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REDEFINING INTERPRETERS' AND TRANSLATORS' ROLES: UNVEILING FORENSIC EXPERTISE IN LAWFUL INTERCEPTION OF COMMUNICATION[1]

FRANZISKA HOHL ZÜRCHER [2]
NADJA CAPUS [3]

ABSTRACT: In multilingual societies, translation and interpreting play pivotal roles in facilitating access to essential services provided by public institutions for individuals speaking languages other than the official language. However, prevailing assumptions among professionals in these institutions often regard translation as a mechanical process, overlooking the inherent interpretive nature of interlingual transfer. This study examines the interventions of intercept interpreters/translators (IITs) in the translation process within the criminal justice system, focusing on covert communication surveillance. An analysis of 538 translated intercept records (TIRs) reveals that IITs significantly intervene in selecting and interpreting content, often decrypting vague or encoded terms used in intercepted conversations. These interventions, which include annotations and comments, shape the evidentiary value and comprehensibility of TIRs. The findings highlight the complex nature of communication surveillance and underscore the need to reconsider the roles of translators and interpreters. This study contributes to our overall understanding about the ambiguous roles interpreters and translators may play in public institutions. As for IITs, the study suggests a re-evaluation of their roles that recognizes their specialized skills and multiple tasks.

KEYWORDS: Translators; Interpreters; Intercept Interpreting; Communication Surveillance; Role; Translation.

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[2] Legal sociologist and post-doctoral researcher at the Law Faculty of the University of Neuchâtel, Switzerland.

[3] Professor of criminal law at the Law Faculty of the University of Neuchâtel, Switzerland.

INTRODUCTION

In multilingual societies, interpreters (dealing with spoken language) and translators (working with written texts) are crucial for public institutions' operational effectiveness. They facilitate clear and accurate communication across language barriers, ensuring that all community members, regardless of language proficiency, have equal access to public services and resources. By translating documents and interpreting speech, they support public professionals in performing their duties comprehensively and effectively.

Commonly, public agents – such as professionals in other fields – see interpretation and translation as a mere mechanical transfer from one language to another (HALE, 2010), and, consequently, require interpreters and translators to render the spoken or written words literally, that is 1:1, without intervening in the content (e.g., ANGELELLI, 2004; HALE, 2015). However, established theories on translation in the wider sense, that is covering both the interpretation of spoken language and translation of written texts, posit that language transfer always entails interpretive work (see section 2). Hence, the question arises what the nature and extent of the interpreter's and translator's interventions is during the language transfer process. This question is particularly crucial within an institutional context where the translated language may have considerable consequences for individuals, such as in legal proceedings. Focusing on the specific area of the criminal justice system of covert communication surveillance, this study aims to shed light on the translation process and the interventions of interpreters and translators.

Communication surveillance, also known as lawful interception, is one of the most sensitive methods used to investigate serious crimes, including drug trafficking, human trafficking, and terrorism. When the police monitor foreign-language speaking suspects, intercept interpreters/translators (IITs) are involved. Whilst communication surveillance is traditionally called "wiretapping" (LAI, 2023; CAPUS and GRIEBEL, 2021), this term is no longer adequate due to the prevalence of wireless electronic communications. Moreover, communication surveillance extends beyond telephone tapping and includes room and car bugging as well as digital short messaging, such as WhatsApp and Short Message Service (SMS). Thus, in this paper, the term "interception" is used to refer to all these police practices of covertly surveilling oral or written communications of suspects.

Communication surveillance serves as a valuable supplementary tool for other investigative techniques that may put members of the investigation team at risk, such as informant use, undercover operations, and observation. Moreover, the evidentiary value of intercepted communications is rooted in their authenticity. Indeed, audio recordings of such conversations capture the voices of perpetrators and co-conspirators, and records of short messages can transmit first-hand incriminating information. However, it is not these audio recordings or original texts themselves that are subsequently used in the criminal proceedings, as they are

incomprehensible for agents of the involved criminal justice institutions or parties. Instead, the translated intercept records (TIRs) which are produced by the IITs commonly serve as the primary source of information and as evidence in criminal proceedings (GILBERT, 2014, p. 54). This assigns a significant role to the IITs. This role is even more important when considering that IITs have a large degree of discretion when producing TIRs (GRIEBEL and HOHL ZÜRCHER, 2023).

There is a growing body of literature on intercept interpreting and translating. So far, empirical and theoretical studies have explored the linguistic challenges involved in producing accurate translations (CHAKHACHIRO, 2016; GILBERT and HEYDON, 2021), defined the necessary competencies and the training needs of IITs (SALAETS; ALSULAIMAN; BIESBROUCK, 2015; LAI, 2023; GRIEBEL and HAVELKA, 2024), and described the collaboration between IITs and the police (GRIEBEL and HOHL ZÜRCHER, 2023). In a comparison of audio recordings and their respective TIRs, Havelka (2024) has identified five distinct levels of perception including a forensic level. This forensic level encompasses the perception of references to incriminating acts which means that IITs are investigating while intercepting and translating in that they look for conversation's content indicating past, actual or future criminal behavior. The author defines this perception level as key in intercept interpreting (p. 31). In fact, in interviews with police investigators and IITs about the work of IITs, these investigative and forensic tasks conducted by IITs take a prominent role (GRIEBEL and HOHL ZÜRCHER, 2023). However, as of yet, the extension and variety of such forensic interventions of IITs is unexplored.

This study aims to contribute to this research gap by examining how IITs intervene in the selection of information and in the interpreting and explanation of intercepted and translated conversations based on 538 TIRs. These TIRs are of paramount importance, particularly in jurisdictions with criminal proceedings based on case files (CAPUS and GRISOT, 2022). Even though audio tapes of the monitored conversations are part of the case files and therefore are at least theoretically accessible to prosecutors, parties and courts, in practice the content is inaccessible as it is not comprehensible without the assistance of yet another interpreter. For pragmatic reasons, the information obtained from communication surveillance is therefore in general solely available in the form of a TIR created by an IIT.

The next section outlines what research has revealed so far about IITs' practices, TIRs, and the production of case files in general (2). Section 3 presents the data and methods used in the study and, then, the findings from the quantitative-qualitative content analysis are presented (4). Ultimately, findings are discussed against the background of relevant research strands (5). The paper concludes with a call for a re-evaluation of the interpreters' and translators' role (6).

