

HANDOUT FOR CONTRACT COURT INTERPRETERS

INITIAL APPEARANCE before a U.S. Magistrate Judge or U.S. District Judge

An initial appearance is the first formal appearance of a defendant before a federal judge and usually the first time an interpreter appears on a new case. If the defendant is in custody, an officer from the pretrial services office will interview the defendant and prepare a report for the court recommending bail or detention. The pretrial service interview is conducted in the marshal's lock-up. The defendant may also be interviewed by defense counsel while in the lock-up. You should bring a copy of the complaint in the case with you, so that you can sight-translate it for the defendant. Pick up the complaint at the Clerk's Office intake window, unless it has already been delivered to you by other means. As in all situations when you appear on interpreting assignments in court, you should bring with you a notepad and pen. A dictionary, whether paper or electronic, is also helpful.

The U.S. Marshal will bring the defendant(s) to the courtroom before the proceedings begin. The interpreter should be in the courtroom at least 10 minutes before the scheduled start of the proceedings.

Check in with the courtroom deputy clerk. Ask the courtroom deputy to show you how to use the interpreting equipment. If you have not yet met the defense attorney, introduce yourself before the hearing. If the complaint has not yet been read to the defendant, sight-translate it for the defendant before proceedings begin. If the defendant seeks appointment of counsel at public expense, he/she must first fill out a financial affidavit. Under no circumstances is the interpreter to fill out the financial affidavit; the interpreter's role is to *interpret* for the defendant while the attorney or the defendant fills out the affidavit.

The interpreter should remain in close proximity to the defendant in the courtroom so that interpreting can begin as soon as the judge takes the bench. Nobody will ask you to start interpreting, it is your duty to **start interpreting immediately**. It is very likely that the judge will begin the proceedings by reading the defendants' constitutional rights; you must interpret the rights to the defendant as they are being stated by the court. The defendant must be put in the

same situation as if he/she were English speaking. Interpret simultaneously while the defendant's rights are being read by the judge and when the case is being heard; the answers of the defendant or material witness should be interpreted consecutively in a loud enough voice for everyone to hear.

Sometimes a defendant asks the interpreter not to interpret, because he/she understands some English and is distracted by hearing the interpreter while trying to listen to the proceedings in English. Be advised that you cannot accept such requests from any defendant. Your assistance has been sought by the court through the interpreter services office. Ask defense counsel to state for the record that the defendant asks that the interpreter be placed on "stand-by." Only the court may place you on "stand-by." If your services are not needed, ask the attorney to state for the record that the interpreter is not needed. **Only the court** may excuse you from interpreting on the case. Any questions that the defendant may have regarding the case or the proceedings must be referred to the attorney. Do not engage in conversations with family members, if present. If approached, tell the person(s) that you are the interpreter and hence not at liberty to discuss any aspect of the case. If the defendant (or material witness) was admitted to bail, be sure you interpret the bond form.

Statement of Defendant's Constitutional Rights Script¹

I wish to advise all defendants of their constitutional and statutory rights in connection with the proceedings which will take place in this court.

You are here because you are charged with a criminal offense against the United States or with a probation or supervised release or pretrial release violation. If you are charged in this district, you have received or will receive a copy of the complaint and the affidavit in support of the complaint. You have the following constitutional and statutory rights. Please listen carefully.

You have the right to retain and be represented by a lawyer of your choosing at each and every stage of the proceedings. If you cannot afford a lawyer, you have the right to request that a lawyer be appointed to represent you. The appointed lawyer will be paid by the government at no cost to you.

You must, however, submit a financial affidavit to demonstrate that you are unable to afford a lawyer before the judge will appoint a lawyer for you.

If you make any false or misleading statements in that affidavit, or willfully omit pertinent information, you may be prosecuted for a separate violation of federal law.

You have the right to remain silent. Anything you say, sign or write which tends to incriminate you may be introduced against you in this or in any other court proceeding.

You have the right to have bail determined in accordance with the provisions of the Bail Reform Act of 1984. If the government seeks detention, you have the right to a hearing on the date of your first court appearance or within 3 to 5 days of your first court appearance if a continuance is granted.

In the event you are detained, you have the right, upon your lawyer's written request, to have your detention reviewed by a district court judge.

You may be present at all subsequent hearings where further argument will be heard regarding the modifying of the conditions of your release.

¹ This is a generic script. The actual wording will vary from one court to the next. It is provided as an aide for vocabulary research.

You have the right to a preliminary hearing or to have the case presented to the grand jury within fourteen days of this date if you are in custody and twenty-one days if you are released from custody. A preliminary hearing is a proceeding in which the government presents its evidence and a judge determines whether there is probable cause to believe the offense charged has been committed and that you have committed it. If probable cause is not found, the matter will be dismissed. If probable cause is found, you will be required to enter a plea to the charges. Probable cause also may be established by the return of an indictment by a grand jury. If an indictment is returned prior to the date set for the preliminary hearing, the probable cause requirement is satisfied and no preliminary hearing will be held. You will then appear to plead to the indictment.

If you are here because you have been charged by a complaint or indictment or other charging document filed in another district, then in addition to the rights I have previously explained, you have the right to stay in this district until the court receives a certified copy of the charges.

If you wish, you may waive all further proceedings in this court and request that you either be transported or permitted to appear in the court where the charges originated for further proceedings.

If you do not wish to waive all further proceedings in this court, and return to the other district, you have the right to a removal hearing, which includes a determination of probable cause and identity before you can be ordered to appear in court in the district where are charged.

If probable cause has been established by the return of an indictment by a grand jury, you are entitled to an identity hearing.

If you wish to plead guilty to the charges in this district, your lawyer may request a continuance because it may be possible for you to plead guilty in this district under the provisions of Rule 20 of the Federal Rules of Criminal Procedure. However, both the consent of the United States Attorney of this district and the charging district must be obtained first.

If you are before the judge on an arrest or voluntary surrender on a local indictment, your arraignment and plea will be scheduled following your appearance. At this hearing, the judge will appoint a lawyer if you are not represented by a private lawyer, advise you of the nature of the charges, and the conditions of release set on the indictment.

If there is a request for detention, you have the right to request a hearing today or a

continuance of the detention hearing. If conditions of release have been set which you are unable to meet, you may request a review of those conditions.

Frequently used terms or phrases

Affidavit in support of the complaint	Alleged violation of probation
Appointed/private lawyer	Appearance in court
Arraignment and plea	Arrest warrant
Arrival of process	Bail/detention hearing
Bail is set/denied	Conditions of release
Constitutional and statutory rights	Continuance is granted
Court proceedings	Criminal offense
Enter a plea to the charges	False or misleading statements
Federal public defender's office	Federal Rules of Criminal Procedure
Financial affidavit	Further argument will be heard
Government seeks detention	Grand Jury
Identity hearing.	In custody
Indigent panel	Introduced against you
Local indictment	Material witness
Matter will be dismissed	Nature of the charges
Offense charged has been committed	Out-of-district case
Post indictment arraignment	Plead guilty/not guilty
Pre-trial detention/release	Preliminary hearing
Probable cause is found	Probation violation
Prosecuted, to be	Provisions of Rule 20
Provisions of the Bail Reform Act of 1984	Request a continuance
Retain a lawyer	Return an indictment
Review the conditions of release	Right to a removal hearing
Right to remain silent	Stage of the proceedings
Submit a financial affidavit	Subsequent hearings
Supervised release	Surrender of passport
Tends to incriminate you	United States Attorney
United States District Court	United States Magistrate Judge
Voluntary surrender	Waive further proceedings
Willfully omit pertinent information	