

Interpreting Declarative Questions in Australian Courts: A Qualitative Analysis of Chinese-English Professional Interpreters' Performance in Remote Settings

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Abstract

In common law courtrooms, questions are not merely questions, as they are often used strategically with varying illocutionary force and points. This article represented initial findings from a larger experimental research project, which examined the under-investigated Chinese-English interpretations of manner of speech in remote settings. The present article concentrated on the qualitative analysis of interpretations of declarative questions collected from 50 certified interpreters. Early findings revealed systematic alterations of declarative shift the pragmatic force of counsels' questioning techniques in cross-examination. Such alterations may have further implications for judicial outcomes. This study intends to inform future pedagogical practice in specialised court interpreter training.

matter of equity and access to justice (see Coulthard, 2017; Danet, 1980; Doty, 2010; Hale, 2004; Harris, 1990, 1995; Loftus, 2019; Maley & Fahey, 1991; Mikkelsen, 2016; O'Barr, 2014; Stern, 2011, 2018; Stern & Liu, 2019; Woodbury, 1984). However, most of the studies concentrated on interpreter-mediated courtroom interactions in face-to-face settings (see Berk-Seligson, 2002, 2009, 2012, 2017; Hale, 2004; Lee, 2009, 2015; Yi, 2022, forthcoming). Little has been known about the accuracy of interpretation in the remote mode of interpreting. Remote interpreting describes a situation where the interpreter interprets without being physically present in the same location as the speakers (see Braun 2016, 2017, 2018, 2019, 2020). Accelerated by the COVID-19 pandemic, the interpreting option for the remote mode of justice has become more prevalent. However, several researchers have identified specific issues arising from the accuracy of the remote interpretation in police interviews, immigration hearings, and other scenarios (see Hale et al., 2022; Grieshofer, 2022). Nevertheless, the majority of existing studies have examined the procedural or administrative aspects of remote interpreting and the accuracy of interpreted propositional content in European languages.

To bridge the existing gap, this article intends to investigate the accuracy of the Chinese-English interpretation of declarative questions during remote interpreting for the common law court cross-examination¹. To be more specific, this study aims to address the following research questions (RQs):

RQ1: How accurately do professional interpreters interpret declarative from English into Mandarin-Chinese during the cross-examination in remote settings?

RQ2: What are the patterns of interpreting declarative courtroom questions in English during the cross-examination in remote settings?

To address RQ1, we used the experiment method to collect interpreting performance data and further assessed the accuracy of interpretations using the rubrics adapted from Hale et al. (2022), as shown in Table 1 below.

Table 1. Marking rubrics

Descriptions	Score	Weight
Speech style: Interpretations should retain stylistic features, including hesitations, fillers, hedges, repetitions, tone, intonation, stress, and register.	45	45%
Discourse markers: The interpreter maintains the rapport features, including the use of the first name, acknowledgement markers such as “well” and “okay” at the start of a response, and politeness markers such as “please” and “thank you”.	30	30%
Forensic linguistic features: The interpreter correctly uses strategic question types and legal terminology.	25	25%
Total	100	100%

To address RQ2, we conducted a qualitative discourse analysis of transcribed interpreting recordings and identified patterns in the interpreted cross-examination questions in Mandarin Chinese.

2. THE STUDY

The study is part of the author's ongoing doctoral project, which assesses the less-investigated aspect of the manner of speech in English-Mandarin Chinese interpretations of court questions and answers in remote settings. The study adopts a mixed-methods approach, using questionnaire instruments and the experiment method. The original study is a low-risk human research that received ethics approval from the University of New South Wales Ethics Committee on 15 November 2021.

2.1. Participants

A call for research participants was circulated via the Australian Institute of Interpreters and Translators (AUSIT) and the National Accreditation Authority for Translators and Interpreters (NAATI). Details about the research project, the nature of the participation required, the anticipated time frame for participation, any perceived risks, and contact details for participant queries about the research were included. All participants were required to read through it

¹ According to Black's Law Dictionary, the term “cross-examination” refers to a court process in which the formal interrogation of a witness was called by the opposing party in the court of law to challenge or extend testimony already given.

before proceeding to the data collection phase. Interested participants contacted the student researcher by replying to the email and registering their interest. The criteria for participants taking part in this study included being: (1) 18 years of age or older; (2) certified interpreting professionals in the Mandarin/English pair; (3) experienced as an interpreter in Australian courts; (4) appropriate equipment (computer, headphones, microphone, internet and Zoom application). The de-identified participant information is shown in the Appendix. A total of 50 consenting interpreters participated in this study.