2. TRANSLATED INTERCEPT RECORDS AND THE INTERVENTIONS OF IITS

TIRs are the final product of a complex process of interpreting, translation, and documentation (for a detailed description of this hybrid translational activity, see HAVELKA, 2024). Unlike police officers, who listen to and document intercepted communications in the same language, IITs in most jurisdictions listen to the conversation in the source language and directly translate it into the official language used by the criminal authorities in a written document (GILBERT and HEYDON, 2021). Hence, the redaction of TIRs not only includes the transfer of content from one language to another but also the transfer of content from oral to written format. Moreover, a triage of conversation is performed based on the assessment of the monitored telephone conversation's relevance. If a conversation is assessed as not important to a criminal investigation, IITs would only record it as short note, without detailed information on the content (e.g., "family discussion"). By contrast, if a conversation is considered to be potentially relevant for the investigation, IITs would translate and record it in either summarized form or as a seemingly verbatim TIR (CAPUS and GRIEBEL, 2021). Thus, the evaluation of relevance not only influences whether a conversation is selected for translation in the first place but also at what level of detail it is recorded. Whilst formal responsibility for the triage lies with the police, IITs inevitably form an important part of the initial triage process (GRIEBEL and HOHL ZÜRCHER, 2023).

The translation process, which includes both written translation and interpreting from an oral source into a written target language text, requires various interpretations to give meaning to what is being said. It has long been established in translation and interpreting studies that translation is more than simply a mechanical transfer of words from one language to another. Interlingual transfer always involves the transfer of culture, and, besides, the linguistic means of the source language are not the same as those of the target language (e.g., the translation of proverbs). In other words, interlingual translation is always an interpretation of what is said in the source language. Moreover, the purpose of the target text, such as a TIR, determines the way in which it is translated (cf., NORD, 1991; REISS and VERMEER, 1984/2014). Besides the fundamental requirement of interpretation of content, the translation process in lawful interception also implies the deciphering of secret codes, recognition of voices, and, as previously mentioned, the triage of criminalistically relevant information (CAPUS and HAVELKA, 2021; GRIEBEL and HOHL ZÜRCHER, 2023; HAVELKA, 2024).

However, document production *per se* (that is, irrespective of whether interlingual translation is involved) is associated with a margin of interpretation. Particularly, social science research on case files has repeatedly demonstrated that producers of institutional documents do not accurately and completely depict underlying events in the case files; instead, they primarily note what they consider to be relevant and indispensable for the comprehensibility and usefulness of the document based on their institutional knowledge (GARFINKEL, 1967;

ZIMMERMAN, 1969/1974; JÖNSSON and LINELL, 1991; KOMTER, 2019). An important orientation in the production of documents is the future, albeit absent, audience (see HAWORTH, 2013; VAN CHARLDORP, 2014, regarding police investigative interviews). Consequently, various decisions must be made during the documentation process. According to an overview study on police file work for the production of written records in investigative interviews (CAPUS; STOLL; VIETH, 2014), police officers decide on transformations on three levels: they select and modify the content, intervene in the style of speaking by omitting para-verbal elements and non-verbal behavior, and make changes in the representation of the interaction by omitting questions and merging answers. These transformations may be used to suggest a particular mode of interpretation to the absent audience and, therefore, may pre-structure the reading (SMITH, 1990). In addition, research has shown that even minimal interventions in the written records can influence the interpretation of the content (DE KEIJSER; MALSCH; KRANENDONK; DE GRUIJTER, 2012; HOHL ZÜRCHER, 2021). Studies on the production of TIRs are sparse, but they suggest that findings from previous file research are transferable to this type of document. For example, Chakhachiro (2016: 46) demonstrated that IITs use a "'written to be read' translation and transcription style" and therefore omit prosodic and paralinguistic elements when translating and documenting monitored conversations.

3. DATA AND METHODS

The present study is part of a comprehensive research project on intercept interpreting in Switzerland. It is based on 538 TIRs of four criminal case files from two French-speaking Swiss cantons.[4] All four case files document completed proceedings related to drug trafficking. The monitored telephone conversations documented in these files were conducted in different languages (e.g., Pidgin English, English, and Igbo), which the IITs translated into French as the procedural language. Only a few telephone conversations had already occurred in French and were not translated by the IIT when documented (n = 39). Table 1 summarizes some key features of case files.

[4] For a more detailed description of the case files, see CAPUS and GRISOT (2022), who investigated the ways in which TIRs are used in the later stages of proceedings based on the same case files.

Table 1. Overview of case files

	Canton	Number of scanned pages in the case file	Number of TIRs in the case file	Number of coded TIRs (sample)[5]	Proportion of coded TIRs per case file (in percentages)
Case File 1	A	1,218	150	150	100%
Case File 2	A	4,907	229	104	45.4%
Case File 3	B	1,046	137	124	90.5%
Case File 4	B	2,207	186	160	86.0%
Total		9,378	702	538	76.6%

A quantitative-qualitative content analysis approach was used to analyze the TIRs. It encompassed two rounds of data coding. In a first step, the visible traces of the IITs' interventions in the TIR were collected inductively, i.e., based on the material. These traces consist of a variety of formal characteristics such as the general layout of the TIR (summarized or verbatim TIR), formal and verbal indications of omissions (ellipsis; "blah blah"), annotations and comments in parentheses, such as identifications of individuals, explanations of geographical names or interpretation of non-verbal behaviors. All codes are expounded in Table 2; for elaborations on the anonymization method employed in this paper, see footnote 7. The second round of coding consisted of an in-depth analysis of the TIRs. Its aim was to reconstruct the IITs' interventions based on the visible traces identified in the first coding round. Both rounds of coding were conducted by the first author.

[5] The final sample includes 538 TIRs, that is, 76.6% of all TIRs in the case files. We excluded 164 TIRs for two reasons. First, some TIRs were duplicated or even triplicated in the files (n = 39). Second, in the most extensive file (Case File 2), coding was discontinued after half of all written records – that is, only 104 out of 229 TIRs were coded. An examination of the subsequent TIRs (n = 125) showed that further coding would not yield any new findings. This approach is supported by the relevant literature (saturation; see SCHREIER, 2014, p. 176).

Table 2. Overview of codes

Code (subcode in parentheses)	Definition	Analytical category
Translation type (verbTIR, sumTIR)	Type of TIR is defined by whether the translation is seemingly verbatim or summarized	Selection of content
[…]	Formal marker of omission	Selection of content
Omission	Verbal marker of omission, e.g., "blah blah"	Selection of content
Annotation about identity	Comment on identity of individuals, e.g., "wife of X", "unknown African", "client"	Interpretation of information
Annotation about time or place	Clarifications and explanations about time and place, e.g., "4 o'clock (4 pm)", "he goes to G (GENEVA)". This code refers to information mentioned in the telephone conversation, not the conversation situation itself.	Interpretation of information
Annotation about quantities of money or drugs	Explanations and clarifications of quantities of money and drugs, e.g., "[…] the thing is 1,000 (1,000 CHF)"	Interpretation of information
Annotation about objects and actions	Explanations and decoding of objects or action, e.g., "[…] (he is talking about cocaine)"	Interpretation of information
Annotation about quality of translation or telephone call	Comments on translation and audio recording, e.g., "incomprehensible", "not clear"	Interpretation of information/meta comment
Annotation about conversation situation	Comments on conversation situation and course of interaction	Interpretation of information
Annotation about non-verbal behaviors and emotions	Verbal indicator related to non-verbal behaviors, such as intonation, loudness, laughter and unfilled pauses, e.g., silence, speaks softly, laughs, and emotions, e.g., he/she is stressed	Interpretation of information/speech style
Length of the recorded conversation (0–0.5 page, 0.5–1 page, 1–2 pages, >2 pages)	Length of the recorded conversation, measured in pages (TIR's header excluded)	General information/documentation style

Note. The coding was performed at the level of the document, not at the level of utterances. For example, the code for ellipsis "[…]" was assigned once per document, even if several utterances contained such formal markers.

