

# Extra steps needed to try deaf suspect

*Argus Leader* - October 7, 2006

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PUBLISHED: October 7, 2006

A judicial system that relies on the weight of every word must now ensure it translates smoothly to deaf culture as a Sioux Falls deaf woman is tried in connection with a brutal slaying.

Differences between English - both spoken and written - and American Sign Language and ignorance about deaf culture can lead to poor communication in the courtroom. Ultimately, experts say, that could lead to an unfair trial.

Recent court proceedings involving Daphne Wright, 43, showed what the court must do to ensure she gets a fair trial.

She pleaded not guilty to killing Darlene VanderGiesen, 42, in February. VanderGiesen, of Sioux Falls, also was deaf.

Recently, court security had to be reminded by defense lawyers to remove Wright's handcuffs so she could communicate. Computer and projection screens displayed courtroom dialogue in real time so Wright and deaf onlookers could read what was said during motions hearings. And a privacy screen blocked Wright, her lawyers and American Sign Language interpreters from the public's view so she could communicate discretely in sign language or writing.

But some experts say that's not enough.

There are conflicting nuances in English and American Sign Language. And they likely will bear out in the courtroom as lawyers carefully choose each word to win, experts say.

But some English words can't be directly translated to American Sign Language, and vice versa.

"When you get into a legal situation with those kinds of subtleties and details, every little detail is being swung as a club with the case," said Steve Nelson, who has experience with legal interpreting and is a director at the National Technical Institute for the Deaf at Rochester Institute of Technology in New York.

Consecutive translation is generally advised in courtroom situations, said Thomas Kober, through an interpreter. He is president of the South Dakota Association for the Deaf and has trained court interpreters. This kind of translation involves having the American Sign Language interpreter wait to translate until the English speaker is finished talking.

However, the proceedings in the Wright case have been simultaneously translated so far.

Legal interpreters in Minnehaha County said they could not comment for this article because of their involvement in Wright's trial.

Because any two languages won't line up with each other exactly in translation, interpreters must make judgments. And the more time they have to make judgments, the fuller a translation can be.

"When you do simultaneous interpreting, you have a limited amount of time to evaluate your choices," Nelson said.

In American Sign Language, the listener might nod his head repeatedly to the signer to indicate he understands what is being communicated. It's a "keep sending" message, Nelson said. But to an English speaker, that nod indicates agreement. So a deaf person could find himself unwittingly "agreeing" to statements he merely understood.

Still, American Sign Language through an interpreter is often the preferred mode for communicating with English speakers, experts say.

The use of American Sign Language in the courts demands a record comparable to a traditional court reporter's record, said Dennis Cokely, director of the American Sign Language program at Northeastern University in Boston.

English speakers have the court reporter's record to refer to in case of a misunderstanding, and American Sign Language users need the same, he said. A videotape of an interpreter signing to the spoken language can provide a reference, he said.

In fact, such a recording already has become an issue in Wright's pretrial court hearings.

A videotape of Wright being questioned by police detectives was shown in the court. An interpreter named Lisa Fowler was provided during the questioning, but Fowler's hand signs were not visible in the recording.

Wright's lawyer, Traci Smith, argued Fowler's signing should have been shown to prove Wright had received a correct translation of what the detective said.

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