3. THE DATA

The data cited in this article are part of interpreting performance data collected during the remote interpreting experiment. The experiment was conducted with 50 certified professional interpreters remotely on the videoconferencing platform Zoom. The language combination is English and Mandarin Chinese². The simulated trial featured a Chinese-speaking suspect who is accused of selling drugs in a common law courtroom³. The original questions are asked in English by the defence counsel and then cross-examined by the crown prosecutor. The participants interpreted the questions from English into Mandarin Chinese. However, it is worth noting that only cross-examination questions were analysed for the purpose of this study. The interpreting performance recordings were transcribed, coded, marked and cross-checked by a qualified researcher. The transcribed texts were then extracted for further qualitative analyses.

4. RESULTS AND DISCUSSIONS

In total, we found 4,615 questions, including 2,350 in English and 2,265 in Mandarin. By type of examinations, we identified 1,250 English and 1,225 Mandarin interpreted cross-examination questions; and 1,100 English and 1,034 Mandarin interpreted examination-in-chief questions, as shown in Figure 1 below.

Figure 1. Examination questions in total

² Differing from other dialects of the Chinese language, Mandarin Chinese is an official form of the Sinitic language and dialect natively spoken in the northern part of China.

³ The author would like to acknowledge that the video/script are part of a research project supported by the Australian Research Council 'Mode, accuracy and credibility in court interpreting' (2017-2022), led by Chief Investigators Professor Sandra Hale (UNSW) and Professor Jane Goodman-Delahunty (CSU) Discovery Project DP170100634. The project has received Ethics Approval from UNSW (HC17546). The script and video were used in this project with permission from the chief investigators.

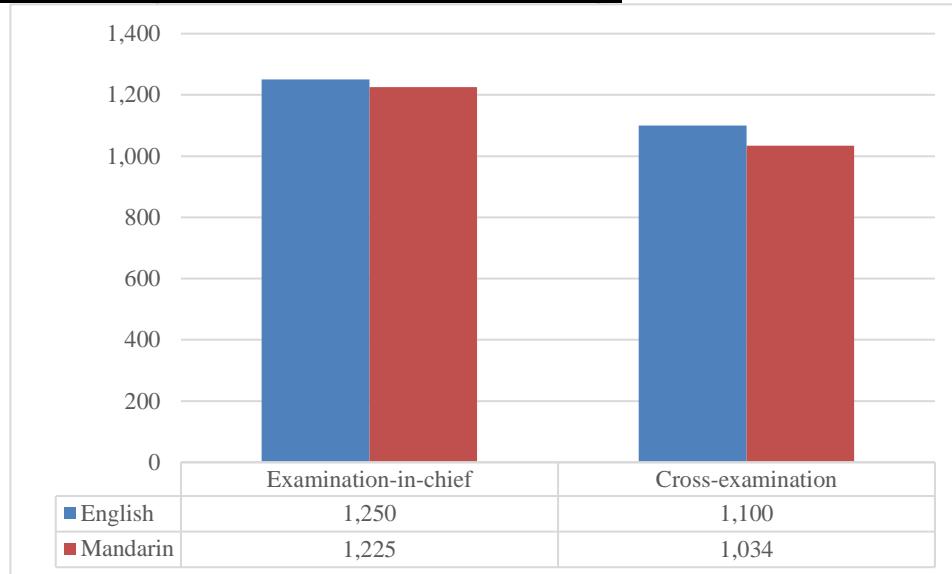


Table 2 shows all types of declarative questions found in the original cross-examination. In a total of 700 declaratives in the cross-examination, the most prevailing form is the “I put to you” declaratives with 200 (28.57%), followed by positive declaratives with negative tag reporting 150 (21.42%), reported speech declaratives with 150 (21.43%), negative declaratives with positive tags with 100 (14.29%), and equal numbers of declaratives such as positive declaratives rising intonation, negative declaratives rising intonation, and positive declaratives with positive ratification tag.

