless, it is disappointing to see that even in consecutive mode, where clearly interpreters are trying their hardest to render the source language (L1) into the target language (L2) faithfully, interpreters render leading questions accurately only two out of three times. One possible explanation for this poor performance is that these consecutive interpretations are in the direction of English into Spanish, which, like simultaneous interpreting, is not entered into the court record, and for this reason, may not be as high a priority for interpreters as is the conversion of Spanish into English.

These global differences in accuracy between consecutive and simultaneous mode, however, mask the operation of an important variable: the type of proceeding in which the interpreting is being carried out, which has its own impact on the quality of the interpretations. Interpreters do a far better job in consecutive mode when they are interpreting at a trial than when they are interpreting at a deposition or a hearing. They interpret leading questions accurately 82 per cent of the time at trials, whereas their accuracy is only 55 per cent at depositions and hearings, in consecutive mode. This discrepancy is not difficult to account for: nowhere is the interpreter in a brighter spotlight than when she is at the witness stand, in the presence of a jury.<sup>15</sup> The attention of everyone in the courtroom is riveted on her then. The atmosphere is far less charged with tension when a jury is not present.

The factor of being heard by everyone, including jury members, may very well be affecting the quality of the interpretations. The interpreting of leading questions in simultaneous mode is far less accurate during jury trials than during depositions or hearings: with an accuracy of only 35 per cent for trials, but 50 per cent for depositions and hearings, the difference is statistically significant. This is partially accounted for by the fact that these depositions and hearings were conducted in federal court, by federally certified interpreters, whereas the trials took place in both superior court (where only non-federally certified interpreters were employed) and in federal court as well.

However, if we look for accuracy rates in interpreting leading questions, controlling for *both* interpreting mode and the factor of federal certification, we find, unexpectedly, that federally certified interpreters do not perform better than do non-federally certified ones. In fact, in the consecutive mode, the federally certified interpreters did a far worse job (67 per cent accuracy) than did the non-federally certified interpreters, whose accuracy was 82 per cent.

In simultaneous mode, the rates are quite similar between the two interpreter groups: those having federal certification were correct 35 per cent of the time, and those who were not certified were accurate 30 per cent of the time – both figures reflecting quite a poor performance.

That interpreting mode and type of proceeding are important predictive variables in accounting for the accurate interpreting of leading questions can be seen from the results of a multiple regression analysis. Six independent variables were entered into the equation:

- 1 type of proceeding, that is, trial versus hearing versus deposition
- 2 level of court (federal, versus state superior versus justice-of-the-peace)
- 3 federal certification
- 4 interpreting mode
- 5 length of question (it was hypothesized that longer questions would tend to be interpreted inaccurately more often than shorter ones)
- 6 type of leading question

Only *two* variables proved to be significant, explaining 14 per cent of the variance (sig. <001) in the accuracy with which leading questions were interpreted: (1) interpreting mode (the most important predictor) and (2) type of proceeding (the second most important predictor).

As already noted, it is not surprising that interpreting mode and type of proceeding in which the interpreting is being performed turn out to be significant predictors of interpreting errors, at least insofar as leading questions are concerned. What is surprising is that federal certification does not make a difference in the accuracy with which interpreters interpret leading questions. In the case of the interpreters who were not federally certified, they were not certified at any level at all, and so the quality of their interpreting was expected to be significantly poorer than that of the federally certified interpreters. It may very well be that the interpreting errors of the non-certified interpreters were more numerous in other respects; the fact that the levels of accuracy are not higher among certified interpreters in the realm of the pragmatic force of leading questions suggests that interpreters may not consider this area of interpreting to be problematic. In other words, they may not be sensitive to the importance of rendering attorneys' actual question types accurately. Quite possibly, interpreters may unconsciously consider attorneys' questions to be less important than the testimony of witnesses, and consequently may be focusing on the latter at the expense of the former.

The fact that length of question and type of leading question do not predict errors in the interpreting of leading questions corroborates the explanation just given, namely, that interpreters seem not to be keenly aware of question form as something that merits their special attention. As opposed to the other factors hypothesized to be instrumental in predicting the accuracy with which leading questions are interpreted, these

two are the only ones that are essentially linguistic in nature. It would seem, then, that the wording of questions by lawyers in one way rather than another may be below the level of consciousness of court interpreters, at least when it comes to perceptions of their degree of suggestiveness. And this is equally true of federally certified and non-certified interpreters.