4. RESULTS

Selection of information

Monitored conversations are translated and documented to varying degrees of selectivity. The analysis of the four case files revealed that the seemingly verbatim TIRs (verbTIRs) are the dominant translation type in the case files. Over 92% (n = 498) of the TIRs were verbTIRs (see Figure 1). By contrast, the case files contained little summarized TIRs (sumTIR) (n = 40; 7.4%).

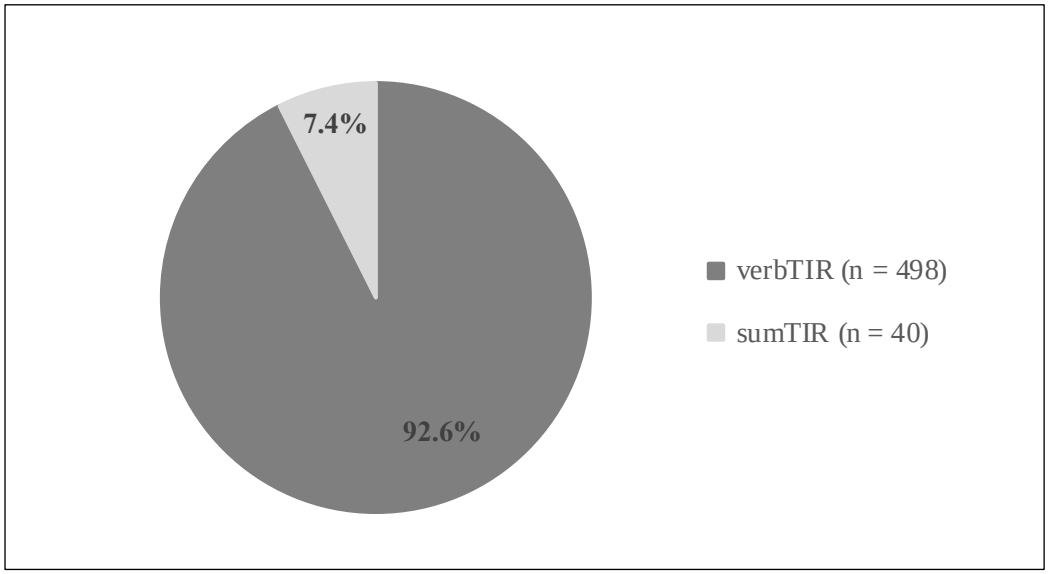


Figure 1. Frequencies of sumTIR and verbTIR in all case files, in percentages (n = 538).

The low proportion of sumTIR can be attributed to the fact that not all TIR produced by the IIT are included in the criminal records. Depending on the assessment of the relevance of the conversations, police investigators either include a TIR in the criminal record, thereby making it accessible to the prosecution and the court, or they merely archive the TIR in the police's own computer system (GRIEBEL and HOHL ZÜRCHER, 2023). In comparison to verbTIR, sumTIR are generally considered less relevant for further proceedings, such as their use as evidence.

Indeed, sumTIR reproduce the monitored conversations not in an authentic way as they reflect the monitored communication in indirect speech and in the third person format (see Figure 2 for a typical example). This means that original interactions between participants in the conversation are obscured, and consequently, the source of the information is not intelligible to readers. In addition, the summarized form allows the IIT to decide which information to record from the conversation and introduce into the criminal proceedings. In-depth analyses based on a comparison between the telephone conversation's volume (number of words calculated based on an average speech rate) and the

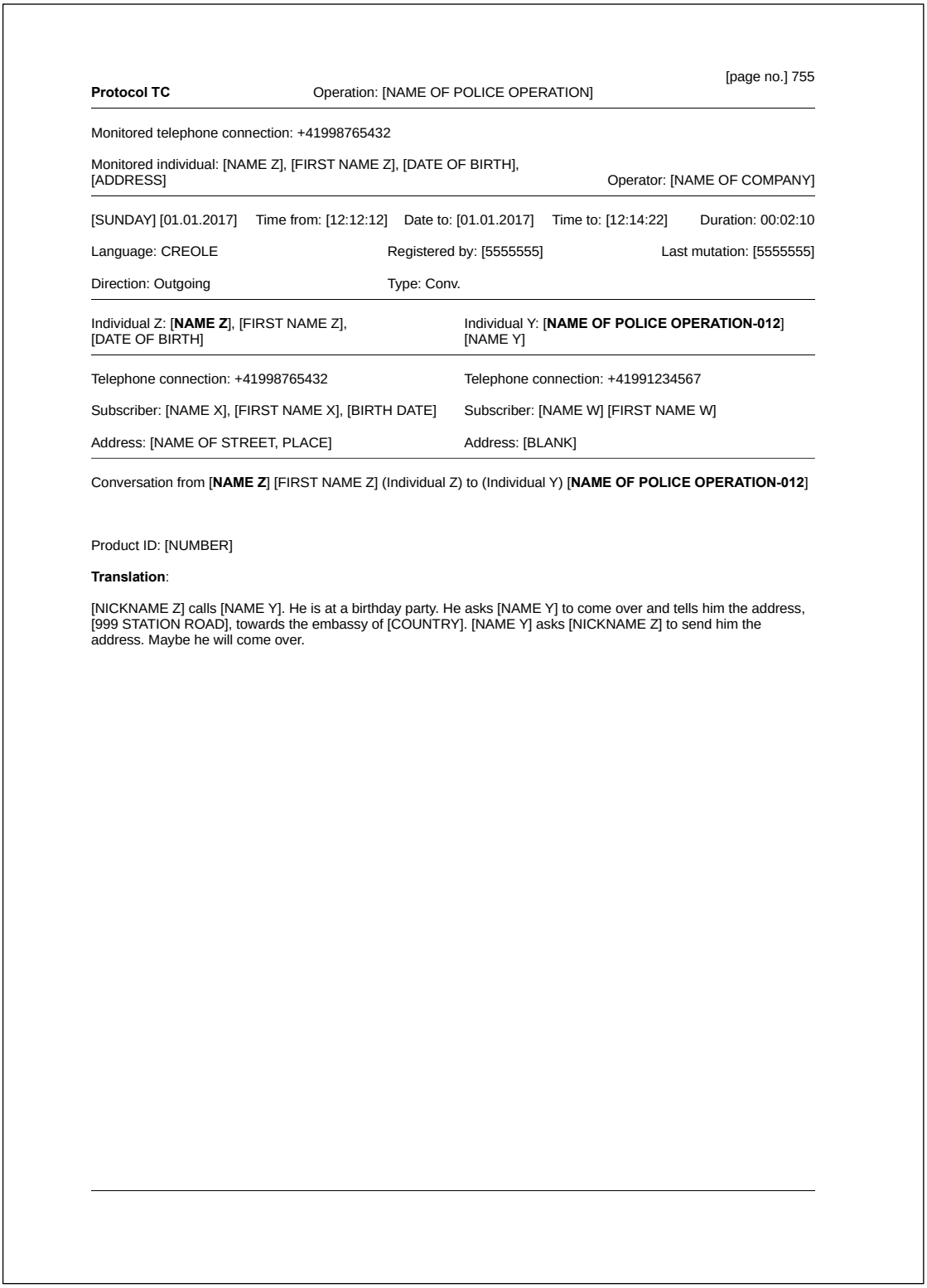
conversation's volume documented in the sumTIR (number of words in sumTIR) indicate the comprehensive selection activity of IITs.