Table 2. The distribution of declarative questions in the original cross-examination by occurrence

Type	Sub-category	Cross-examination
Declaratives	“I put to you” declaratives	200
	Reported speech declaratives	100
	Positive declaratives rising intonation	50
	Negative declaratives rising intonation	50
	Positive declaratives with positive ratification tag	50
	Positive declaratives with a negative tag	150
	Negative declaratives with positive tag	100
	Total	700

However, when examining the Chinese interpretations of original declarative questions in the cross-examination, we identified ten types of declarative, as shown in Table 3 below. These types of declaratives include simple declarative (positive or negative), reported speech declaratives, positive declaratives with rising intonation, negative declaratives with rising

intonation, positive declaratives with positive ratification tag, positive declaratives with negative ratification tag, positive declaratives with positive tag, positive declaratives with negative tag, negative declaratives with positive tag, and “I put to to you” declaratives.

Table 3. Examples of declarative questions in Chinese interpretations

Sub-category	Example from interpretation data
Positive or negative declaratives	所以说, 20美元一小时。 suǒ yǐ shuō, 20 měi yuán yī xiǎo shí (English translation: So \$20 per hour.)
Positive declaratives rising intonation	所以你一次都吸完了? suǒ yǐ nǐ yī cì dōu xī wán le? (English translation: So you took all of them in one go?)
Negative declaratives rising intonation	你自己都不确定? nǐ zì jǐ dōu bù què dìng? (English translation: You're not sure about that?)
Positive declaratives with positive ratification tags.	那么韩先生, 你在一家修车行做学徒。是那样对吗? nà me hán xiān shēng, nǐ zài yī jiā xiū chē háng zuò xué tú. shì nà yàng duì ma? (English translation: Now Mr. Han, you got an apprenticeship in a panel beating company. Is that correct?)
Positive declaratives with negative ratification tag.	我告诉过法庭, 你把钱都花了。不是吗? wǒ gào sù guò fǎ tíng, nǐ bǎ qián dōu huā le. bù shì ma? (English translation: You told the Court you spent all of the money. Didn't you?)
Positive declaratives with positive tag.	我是在说谎, 是吗? wǒ shì zài shuō huǎng, shì ma? (English translation: You are lying about it, are you?)
Positive declaratives with negative tag.	你把毒品分装是为了卖, 不是吗? nǐ bǎ dú pǐn fēn zhuāng shì wéi le mài, bù shì ma? (English translation: You had separated into small bags were drugs that you were selling, weren't they?)
Negative declaratives with positive tag.	就是没有你说你妈给你的2万块, 是吗? jiù shì méi yǒu nǐ shuō nǐ mā gěi nǐ de 2wàn kuài, shì ma? (English translation: There was no \$20,000 that you alleged your mom gave you, was there?)
“I put to you” declarative	我这么跟你说, 那钱是你贩毒所得。 wǒ zhè me gēn nǐ shuō, nà qián shì nǐ fàn dù suǒ dé. I put it to you that the money was from selling the drugs.

Reported speech declaratives	韩先生, 我让你解释下你说你妈妈给你的2万刀怎么了吗? hán xiān shēng, wǒ ràng nǐ jiě shì xià nǐ shuō nǐ mā mā gěi nǐ de 2wàn dāo zěn me le ma? (English translation: Mr. Han, I asked you to explain what happened to the \$20,000 you alleged your mom gave you.)
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The following sections examine three types of declaratives: “I put it to you” declaratives (Section 5.1), declaratives with a rising intonation (Section 5.2), and reported speech declaratives (Section 5.3), due to the high occurrences of alterations found in the interpretation data.

4.1. “I put it to you” Declaratives

From our data, “I put it to you” declarative is most likely to incur translation problems. “I put it to you” declarative describes the statement involving the use of the phrase “I put it to you”. It was found to be the most commonly used type of question in the courtroom. Table 4 below summarises all instances of interpreted versions of this type of question.

