

## HANDOUT FOR CONTRACT COURT INTERPRETERS

### **CHANGE OF PLEA before a U.S. District Judge**

A change of plea is a guilty plea in a criminal case. It is referred to as a “change” because the defendant had pled “not guilty” to the charges during a previous proceeding, usually during the post indictment arraignment, and now has decided to plead guilty to the charges instead of going to trial.

In many instances, the defendant has accepted and signed a plea agreement prior to his appearance in court for the change of plea. The plea agreement is a multi-page document, frequently containing complex legal language. It should already have been sight-translated to the defendant prior to the change-of-plea hearing; if not, you may be asked by defense counsel to sight-translate the document to the defendant before the proceedings begin. Once you start to sight-translate, you should be able to continue without lengthy pauses. The judge will make reference to the plea agreement during the change-of-plea hearing; so unless you are asked to sight-translate the document, or have seen it beforehand, ask defense counsel to show it to you to familiarize yourself with the contents.

You should also review the indictment prior to the hearing. Indictments and plea agreements can be obtained from PACER (Public Access to Court Electronic Records.) Upon request, a staff member can e-mail them to you ahead of time, or you may ask defense counsel to show you the documents prior to the change-of-plea proceeding.

The judge will ask the defendant a series of questions to determine whether there is a factual basis for the defendant’s guilty plea, whether the defendant is pleading voluntarily and

with full knowledge of the consequences of his guilty plea, etc. The judge's questions should be interpreted simultaneously; the defendant's answers should be interpreted consecutively.

The Assistant United States Attorney (AUSA) will be asked to recite the evidence that would be introduced if the case were to proceed to trial, and the defendant will be told to listen carefully.

This recitation of evidence should be interpreted simultaneously. The defendant will then be asked whether he agrees with the statement of facts as presented by the prosecutor. He will again be asked how he pleads to the charges in the indictment. If the judge accepts his guilty plea, a date for the sentencing hearing is set, and the preparation of a pre-sentence report is ordered.

The change of plea can be a lengthy proceeding. The simultaneous mode of interpreting should be used while the judge recites the defendant's constitutional rights and during all colloquy between court and counsel. The statements made by the AUSA and the defense attorney should also be interpreted simultaneously. All answers by the defendant should be interpreted consecutively. *Everything* that is said during the change-of-plea hearing has to be interpreted to the defendant. He must be placed in the same situation as an English-speaking defendant. If you cannot hear the speakers or if they are speaking too fast for you to be able to interpret, ask the judge to tell the speaker to speak in a louder voice or to slow down so that you can interpret what is being said. A judge should always be addressed as "Your Honor." The interpreter should refer to him/herself as "the interpreter," never in the first person, i.e., "Your Honor, *the interpreter* is not able to hear the U.S. attorney," or, "Your Honor, defense counsel is speaking too fast for *the interpreter*."

Sometimes, a defendant may speak and understand enough English to get by; however, an interpreter has been requested by the court. If the defendant or his attorney asks you not to interpret, tell defense counsel to inform the court, on the record, that the interpreter is on "stand-

by.” Only the judge can place the interpreter on stand-by. Once it has been stated on the record that you are on stand-by, you are relieved of your obligation to interpret everything that is said during the proceedings. You should remain in close proximity to the defendant or continue using the interpreter translating equipment so that you can start interpreting if the defendant indicates that he does not understand a word or an expression in English.

*Frequently used terms or phrases*

Abide by all sentencing stipulations	Accept the plea
Acceptance of responsibility	Adjustments and departures
Advisory nature of the sentencing guidelines	Agreed-upon sentence
Adversely affect any request to re-enter the country	Advise you of your constitutional rights
Affirmative defense	Allege a violation
Appeal a sentence	Applicable sentencing guideline offense level/factors
Assault with a deadly weapon	Breach the agreement
Burden of proof	Calculations relevant to sentencing
Case-in-chief	Claim of pre-indictment delay
Collateral attack	Compelled to testify
Competent to stand trial	Confront and cross-examine witnesses
Court is not party to the agreement	Criminal felony conviction
Criminal history category	Depart upward/downward
Deportation, subject to	Determine an appropriate sentence
Dismiss the other counts	Double jeopardy
Due process	Enter the plea freely and voluntarily
Excludable time	Factual basis for the plea
Federal Rules of Criminal Procedure	File new charges
Freely and voluntarily	Guilty as charged
Immigration and Nationality Act	Impose a custody sentence

Indictment, a copy of the	Ineffective assistance of counsel
Join in the waivers and concur in the plea	Knowing and willful breach of the agreement
Knowingly and voluntarily	Mandatory minimum sentence
Mandatory special assessment	Maximum statutory sentence
Motion to dismiss	Natural-born or naturalized citizen or national of the U.S
Nature of the offense	Notice of Appeal
Null and void	Offense level
Ongoing court order	Parties to the case
Persist in a plea of not guilty	Place under oath
Plea agreement, binding	Port of entry
Post-conviction collateral attack	Pre-sentence investigation and report
Presumption of innocence	Pre-indictment delay
Pretrial motions filed in this case	Pretrial Proceed by information
Proof beyond a reasonable doubt	Restitution
Retroactive change in the Sentencing Guidelines	Return a verdict
Revoke probation	Right of cross-examination
Right to be represented by counsel	Right to a speedy and public trial
Right to remain silent	Right against self-incrimination
Rule on the motions	Safety valve provisions
Sentencing guideline range	Sentencing stipulations
Specific offense characteristics	Speedy Trial Act
Speedy trial claim	Split sentence
Standard of proof	Statute of limitations is tolled
Subject to inspection by	Subpoena a witness to testify
Supervised release or probation	Trial by jury
Trier of fact	United States Sentencing Guidelines
Violation of probation/parole	Waive reading of the indictment
Waiver of appeal	Withdraw a previously entered plea