There is an equally plausible explanation, however. If we recall that among the cases of inaccurate interpreting, 91 per cent involve the turning of leading questions into questions lacking coercive elements, we can hypothesize that there may be another factor at work leading interpreters to alter the coercive nature of questions. Based upon my ethnographic observation in the courts, I have concluded that interpreters often try to make the witness for whom they are interpreting feel more comfortable, or less intimidated, by the situation in which the latter finds him/herself. This happens most often when the witness is either a victim of the defendant's purported criminal actions, or for some other reason is not considered to be one upon whom blame is being cast (e.g. undocumented aliens who are testifying against smugglers being tried for transporting them illegally into the USA). Previous studies (Berk-Seligson 1990: Chapters 5 and 6) demonstrate, for example, how interpreters introduce politeness markers into their interpretations when addressing Hispanic witnesses to help put them at ease, and alter the grammatical case of verbs so as to make certain parties being referred to appear more blameworthy (e.g. the border patrol and smugglers of undocumented persons) and others less worthy of blame (e.g. the persons who were smuggled in and are not on trial). Out of the same unconscious motivation to reduce the witness's sense of intimidation, interpreters may unknowingly be reducing the coercive force of the leading questions posed by attorneys. These alterations, then, in effect become interpreting errors.

## CONCLUSIONS AND IMPLICATIONS

The findings of this study have ramifications for attorneys, court interpreter trainers, and experts involved in the creation of certification exams alike. If we reflect on the findings, we cannot help but be disturbed to see that even federally certified interpreters make so many errors in interpreting the pragmatic force of leading questions. From the lawyer's standpoint, his coercive questions are being rendered in a less coercive fashion. From the standpoint of the defendant who is listening to testimony levelled against him via the interpreter sitting at his side, the questions he hears are distorted. If non-English speaking or limited-English speaking defendants have the constitutional right to be 'linguistically present' at their own trial (Morris 1967), then the quality of the simultaneous interpreting that they receive should be just as high as that of the consecutive interpreting that they are party to. Anything short of that is unequal justice.

It is important to point out, however, that the analysis of interpreting quality presented here has limited itself to the scope of pragmatic force, and has not dealt at all with the issue of overall question content. While the quality of interpreting of lawyers' questions from the perspective of overall semantic substance has not been examined for the purposes of this particular study, my impression is that the level of accuracy is relatively high, particularly so in the case of federally certified interpreters. For this reason it is worthwhile emphasizing that even though errors related to interpreting the pragmatic force of questions may be high, the content of those questions is in fact being conveyed effectively. Under no circumstances should we conclude from the findings of this study that the course of justice would be better served without the use of court interpreters: most certainly it is far more beneficial for the accused, for witnesses, and attorneys alike, to have at their disposal the services of a court interpreter – even when the interpretations of the latter are rendered less than perfectly – than to participate in judicial proceedings without those services.

What the findings of this study point to is the complexity and exacting nature of the court interpreter's task, and the difficulty of attaining perfectly accurate interpretations in court. At the same time, an understanding of the complex nature of court interpreting can lead legal professionals to appreciate the acute need for interpreters to be provided with adequate training, proper working conditions, and the possibility of accreditation, so that they can become the highly skilled experts that the courts expect them to be.

Interpreter training programmes and certification examining boards alike would be well advised to pay particular attention to the accurate interpreting of leading questions when they prepare instructional materials, in the case of the former, and when they decide on exam items, in the case of the latter. It is especially at the level of interpreter training, either by academic degree-granting institutions or through on-the-job training programmes for staff court interpreters, that practitioners of court interpreting could be made aware of the dangers of inadvertently altering the pragmatic force of attorneys' questions. It is through such training programmes that the importance of maintaining a high degree of equivalence in the coerciveness of attorneys' questions could be brought to the consciousness of interpreter trainees, as could the implied thesis that this aspect of interpreting should be considered to be a high priority by them. Interpreter training programmes, therefore, can play a pivotal role in minimizing the potentially broadscale shift in pragmatic force that interpreters can cause in their rendition of leading questions.

From a more theoretical standpoint, this study has tried to clarify the notion of 'leading question', in as much as its use in trial manuals generally tends to be overly vague, and few scholars with training in linguistics have given it systematic attention. The attempt in this paper has been to more finely classify leading question types than has been accomplished

until now, with the hope that the typology presented here may be of utility to forensic linguistics on the one hand, and to trial law on the other.