Table 4. “I put it to you” declarative

Turn	Speaker	Utterances
T37Q	Prosecutor	<i>I put it to you</i>
	Interpreter 1	那我这么跟你说吧 so let me put it to you this way
	Interpreter 2	我方的主张是 my theory is that
	Interpreter 3	我是不是可以这样说呢 can I put it this way
	Interpreter 4	我能不能可以这样理解呢 can you set it like this
	Interpreter 5	我有这么一个推论/说法 I have a theory
	Interpreter 6	我向你指出 I put it to you
	Interpreter 7	我现在告诉你 I now tell you
	Interpreter 8	我跟你说 I tell you
	Interpreter 9	我这么说 I put it this way
	Interpreter 10	我有一个说辞 I had an excuse or plea [argument]
T38Q	Prosecutor	<i>I further put it to you</i>
	Interpreter 1	我再跟你说 I further tell you
	Interpreter 2	我进一步说 I further put it this way

	Interpreter 3	我再次向你指出 I further put it to you
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The illocutionary point of the original question was to present to the witness a version of a legal argument in front of the court. The question was intended to elicit further confirmation of related facts from the witness. In the interpreted versions, variations related to the tone, intonation, and style were found with varying degrees of moderation in terms of the pragmatic effect. The evaluation of pragmatic force and effect is displayed in Table 5 below.

Table 5. Pragmatic equivalents of “I put it to you” declarative

Speaker	Force	Effect
T37Q		
Interpreter 1	√	✗
Interpreter 2	√	√
Interpreter 3	✗	✗
Interpreter 4	✗	✗
Interpreter 5	✗	✗
Interpreter 6	√	√
Interpreter 7	√	√
Interpreter 8	√	✗
Interpreter 9	√	✗
Interpreter 10	✗	✗
T38Q		
Interpreter 1	√	√
Interpreter 2	√	√
Interpreter 3	√	√

From the table above, the pragmatic force was moderated with the use of the Chinese particle *ne* and *ba*, which signaled some degree of negotiability. Such renditions were less convincing with the use of negotiated theories or arguments, as these questions were often raised by the cross-examiner to counter-argue a version of the story previously put forward by the examiner-in-chief and the witness. This can be particularly problematic in the jury case, as the final verdict deliberated by the jury was largely reliant on the evaluation of witness credibility and power dynamics in the courtroom. When the crown presented a less solid case,

it gave the witness a chance to counter-argue with a stronger force that may change the power dynamics of the courtroom and have further implications for the sentencing.

4.2. Declaratives with Rising Intonation

Table 6 below shows the occurrences in the interpreted declaratives with rising intonation found in our cross-examination data.

Table 6. Declaratives with rising intonation

50 Declaratives with rising intonation in the original speech	%
13 × translated accurately	26%
18 × translated as a Wh-interrogative	36%
7 × translated as a simple declarative	14%
5 × translated as a polar interrogative	10%
2 × translated as a forced choice interrogative	4%
2 × omitted	4%
1 × translated as a modal interrogative	2%
1 × translated as a positive declarative with a positive tag	2%
1 × translated as a positive declarative with a positive ratification tag	2%

From the table below, it has been revealed that a majority (74%) of this question type had been altered in the cross-examination, whereas only 26% of the question were accurately reproduced in the interpreted versions. Among the 37 altered versions, 18 were translated as a Wh-interrogative, 7 as a simple declarative, 5 as a polar interrogative, 2 as a forced choice interrogative, 2 omitted completely, and the rest as a modal interrogative, a positive declarative with a positive tag and as a positive declarative with a positive ratification tag. Table 7 presents the typical examples of alterations of this question form in the data.

Table 7. Declaratives with rising intonation in English and their interpretations

Turn	Speaker	Example
T27Q	Crown	You put the whole thing up your nose at the one time?
Example 1	Modal interrogative	所以(connective)您会一次把0.7克全部吸食完吗? [interrogative particle <i>ma</i>] (So you would take all of the 0.7 g in one go [<i>ma</i>]?)
Example 2	Positive declaratives with positive tag	所以你每次都是一次通过鼻子吸。是吗? (So every time you did it all at once through your nose, did you?)
Example 3	Positive declaratives with positive ratification tag	您是全部从鼻子里面吸进去, 是这样子的吗? (You put the whole thing up your nose, is that correct?)
Example 4	Declarative	所以你要拿出所有这些, 然后一次性的放到你的鼻子里。 (So you put all of them at once up your nose.)
Example 5	Polar interrogative	所以每次你用鼻子吸都是把它全部用完吗? (So every time did you put the whole thing up your nose?)

