

Calcrim 2008 Instructions

121. Duty to Abide by Translation Provided in Court

Some testimony may be given in *<insert name or description of language other than English>*. An interpreter will provide a translation for you at the time that the testimony is given. You must rely on the translation provided by the interpreter, even if you understand the language spoken by the witness. Do not retranslate any testimony for other jurors. If you believe the court interpreter translated testimony incorrectly, let me know immediately by writing a note and giving it to the (clerk/bailiff).

New January 2006

BENCH NOTES

Instructional Duty

The committee recommends that this instruction be given whenever testimony will be received with the assistance of an interpreter, though no case has held that the court has a sua sponte duty to give the instruction. The instruction may be given at the beginning of the case, when the person requiring translation testifies, or both, at the court's discretion. If a transcript of a tape in a foreign language will be used, the court may modify this instruction. (See Ninth Circuit Manual of Model Jury Instructions, Criminal Cases, Instruction No. 2.8 (2003).) If the court chooses, the instruction may also be modified and given again at the end of the case, with all other instructions. (See Ninth Circuit Manual of Model Jury Instructions, Criminal Cases, Instruction No. 3.20 (2003).)

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

AUTHORITY

- Juror May Not Retranslate. *People v. Cabrera* (1991) 230 Cal.App.3d 300, 303–304 [281 Cal.Rptr. 238].

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