As illustrated in Figure 2, IITs often characterize the conversation's content using only a few sentences. In the original French sumTIR, the documented telephone conversation consisted of four sentences, comprising a total of 36 words:

> [NICKNAME Z] appelle [NAME Y]. Il est à un anniversaire. Il demande à [Name Y] de venir et lui indique l'adresse [999 STATION-ROAD], vers l'ambassade de [COUNTRY]. [NAME Y] demande à [NICKNAME Z] de lui envoyer l'adresse, il va peut-être passer.

According to the TIR's header, the telephone conversation lasted 2 minutes and 10 seconds. Based on the assumption of an average speech rate of 135 words per minute for conversations, approximately 292 words could have been spoken during this telephone conversation. [6] Hence, the documented conversation's volume corresponds to about 12% of the oral telephone conversation and, accordingly, nearly 90% of the information was omitted. This result can be generalized to a large part of the sumTIRs. Nearly two-thirds of the sumTIR reported a maximum of 20% of the theoretically calculated volume of the telephone conversation and omitted over 80% of the information (for details, see Table 3 in the Appendix). This finding denotes a significant power of IITs over the selection process.

[6] For the sake of simplicity, our calculations are based on a speech rate of 135 words per minute for all conversations; this corresponds to a mean value of 120 to 150 words per minute, which is the average speech rate for conversations in US English (see https://virtualspeech.com/blog/average-speaking-rate-words-per-minute [last visit: March, 21st, 2024]). English was one of the languages spoken in the monitored conversations in our study. However, we would like to emphasise that the average speech rate greatly varies between languages and dialects, conversation situations, and various speaker-related factors, such as level of education or gender. Since we do not have access to the original telephone conversations, which featured different languages and different individuals, our analysis only represents an approximation of the telephone conversation's volume.



[page no.] 755

Protocol TC Operation: [NAME OF POLICE OPERATION]

Monitored telephone connection: +41998765432

Monitored individual: [NAME Z], [FIRST NAME Z], [DATE OF BIRTH], [ADDRESS] Operator: [NAME OF COMPANY]

[SUNDAY] [01.01.2017] Time from: [12:12:12] Date to: [01.01.2017] Time to: [12:14:22] Duration: 00:02:10

Language: CREOLE Registered by: [5555555] Last mutation: [5555555]

Direction: Outgoing Type: Conv.

Individual Z: [**NAME Z**], [FIRST NAME Z], [DATE OF BIRTH] Individual Y: [**NAME OF POLICE OPERATION-012**] [NAME Y]

Telephone connection: +41998765432 Telephone connection: +41991234567

Subscriber: [NAME X], [FIRST NAME X], [BIRTH DATE] Subscriber: [NAME W] [FIRST NAME W]

Address: [NAME OF STREET, PLACE] Address: [BLANK]

Conversation from [**NAME Z**] [FIRST NAME Z] (Individual Z) to (Individual Y) [**NAME OF POLICE OPERATION-012**]

Product ID: [NUMBER]

Translation:

[NICKNAME Z] calls [NAME Y]. He is at a birthday party. He asks [NAME Y] to come over and tells him the address, [999 STATION ROAD], towards the embassy of [COUNTRY]. [NAME Y] asks [NICKNAME Z] to send him the address. Maybe he will come over.

Figure 2. Example of a sumTIR from Case File 4.[7]

[7] To protect the anonymity of the people and institutions involved in this research, any personal information was replaced by a single capital letter in square brackets (e.g., "[S]") or fictitious

While it is evident with sumTIR that they represent the intercepted conversations selectively, the IITs' intervention with regard to the selection of content are subtler in the verbTIRs, if at all traceable. In contrast to the sumTIRs, the verbTIRs (n = 498) reproduced the monitored telephone conversations in direct speech, in the first person, and in dialogue format (see Figure 3 for a typical example). Hence, the discursive structure was preserved in this type of TIR.

information in capital letters (e.g., "WILSON" or "99 STATION ROAD") in the quotations. The layout (including formal markers, such as highlighting in bold) was retained from the original TIR. In addition, all materials presented in this paper were translated from French to English by the authors. The language in many TIRs is incorrect in terms of grammar, syntax, and punctuation. This might be explained by the fact that intercept interpreters reproduce oral conversations, which often include interruptions or syntactically incorrect sentences. Therefore, such conversations tend to be more agrammatical compared to written language. A second reason is the intercept interpreters themselves: many have a native language other than French and are not fully proficient in French. As our goal was to reproduce the French TIR as faithfully as possible, some translations may include linguistic errors and inconsistencies that occurred already in the original TIRs.

[page no.] 440

Protocol TC Operation: [NAME OF POLICE OPERATION]

Monitored telephone connection: +41887654321

Monitored individual: [NAME A], [FIRST NAME A], [DATE OF BIRTH], [ADDRESS] Operator: [BLANK]

[TUESDAY] [01.01.2013] Time from: [13:13:13] Date to: [01.01.2013] Time to: [13:14:02] Duration: 00:00:49

Language: PIDGIN Registered by: [44444] Last mutation: [44444]

Direction: Incoming Type: Conv.

Individual A: [**NAME A**], [FIRST NAME A], [DATE OF BIRTH]	Individual B: [**NAME B**], [FIRST NAME B], [DATE OF BIRTH]
Telephone connection: +41887654321	Telephone connection: +41881234567
Subscriber: [NAME A], [FIRST NAME A], [BIRTH DATE]	Subscriber: [NAME C], [FIRST NAME C], [BIRTH DATE]
Address: [NAME OF STREET, PLACE]	Address: [BLANK]

Conversation from [**NAME B**] [FIRST NAME B] (Individual B) to (Individual A) [**NAME A**] [FIRST NAME A]

Text:

A: [NAME A] [FIRST NAME A]
B: [NAME B] [FIRST NAME B]

[NAME B] [FIRST NAME B] calls [NAME A] [FIRST NAME A].
A: Hi
B: How are you? Have you been out yet?
A: No, I'm at home.
B: I just wanted to know how you are!
A: I'm here!
B: And for the other medicine (I think he's talking about goods)!
A: It's at 4pm.
B: So you're going to pick it up at 4pm?
A: Yes!
B: Ok, that's fine!
A: Yes, I'll pick it up around 4pm.
B: Okay, see you later, bye!
A: Bye!