## NOTES

- 1 In reality, the closer one comes to the US/Mexico border, the greater the likelihood that one will find lower level courts (e.g. justice-of-the-peace courts or municipal courts) in which some judges routinely carry out judicial proceedings entirely in Spanish. I have observed this in one small border town and have been told by one court reporter that this had gone on for years in the municipal court of a Mexican-American *barrio* (neighbourhood) of one medium-sized south-western city. Generally in such cases, the proceedings are tape-recorded, and are later translated into English only in the event that the case is appealed or is transferred to a higher level court for further processing.
- 2 Perfectly balanced bilingualism implies that the speaker has an equal proficiency in all the components of his or her two languages – in the phonology, morphology, syntax, and lexicon of both – and, in addition, has the sociolinguistic knowledge of when to use stylistic variants whenever they exist. In lexicon alone, it is virtually impossible for bilingual speakers to have equal mastery of their languages, since bilinguals typically learn about certain domains of life in one language and other domains in their second language. For this reason, a person who has studied high-school algebra or chemistry in English will have great difficulty in discussing these subjects in Spanish. Similarly, if a bilingual has learned to cook entirely via the Spanish language, without advanced preparation or the use of a dictionary he or she will have trouble explaining in English how to prepare a culinary dish. Even monolinguals are not equivalent in their command of vocabulary, since vocabulary varies with gender roles and occupational roles. To mention just two sources of variation in lexical store, even within a given speech community it is still typical for men to command a larger vocabulary related to automobile parts and for women to have a fuller comprehension and productive use of cooking terminology, while physicians have a greater depth of knowledge of medical jargon and lawyers of legal terms than the lay person does.
- 3 The *voir dire* proceeding is the questioning routine used by judges and attorneys to decide on the acceptability of individuals to serve on a jury panel.
- 4 The work of Danet and her colleagues on the relationship between coerciveness and question form has been sharply criticized by Dunstan (1980) on the basis of the claim that the coerciveness of attorney questions cannot derive entirely from the linguistic substance of a question viewed in isolation. His attack on the approach used by Danet, Kermish and Bogoch which would apply equally to the work of Woodbury (1984) and to the analysis presented in this paper, is rooted in the fundamental postulates of

‘conversational analysis’, an ethnomethodological approach to the study of naturally occurring conversation. Dunstan, using arguments made by Atkinson and Drew (1979) in their analysis of legal language, who in turn rely on the foundations of conversational analysis as established in the pathbreaking work of Sacks, Schegloff and Jefferson (1974), maintains that coerciveness in attorneys’ questions is created over a series of turns at talk, and that a given question can be interpreted as highly coercive, or not so at all, only when it is viewed in the context of what has been said before and after its utterance. In effect, Dunstan argues, the meaning of an utterance cannot be construed by an examination of it in isolation.

While I agree with Dunstan that the coerciveness of a given question does not come entirely from its form alone, and that a larger linguistic context is needed to determine the degree to which an attorney is being coercive in his questioning at any given point in the examination process, I would argue, nevertheless, that utterances do carry their independent measure of pragmatic force which, when combined with additional linguistic and extralinguistic factors present in the larger context, result in a particular impact on an addressee.

The issue of how important a given utterance is relative to its larger linguistic context is particularly salient for court interpreting, the contextual backdrop of the present study. Given the cognitive demands of both consecutive and simultaneous interpreting, the degree to which an interpreter can, and should, relate prior utterances to an utterance that she is about to interpret is an open question. That is to say, how much linguistic material can an interpreter store in memory and process for meaning before she is ready to interpret a given utterance in one way or another? Given the cognitively arduous nature of interpreting, it would seem unreasonable to require interpreters to go much beyond a single turn at talk, and when such turns are lengthy (e.g. during narrative answers to questions), interpreters performing consecutive interpreting have the right to interrupt speakers to ask them to stop after each utterance, so that they can render accurate interpretations. Thus, it would seem that in the case of interpreted examination sequences, court interpreters are more constrained than are ordinary listeners in the amount of linguistic material that they can process for comprehension, since their task is a double one: their job is not only to comprehend questions and answers, but also to convert them into a different linguistic code, all this under the pressure of time.