Example 6	Wh-interrogative	你每次就是吸到鼻孔里面的时候, 每袋0.7克里面你每次用多少呢? (How much of the 0.7 g did you use when you put them up your nose?)
Example 7	Imperative with politeness marker	请你告诉法庭, 你是一次都吸完。 (Please tell the court you put the whole up your nose.)
Example 8	Forced choice interrogative	您是否能告诉每个包每一次都所以(connective)你们会一次性使用放到您的鼻子里? (Can you or can you not tell each bag each time you used all at once, say put under your nose?)

In Example 1, the question type was reproduced as a model interrogative in the interpreted version, as evidenced by the use of the modal verb “会” in Chinese with a marker of interrogative particle “吗” (ma) in Chinese. In Example 2, the question type was rendered as a positive declaratives with a positive tag with the use of “是吗” (did you) in the interpretation. In Example 3, the same question was represented as a positive declarative with a positive ratification tag “是这样子的吗” (is that correct) in the Chinese version. In Example 4, the question was treated as a simple declarative with a falling intonation. In Example 5, the same question was treated as a polar interrogative using a Chinese interrogative particle “吗” (ma) in the rendition. In Example 6, the same question was mistranslated as a Wh-interrogative, as indicated by the use of “多少”(how much) in the interpreted version. In Example 7, the same question was misrepresented as an imperative with a politeness marker, as shown by the expression “请你告诉法庭”(please tell the court) in the interpretation. In Example 8, the same question was altered as a forced choice imperative with the use of the phrase “是否能”(can you or can you not) in the rendition.

4.3. Reported Speech Declaratives

In our data, reported speech declarative refers to the statement quoting another person's words. The reported speech declarative is mostly used by the cross-examiner to raise conflicting versions of the testimony previously provided by the witness in order to expose any inconsistencies and establish the accusation against the original false statement. The commonly used reported speech features in English include the phrase “s/he said”, “s/he told”, and “s/he mentioned”, which can be directly translated into the equivalent element of the Chinese speech as “她/他说过”, “她/他告诉过”, and “她/他提到过”. In our data, a hundred reported speech declaratives have been found in the original cross-examination. However, eighty-four reported speech declaratives were found in the interpreted utterances, which means that 16% of the interpreters omitted the marker of reported speech features to the original question and converted it into other forms of questions, such as Wh-interrogatives and single declaratives. All factors considered the tone of the reported speech declarative is more often confrontational and forceful with a strong illocutionary force, as shown in Table 8 below.

Table 8. Reported speech declaratives

Turn	Speaker	Example
T31Q	Crown	Now, you told us that when you started your apprenticeship you used to withdraw pretty much the whole of your wages at the end of each week and give it to your mother, is that right? ↗
Example 1	Accurate rendition	一开庭的时候你就跟我们说了, 你在开始做学徒的时候, 你每一周末的时候, 你会把所有的工资都提出来, 然后交给你的母亲, 【对吗】? ↗ (You already told us that when you started your apprenticeship you used to withdraw pretty much the whole of your wages at the end of each week and give it to your mother, is that right?)
T36Q	Crown	So what happened to the \$20,000 that you <u>allege</u> your mother gave you? ↘
Example 2	Accurate rendition	那你声称你妈妈给你的两万块钱怎么样了? ↘ (So what happened to the \$20,000 that you <u>allege</u> your mother gave you? ↘)

In Example 1, the question was translated into Chinese with matching force and effect, as evidenced by the use of “你就跟我们说了(you already told us)” with a rising intonation. In Example 2, the original question was a mixture of the Wh-interrogative (the use of “what”) and the reported speech element (the use of “allege”) with a descending intonation. The second question was a typical example of the powerful speech formula “so+interrogative/declarative+falling intonation”.

The pragmatic functions of reported speech declarative found in our data are consistent with Berk-Seligson's (2017) and Matoesian's (2005) findings. They are used by legal professionals to examine the veracity of the evidence by revealing inconsistencies and to re-contextualise a favourable version of the testimony to the advocacy. Given the significance of this type of question, it is thus necessary to reproduce the type of question with matching illocutionary force and effect to eliminate any possible contamination of the witness testimony, the credibility of which was evaluated by lay jurors in the jury case.