Figure 3. Example of a verbTIR from Case File 3.

Based only on these formal features, the verbTIRs appeared to reproduce the conversation one to one. Indeed, in criminal proceedings, the police and the prosecution call the verbTIRs "1:1 protocols" or "transcripts", although they are not intralingual transcriptions, in which phonetic and para-linguistic elements or silence and pauses would normally also be documented. Nonetheless, in these supposedly verbatim TIRs, we find evidence of the IITs' selective intervention.

First, some verbTIRs contained elements that were edited in a similar manner as in the sumTIRs and thus represented a mixed format (n = 50). Basically, these TIRs recorded the conversations in dialogue format and in direct speech. Only single sections summarized the monitored conversation in indirect speech. Hence, the selection of information by the IITs occurred at the level of single utterances or contributions to the conversation, rather than at the level of the entire conversation. Some of these summarized parts were at the beginning of the TIR (e.g., "greetings"), whilst others were somewhere in the TIR and documented actions that did not directly relate to the offense, such as prayers (e.g., "they pray for each other and say amen"). Second, some verbTIRs contained verbal markers that displayed omitted information, such as "blah blah" (Case File 2), "discussion of trivialities" (Case File 3), or "They talk about this and that, nothing to report" (Case File 3). The content of these verbal markers indicates that the IIT deliberately excluded these specific parts of the conversations. By contrast, technically induced omissions tended to be represented with formal markers, such as ellipses ("…"). This was at least the case for verbTIRs in which the ellipsis was immediately followed by comments from IITs, such as "not clear" and "interrupted conversation".[8]

The presence of both summarized elements and verbal markers of omission indicate that IITs saw things through "selection glasses" during translation and documentation. With this approach, they selectively determined which passages of conversation were less important and therefore should merely be documented in summarized form even in verbTIRs or even be omitted completely, while at the same time extracting passages that they considered to be relevant in order to translate them literally in the verbTIR. Against the backdrop that the triage of information in communication surveillance is significantly determined by the information's relevance to the investigation (GRIEBEL and HOHL ZÜRCHER, 2023), the selection of information was closely linked to interpretation. Except in cases where technical conditions made a conversation difficult to understand or even broke it off completely, our results confirm that IITs were significantly involved in this selection and interpretation process and clearly had intervening power over the TIRs.

[8] In some TIRs, the ellipsis was further used as a formal marker to signal pauses or an abrupt change of speaker.

Interpretation and explanation of the content's meaning

IITs' visible intervening power over the interpretation of content was further evident from the annotations and comments that were usually noted in parentheses, e.g., (interpreter's note: S is talking about the money)[9]. According to our analysis, every other TIR contained at least one comment to explain and clarify the translated telephone conversation (269 out of 538 TIRs, or exactly 50% of all TIRs). However, many of the TIRs contained several comments and with regard to different topics (e.g., explanation of identity and non-verbal behavior of the suspects) that were classified in seven categories (for a definition of the categories, see Table 2 in the data and methods section). Figure 4 shows the number of TIRs per comment category. The most important category was related to the identity of individuals; 186 TIRs contained at least one comment in this category. This was followed by categories related to the quality of interpretation and calls (n = 88), the conversation situation (n = 48), non-verbal behaviors and emotions (n = 39), objects and actions (n = 38), time and place (n = 28), and the quantity of money and drugs (n = 17).

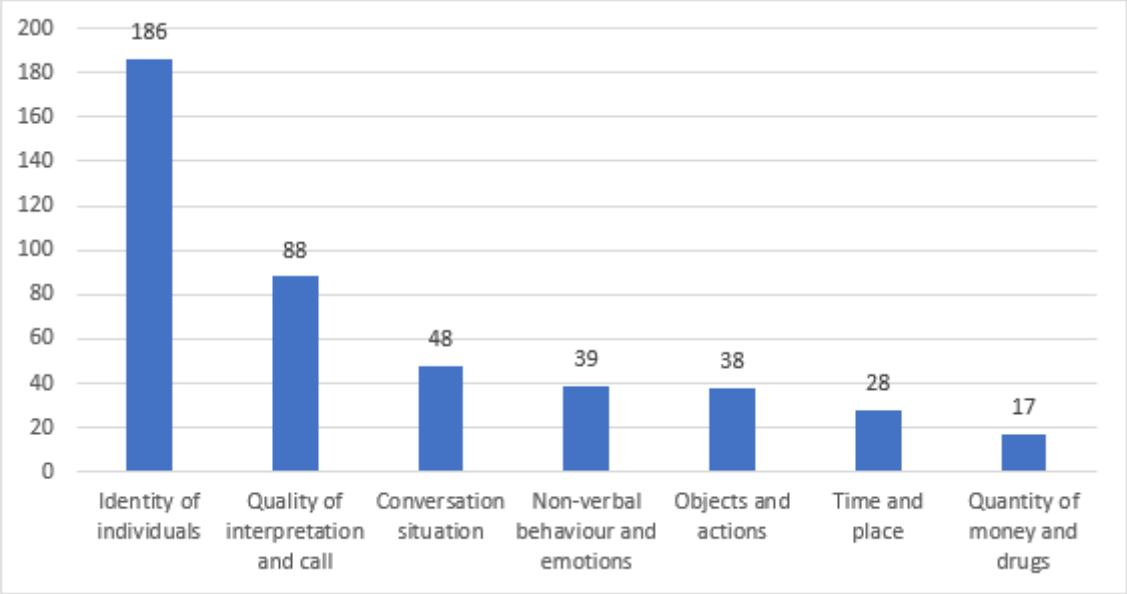


Figure 4. Number of TIRs per comment category (multiple assignments possible, i.e., one TIR might be allocated to different comment categories; the total number of TIRs with at least one comment was n = 269)

The subsequent data analyses focus on four categories that are key to criminal investigations and to the prosecution: annotations and comments on the (a) identity of individuals, (b) actions and objects, (c) time and place, and (d) quantity of money or drugs.

[9] In contrast, square brackets refer to comments and explanations by this study's authors.