- 5 The hierarchy presented in Exhibit 1 was formulated using Woodbury’s typology as a starting point, which I then expanded and ordered internally based upon my own linguistic intuitions. An undergraduate class of university students enrolled in a course on Language and Law was given the set of questions to order along the dimension of coerciveness; their insights also served as input into the ordering of questions within the hierarchy.
- 6 This question typology is adapted from Woodbury (1984).
- 7 Note that this question type, a negative grammatical yes/no question, is a

variant of the base form, 'Did you enter the house at that time?' which is a simple yes/no question.

- 8 To guarantee the anonymity of defendants, witnesses, court interpreters, attorneys, and judges - something which I have promised to do - I have changed the names of all persons and places appearing in the transcripts.
- 9 The federal Court Interpreters Examination is the most rigorous one in use at any level of judicial jurisdiction in the USA. Because of its high level of rigour, an average of only 6 per cent of those taking the exam pass it for certification (Berk-Seligson 1990a). The examination process consists of two phases: a written exam, administered to groups of test-takers and computer-graded, and an exam of court interpreting skills, an oral test administered individually by a team of experts (certified court interpreters and language specialists) and evaluated by them. The written exam, which itself consists of two parallel exams, one in English and one in the other language for examination, deliberately does not test knowledge of language typically found in courtroom settings (that type of language knowledge is reserved for the oral exam of interpreting). Instead, the written exam tests mainly for knowledge of formal registers of the two languages in question, although it also examines knowledge of idioms. The written test for each language is subdivided into sections on reading comprehension, synonyms, sentence completion, usage and antonyms. These are all tested in a multiple-choice format, for machine-readable grading purposes. The oral examination of interpreting, in contrast, tests specific skills generally required of court interpreters in their day-to-day work: simultaneous interpreting, consecutive interpreting, and sight translating of written materials. Perhaps the most important characteristic of the certification exam process is that only applicants who have passed the written exam are permitted to proceed to the oral exam, and because of its rigorous nature, an average of only twenty per cent of persons taking the written exam typically pass it.
- 10 Consecutive interpreting involves a speaker's pausing at regular intervals to allow the interpreter to render his/her source language testimony into the target language, aloud for everyone in the courtroom to hear. Thus, the speaker and the interpreter take turns, and no overlapping of speech should be heard. This mode of interpreting is typically done for foreign language testimony, whereby the interpreter renders the testimony in English for the court, and then interprets the attorneys' and judge's questions into the foreign language for the benefit of the witness.

Simultaneous interpreting, in contrast, entails the interpreter's rendering in the foreign language whatever is being said in English, involving no pauses on the part of either the witness or the interpreter for each other's benefit. They speak at the same time, albeit the interpreter speaks in a whisper. This is the mode used at the counsel table, where the interpreter interprets for the defendant or litigant whatever the attorneys, judge and English-speaking witnesses are saying aloud for the record.
- 11 Faulty interpreting in other respects, that is, in aspects unrelated to the dimension of coerciveness, was not counted for the purposes of this study.

- 12 These translations were provided by (a) a Spaniard, (b) an Argentine, (c) a Peruvian, (d) a Colombian, and (e) an Argentine, respectively. With the exception of the Argentine who was an editor for a literature journal, all were graduate students who had specialized in linguistics.
- 13 The tag *¿que no?* is an unusual one. Of the interpreters whose leading questions constitute the data base for this analysis, only one has produced these tags, a non-Hispanic native English speaker who has federal certification in court interpreting, and doctoral level academic education in Spanish. None of the native Spanish speakers who served as consultants on this project - whether Latin Americans or Spaniards - used this construction. So, while it would appear to be a non-standard form, its social and geographic origin remains unknown.
- 14 Example (12) illustrates, in addition, the highly inaccurate interpreting of a witness's answer. No knowledge of Spanish is required to see the discrepancy between the Spanish source and the English rendition. The reason why the witness's answer was included here is that it demonstrates how interpreters are affected by the wording of attorneys' questions. The lawyer ends his question with the confirmatory tag, 'Is that correct', and so the interpreter replies to it with the syntactically fully formed sentence, 'Yes, it is correct', whereas the witness has merely said, 'No', meaning that he had not spoken with the woman in question.
- 15 The feminine pronoun is used generically, since my studies have found that nationwide the majority of court interpreters are women.

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