5. CONCLUSION

The study examined the Chinese-English interpretations of declarative questions during the common-law courtroom cross-examination in remote settings. We have found varying patterns of alteration in the interpretations of declarative questions, which corroborates the findings from previous studies (see Hale, 2004; Liu, 2020). It is also revealed that by shifting the declaratives, interpreters may also change the pragmatic functions of questions asked in the cross-examination. These pragmatic considerations involve the speaker's intention, the level of control, the tone of voice, and the illocutionary point and force.

The data shows that the pragmatic force of declarative questions used by the cross-examiner has been largely moderated, as evidenced by linguistic examples provided in our discussions. Therefore, it is argued that the choice of questions and the questioning strategy and techniques used at the disposal of counsels may have implications for the judicial outcomes in the adversarial courtrooms of common law countries, as oral evidence was primarily

presented in the form of questions initiated by counsels to elicit desirable answers from the respondents in the courtrooms. It is deemed important to raise the interpreters' awareness of questioning techniques used in the courtroom by providing specialised training to increase relevant knowledge about courtroom questions, particularly in remote settings. However, due to the limited scope of this article, further discussions are needed to examine the potential causes for alterations in different modes and conditions of interpreting. This study intends to shed light on future professional and pedagogical practices to improve the tailored content of specialised court interpreting in remote settings.

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Appedix. Participant information by group, gender, and qualification

Code	Group	Gender	Qualification
1	SI_Audio	female	Certified Interpreter
2	SI_Audio	female	Certified Interpreter
3	SI_Audio	female	Certified Interpreter
4	SI_Audio	female	Certified Interpreter
5	SI_Audio	male	Certified Interpreter
6	SI_Audio	male	Certified Interpreter
7	SI_Audio	female	Certified Interpreter
8	SI_Audio	female	Certified Interpreter

9	SI_Audio	male	Certified Interpreter
10	SI_Audio	female	Certified Interpreter
11	SI_Audio	female	Certified Interpreter
12	SI_Audio	female	Certified Interpreter
13	SI_Video	female	Certified Interpreter
14	SI_Video	male	Certified Interpreter
15	SI_Video	female	Certified Interpreter
16	SI_Video	female	Provisional Certified Interpreter
17	SI_Video	male	Certified Interpreter
18	SI_Video	male	Certified Interpreter
19	SI_Video	female	Certified Interpreter
20	SI_Video	female	Certified Interpreter
21	SI_Video	female	Certified Interpreter
22	SI_Video	female	Certified Interpreter
23	SI_Video	female	Certified Interpreter
24	SI_Video	female	Certified Interpreter
25	CI_Audio	female	Certified Interpreter
26	CI_Audio	female	Certified Interpreter
27	CI_Audio	male	Certified Interpreter
28	CI_Audio	female	Certified Interpreter
29	CI_Audio	female	Certified Interpreter
30	CI_Audio	female	Certified Interpreter
31	CI_Audio	female	Certified Interpreter
32	CI_Audio	female	Certified Interpreter
33	CI_Audio	female	Certified Interpreter
34	CI_Audio	female	Certified Interpreter
35	CI_Audio	female	Certified Interpreter
36	CI_Audio	female	Certified Interpreter
37	CI_Video	female	Certified Interpreter
38	CI_Video	female	Certified Interpreter

39	CI_Video	female	Certified Interpreter
40	CI_Video	female	Certified Interpreter
41	CI_Video	female	Provisional Certified Interpreter
42	CI_Video	female	Certified Interpreter
43	CI_Video	female	Certified Interpreter
44	CI_Video	female	Certified Interpreter
45	CI_Video	female	Certified Interpreter
46	CI_Video	female	Certified Interpreter
47	CI_Video	female	Certified Interpreter
48	CI_Audio	female	Certified Interpreter
49	SI_Video	female	Certified Interpreter
50	CI_Audio	female	Certified Interpreter

About the Author

Ran is a PhD candidate at the University of New South Wales. She is also a Lecturer in the Department of Translation and Interpreting, Jilin International Studies University, China. She has many years of full-time institutional/industrial interpreting experience. Her research interests include court interpreting, forensic linguistics, and interpreter training.

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