(a) Annotations and comments on the identity of individuals

One out of every three TIRs contains a clarification or specification of the identity of the monitored individuals (186 of 538 TIR). However, these explanations or identity clarifications vary in precision. Frequently, the comments contain specific identity descriptions, which in turn illustrate a broad range of identification strategies of the IIT. They rely, e.g., on voice recognition for identity determination. This is evident from an introductory note by an IIT that indicated someone other than the owner of the phone answered the call (capital letters or square brackets in the quotations indicate comments and replacements by the authors for anonymization reasons; in contrast, parentheses refer to annotations and comments as noted by the IIT in the TIR):

(1) MILLER (BROWN on the phone) [Case File 1]

IIT further identify individuals even when only a nickname is used in conversation, as seen in (2), or when third parties are referred to in a non-specific manner, such as "guy" (3), "he" (4) or "lady" (5):

(2) Do you know the student? (**WILSON or schoolboy**) [Case File 1; bolding in original]
(3) I'm fine, I want to go to the car so I don't know when we're going to get the rest of this stuff from the guy (the rest of the drugs from ANDERSON) [Case File 1]
(4) He did not come (interpreter's note: He means JONES) [Case File 4]
(5) TAYLOR says that he is going to ask his friend to postpone the lady's trip until Friday or Saturday (interpreter's note: the lady who is in ROME waiting for the money to return to ECUADOR) [Case File 4]

According to the TIRs the monitored individuals seldom use specific names but rather opt for terms like "guy" or "he". This behavior can be attributed, firstly, to the anticipation of potential surveillance by the monitored individuals, leading them to consciously speak in vague and ambiguous terms. Secondly, the surveillance occurs covertly, resulting in conversations mirroring natural discourse explicitly directed towards insiders, that is, individuals possessing equivalent background knowledge. The identity comments suggest that the IITs possess comparable background knowledge, effectively making them insiders as well. In fact, by listening to the same person's conversations for hours, weeks, or even months, IITs gain extensive knowledge about individuals under surveillance in terms of their surroundings, the individuals who talk to the intercepted person, their (potentially criminal) activities, and issues in their professional and private life.

IITs also utilize this background knowledge to indicate that a person had prior telephone contact with the suspect, see examples (6) and (7), or to clarify the relationship between the involved individuals as shown in example (8)

(6) It's the COOK (MOORE see conversation of [01.01.2013] at [13:13]) who called you? [Case File 3]

(7) Well, then, the big WALKER must be given something (WALKER DAVID that of 1234) [Case File 2]

(8) SMITH: Have you called MARTHA today?
TAYLOR: No, I didn't want to speak with her, but I messaged her. MARTHA is TAYLOR's wife who went to PORTUGAL. She lives in MADRID, SPAIN. MARTHA and TAYLOR had a quarrel. [Case File 4]

The explanation in example (8) regarding the relationship status of TAYLOR and MARTHA provided by the IITs is indispensable for understanding why TAYLOR did not want to call MARTHA. It is interesting for two reasons: On the one hand, these explanations highlight the extensive background knowledge of IITs, which also includes knowledge about the private lives of the monitored individuals. At the same time, the comment underscores the audience design (Bell, 1984) of the IITs: They endeavor to compose the TIR in such a way that the intercepted phone conversations can be understood by future readers who do not possess comparable case knowledge.

In certain cases, however, it is not possible for the IIT to identify the individuals. In such cases, our analyses demonstrate that IITs apply different strategies to describe the individuals as precisely as possible, such as by describing their (presumed) geographical origin (e.g., "unknown African"), their gender (e.g., "woman" or "African woman"), or their role in the case in question (e.g., "drug supplier", "African drug supplier", or "client"). These identity attributions indicate the relevance of not only the conversations' content but also the recognition of languages, dialects, and voice pitch. Only in a few TIR, the intercepted individuals were described as "unknown person".

(b) Annotations and comments on objects and actions

IITs use annotations not only to describe individuals more precisely but also to add their interpretation of vaguely described objects and actions in the TIR as demonstrated in the following example (Case File 1, highlighting as in the original):

(9) S: Hello
T: How are you?
S: Everything is fine
T: How is it going?

S: No problem
T: How are we going to do this? Because I want to get this stuff back **(recover the drugs)**
S: […]

In this telephone conversation, T asks "How are we going to do this? Because I want to get this stuff back" without explicitly mentioning the word "drugs". Indeed, the word "drugs" is never explicitly mentioned in the entire conversation. The IIT intervenes by explaining "stuff" as "drugs" based on their own contextual knowledge or information supplied by the police. Their parenthetical remark ("recover the drugs") is significant for the conversation's relevance to the police investigation, as a seemingly trivial conversation about "stuff" changes to a conversation about drugs and thus a conversation between two suspected drug dealers. In a similar manner, IITs also clarify pronouns such as "it", e.g., "You can't do anything, it's gone (The drug has gone down the toilet)" from Case File 1 or "I think by Friday he'll have something and then we'll see each other for the moment I'm waiting to get it back (interpreter's note: S is talking about the money)" from Case File 4.

In general, there is great need for clarification and interpretation with regard to actions and objects. Intercepted individuals often communicate in a cautious and vague manner and, with few exceptions, do not explicitly use the terms money or drug. An additional in-depth analysis based on a keyword search in our data corpus showed that individuals under surveillance explicitly used words such as "cocaine", "drug", "hashish", or "marijuana" in only 12 out of 538 conversations.[10] All other conversations (n = 526) lacked such words, although the organization and handling of drug transfers were frequently discussed. Occasionally, the monitored individuals explicitly justified their cryptic way of speaking:

(10) No, man, in front of me the stuff goes down (it's not complete the drug). I don't want to talk too much. [Case File 1]

(c) Annotations and comments on quantities of money and drugs

The analysis of the IITs' annotations further revealed their ability to interpret quantity indications. In certain TIRs, they merely specified the currency, e.g., "Yes, man, I want to tell you that the thing is 1000 (1000 chf)" (Case File 1). In other TIRs,

[10] Besides "cocain*", "drug", "hash*", or "marijuana", our analysis included additional terms for drugs, such as "*main*" (French for hand), "*doigt*" (finger), "*ballon*" (ball), "*neige*" (snow), and "*herbe*" (weed). In Case File 4, we found the following quotation, in which the monitored individuals explicitly discuss cocaine: "I can't guarantee that this Saturday I'll have 6,000 or 7,000 euros to give you, if I manage to sell the cocaine tomorrow, I'll give you all your money, otherwise I have no [money]". Another example that features the word "finger" can be found in Case File 3: "Give me 2 fingers please?".

they decoded numerical codes which they then supplemented with the corresponding monetary value in parentheses, as shown in the following examples (11) and (12):

(11) O: For the money... just as usual please
N: 5? (500 chf) [Case file 1]
(12) She has 410 on her because I received 6 (600) and 5 (500). [Case file 4]

Similar annotations were found in other TIRs for numbers identified as weights by the IIT, e.g., "You do it with the one that R is going to bring you today, maybe tomorrow I'll go back with him, I can bring around 14, (140 g) everything is fine" (Case File 1). In this conversation, the participants neither explicitly mentioned 140 grams nor discussed weights or even drug quantities, which would suggest this interpretation. Thus, the IIT relied solely on contextual, case, and milieu knowledge. This was also the case in their decoding of culturally specific and colloquial terms for money quantities such as "a bag of naira" or "5 guys", as shown in (13) and (14):

(13) I need a bag of naira (1000 chf) [Case File 1; Naira is the currency of Nigeria]
(14) I don't know how we would get 5 guys (5000 ch[f]) [Case File 4]

(d) Annotations and comments on place and time

The fourth category of annotations and comments analyzed in this paper contained notes on place and time. In these comments, IITs explicate abbreviated location names used by the suspected individuals, e.g., "I am parked in L (LAUSANNE)", elucidate location references perceived as unclear from the IITs' perspective, e.g., "Does he know that this is the land of the whites? (Europe)", and specify the meaning of terms like "there", "over there" or "their country" as illustrated by these examples:

(15) I think you've already left? (FRANCE) Are you there? [Case File 1]
(16) […] to those people over there (SPAIN) [Case File 4]
(17) Could you send 1000 to their country (ECUADOR)? [Case File 4]

Besides, in a few TIRs, IITs also specified temporal information in annotations, such as "4 o'clock (4 pm)", and "I think you're going to keep doing it until the church (on Sunday) like that".

5. DISCUSSION

This study examined the nature and extent of interventions by the IITs with regard to the selection and interpretation of the content's meaning during language

transfer. The results illustrate the many ways in which IITs significantly intervened in the process of selection and interpretation. In one in two TIRs, IITs inserted annotations and comments to explain and to decrypt vague and abbreviated or coded terms used in reference to individuals, actions, objects, or places. For example, they identified "guy" as ANDERSON, interpreted "over there" as SPAIN, and labelled "stuff" as an incriminating object such as drugs.

The analysis further revealed that the summarized TIRs present the intercepted conversations in a highly condensed form. Information was also partially omitted from the supposedly verbatim TIRs. Evidently, IITs used considerable discretion when producing the TIRs to decide which information they wanted to omit or, conversely, translate and document. Hence, IITs function as gatekeepers who control which information can potentially be included in or excluded from the criminal proceedings. Depending on the constellation of the case and evidence at hand, their decision-making power might be critical in shaping the outcome of the proceedings. In fact, either TIRs are directly used in court to inform the final judgment (CAPUS and BALLY, 2020) or their content is at least orally recalled before the court (GILBERT and HEYDON, 2021).

The current study makes valuable contributions to different research strands. With regard to studies on intercept interpreting, it confirms the relevance of the forensic level as one of five perception levels involved in the work of IITs (HAVELKA, 2024). At the same time, the quantitative-qualitative approach of the present study extends these findings by illustrating the many ways in which IITs perceive, process, and reproduce information in TIRs at the forensic level. These interventions are indispensable for understanding vague or even deliberately encrypted conversations. Against this backdrop, our results further illustrate that the challenges of communications surveillance are complex and extend far beyond the demand for an "error-free" and accurate translation, as justifiably called for by Gilbert and Heydon (2021) or Chakhachiro (2016). These challenges are all the more serious because possible errors in decisions related to selection and interpretation of meaning cannot be detected by criminal justice authorities but only by language experts re-listening to the audio files – an arduous process that is rarely performed in practice. Besides, our study confirms the findings of previous studies on the production of case files, which have shown that orientation towards later use influences documentation decisions such as the selection and modification of information, and that rendering comprehensibility and as well as producing useful documents proved to be a particularly important guiding principle (e.g., GARFINKEL, 1967; JÖNSSON and LINELL, 1991; KOMTER, 2019). Within the field of translation studies, the Skopos theory underscores the pivotal role of the translation's purpose as a guiding principle for the translation strategy (cf., NORD, 1991; REISS and VERMEER, 1984/2014). This particular emphasis on the anticipated use is denoted in sociolinguistics as audience design as established by Bell (1984).

Whilst half of the TIRs contained annotations and comments made by IITs, no explanatory references were observed in the other half. However, the monitored conversations recorded therein were similarly vague and cryptic. This is a notable observation and raises questions regarding the rationale for omitting annotations. It is conceivable that IITs refrain from interpreting meaning in the TIRs because they are not always integrated into the investigation team and therefore may lack knowledge about the specifics of conversations in the case in question. Indeed, the intercepted communication sometimes only becomes comprehensible when considered in conjunction with the results of other investigative measures. For instance, client testimonies or police observation may allow them to deduce that a reference to "stuff" in phone conversations means drugs. The extent to which the IIT is apprised of ongoing investigations varies in police practice and is subject to the nature of the relationship between them and the police, as noted by Griebel and Hohl Zürcher (2023).

However, even informed IITs may abstain from interpreting meaning and making annotations in TIRs due to legal restrictions. In fact, in recent years, courts – notably, the Swiss Federal High Court – stipulated that interpreting the meaning of information is the exclusive domain of the police (GRIEBEL and HOHL ZÜRCHER, 2023). Against this backdrop, yet another explanation for the absence of annotations is plausible: to reconcile the tension between legally imposed restrictions and the obvious need for explanation and interpretation of meaning, IITs may simply resort to oral communication, which leaves no visible traces in case files (GRIEBEL and HOHL ZÜRCHER, 2023). Overall, our findings underscore that the translation and documentation of extensive conversations that contain ambiguous content necessitates a balancing act between maintaining authenticity of the TIR associated with vagueness, which requires minimal intervention, and reaching for comprehensibility and specificity, which calls for active contribution by the IIT.

Our research must be considered in the context of some limitations. This study is based on the analysis of TIRs but excluded audio files and oral exchanges between IITs and police officers. While our approach allowed the analysis and description of visible traces, the invisible traces and interventions remain undiscovered. However, it would be important to know, for example, what information IITs judge as "trivialities" or "blah blah" and omit. In light of a study on court translation, which has shown that translators may be biased against the accused (TAIBI and MARTIN, 2012), it would be important to understand what types of information are omitted in the production of TIRs. Besides, our research relies on Swiss criminal files and therefore describes practices in the lawful surveillance of communication in Switzerland. Therefore, research on the details of various documentation practices and other forms of interventions that IITs perform in other countries must be left to future comparative studies.

6. CONCLUSION

Interpreters and translators provide valuable services in public institutions within multilingual societies, including in covert communication surveillance. There is a widespread assumption that interpretation and translation constitute a purely mechanical transfer of language devoid of interpretative nuances. However, this perspective overlooks the inherent complexity of interpretation and translation, hindering the necessary discourse on their role. This study demonstrated that IITs significantly influence the selection and interpretation of content, often adding annotations and comments to clarify ambiguous or coded language. These interventions shape the evidentiary value and comprehensibility of TIRs, highlighting the complex nature of not only communication surveillance but also of the interpretative role of IITs. Hence, the strategic involvement of IITs in translating intercepted communications requires a re-evaluation of their roles to enhance transparency and accountability within the criminal justice system – a conclusion that may not only be addressed to public institutions involved in covert communication surveillance but also to public institutions more generally.

APPENDIX

Table 3. Overview of selectivity of sumTIR (ratio of documented telephone conversation's volume vs. oral telephone conversation's volume; n = 38)

Proportion of documented conversation's volume [number of words in sumTIR] in % of oral telephone conversation's volume [number of words measured with average speech rate]	Frequencies		
	Number of sumTIR	in % of all sumTIR	Relative frequencies
0-9%	12	31.6%	31.6%
10-19%	11	28.9%	60.5%
20-29%	5	13.2%	73.7%
30-39%	5	13.2%	86.8%
40-49%	3	7.9%	94.7%
50-59%	1	2.6%	97.4%
60-69%	0	0.0%	97.4%
70-79%	0	0.0%	97.4%
80-89%	1	2.6%	100.0%
90-99%	0	0.0%	100.0%
100%	0	0.0%	100.0%

REFERENCES

ANGELELLI, Claudia. **Revisiting the interpreter's role**: A study of conference, court, and medical interpreters in Canada, Mexico, and the United States. Amsterdam: John Benjamins, 2004.

BELL, Allan. Language Style as Audience Design. **Language in Society**, v. 13, n. 2, p. 145– 204, 1984.

CAPUS, Nadja; BALLY, Elodie (2020) Intercepter avec des interprètes. **Schweizerische Zeitschrift für Strafrecht**, v. 138, n. 1, p. 1–22, 2020.

CAPUS, Nadja; GRIEBEL, Cornelia. The (in-)visibility of interpreters in legal wiretapping: a case study: how the Swiss Federal Court clears or thickens the fog. **International Journal of Language and Law**, v. 10, p. 73–98, 2021.

CAPUS, Nadja; GRISOT Cristina. Ghostwriters of crime narratives: Constructing the story by referring to intercept interpreters contributions in criminal case files. **Crime, Media, Culture**, online first, p. 1–20, 2022.

CAPUS, Nadja; HAVELKA, Ivana. Interpreting intercepted communication: a sui generis translational activity. **International Journal for the Semiotics of Law**, November, p. 1–20, 2021.

CAPUS, Nadja; STOLL, Mirjam; VIETH, Manuela. Protokolle von Vernehmungen im Vergleich und Rezeptionswirkungen in Strafverfahren. **Zeitschrift für Rechtssoziologie** v. 34, n. 1-2, p. 225–252, 2014.

CHAKHACHIRO, Raymond. Contribution of prosodic and paralinguistic cues to the translation of evidentiary audio recordings. **Translation and Interpreting**, v. 8, n. 2, p. 46–63, 2016.

DE KEIJSER, Jan; MALSCH Marijke; KRANENDONK, Robin; DE GRUIJTER, Madeleine. Written records of police interrogation: Differential registration as determinant of statement credibility and interrogation quality. **Psychology, Crime and Law**, v. 18, n. 7, p. 613–29, 2012.

GARFINKEL, Harold. 'Good' organizational reasons for 'bad' clinic records. In: GARFINKEL, Harold (ed). **Studies in Ethnomethodology**. Englewood Cliffs, NJ: Prentice-Hall, p. 186–207, 1967.

GILBERT, David; HEYDON, Georgina. Translated transcripts from covert recordings used for evidence in court: Issues of reliability. **Frontiers in Communication**, v. 6, Article 779227, p. 1–13, 2021.

GILBERT, David. **Electronic surveillance and systemic deficiencies in language capability: implications for Australia's national security**. PhD Thesis, RMIT University, Australia, 2014.

GRIEBEL, Cornelia; HAVELKA, Ivana. Interpreting, translating or investigating? Framing the competences of a hybrid translational field: intercept interpreting. **Perspectives**, p. 1–20, 2024.

GRIEBEL, Cornelia; HOHL ZÜRCHER, Franziska. The work of intercept interpreters in lawful communication surveillance: a daily trade-off between formal requirements and informal needs. ***International Journal of Law, Crime and Justice**, v. 74*, p. 1–13, 2023.

HALE, Sandra. **The Discourse of Court Interpreting: Discourse Practices of the Law, the Witness, and the Interpreter**. Amsterdam: John Benjamins, 2010.

HALE, Sandra. Approaching the bench: teaching magistrates and judges how to work effectively with interpreters. **Monografías De Traducción E Interpretación**, n. 7, p. 163–180, 2015.

HAVELKA, Ivana. Interpreting intercepted communication: from talk to evidence. **Translation and Interpreting**, v. 16, n. 1, p. 17–37, 2024

HAWORTH, Kate. Audience design in the police interview: The interactional and judicial consequences of audience orientation. **Language in Society**, v. 42, p. 45–69, 2013.

HOHL ZÜRCHER, Franziska. **Einvernahmeprotokolle lesen: eine wissenssoziologische Untersuchung zur Rezeption von Einvernahmeprotokollen in schweizerischen Strafverfahren**. Faculty of Business, Economics and Social Sciences of the University of Bern, Switzerland, 2021.

JÖNSSON, Linda; LINELL, Per. Story generations: From dialogical interviews to written reports in police interrogations. **Text**, v. 11, n. 3, p. 419–440, 1991.

KOMTER, Martha. **The suspect's statement: Talk and text in the criminal process**. Cambridge: University Press, 2019.

LAI, Miranda. Transcribing and translating forensic speech evidence containing foreign languages—An Australian perspective. **Frontiers in Communication**, v. 8, p. 1–18, 2023.

NORD, Christiane. Scopos, loyalty, and translational conventions. **Target**, v. 3, n. 1, p. 91–109, 1991.

REISS, Katharina; VERMEER, Hans J. **Towards a general theory of translational action: Skopos theory explained**. London: Taylor and Francis, 1984/2014.

SALAETS, Heidi; ALSULAIMAN, Abied; BIESBROUCK, Silke. Tap Interpreting: from practice to norm. A Belgian case study. **Turjuman**, v. 24, n. 2, p. 11–49, 2015.

SCHREIER, Margrit. Qualitative content analysis. In: FLICK, Uwe (ed). **Handbook of qualitative data collection**. London: Sage, p. 170–183, 2014.

SMITH, Dorothy. The active text: a textual analysis of the social relations of public textual discourse. In: SMITH, Dorothy (ed). **Texts, Facts, and Femininity: Exploring the Relations of Ruling**, London: Routledge, p. 120–158, 1990.

TAIBI, Mustapha; MARTIN, Anne. Court translation and interpreting in times of the "War on Terror": The case of Taysir Alony. **Translation and Interpreting,** v. 4, p. 77–98, 2012.

VAN CHARLDORP, Tessa. What Happened? From Talk to Text in Police Interrogations. **Language and Communication**, v. 36, p. 7–24, 2014.

ZIMMERMAN, Don. Fact as a Practical Accomplishment. In: TURNER, Roy (ed). **Ethnomethodolgy: Selected Readings**. Harmondsworth: Penguin, p. 128–143, 1969/1974.