**Intercept interpreting – A Translational Activity *Sui Generis***

**Abstract**

Lawful interception has gained importance in law enforcement along with the development of information and communication technology. Understanding the language of the intercepted persons is essential for success. This article investigates whether and to what extent translatorial activity in the context of interception has been researched as a subject in its own right. We discuss the current state of research including studies of court interpreting and interpreting in police interrogations. Our study identifies considerable research lacunae, finding that the tasks involved in intercept interpreting differ in many ways from those required in court and police interpreting. The comparison presents it as an activity *sui generis*, and we therefore suggest using a unique term for it. Since previous research has not done justice to the importance the services of intercept interpreters have for the criminal justice system, we advocate for more transdisciplinary research in this area of translational action.

**Keywords**: interpreter competence, police interpreter, court interpreter, interception interpreter, translation, criminal law procedure, literature review

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# **Introduction**

Interception has been practiced ever since the first telegraph poles were erected in 1840 (Ventola 2017, 7) and has gained importance in law enforcement along with the development of modern information and communication technologies.

As criminal activity does not stop at the borders, an essential factor for successful interception work is the ability to understand the intercepted voices. Mediating between the intercepted material and the criminal justice authorities, intercept interpreters are indispensable pivots in the criminal investigation procedure of fact-finding and evidence construction.

Intercepted persons speak in colloquialisms, dialects, regiolects or even coded terms specific to their milieu. Interception may take place under adverse circumstances impairing acoustic perception, and its involving phone calls and/or multi-party conversations (if the microphone is placed in vehicles or crowded environments) poses additional difficulty for intercept interpreters.

In this essay, we investigate whether this area of translational action is and/or should be a research subject in its own right. We examine these questions through a systematic literature review, identifying a clear research lacuna regarding intercept interpreting (Section 2). We explain this gap by a lack of awareness of existing problems and the relative inaccessibility of the researched setting (Section 3).

The lack of research explicitly focusing on intercept interpreting would not pose a problem if its functional translatorial action framework[[1]](#footnote-2) did not differ from that of legal interpreting. Therefore the following section (Section 4) examines, in addition to the studies identified in the literature review, the research areas of court and police interpreting in order to better outline the profile of the translational agents engaged in intercept interpreting, their field of activity and the specific translatorial requirements and strategies relevant to it.

We conclude that this kind of translatorial action differs significantly from court and police interpreting and therefore advocate that intercept interpreting be regarded as an independent research area (Section 5). The diversity of tasks and competence requirements facing interpreters in this specific area suggest its being a hybrid activity that should be designated with a separate term. We propose the term ‘intercept interpreting,’[[2]](#footnote-4) which we use throughout this article.

# **Intercept Interpreting: Not (Yet) a Research Area?**

The question of whether intercept interpreting exists as a research area, or even as an independent one, was addressed in a first step by conducting a systematic literature review using selected keywords (2.1).

Since the systematic literature review had returned only a small number of relevant studies, in a second step we complemented it with a targeted traditional literature review (September 2020), undertaken in order to identify more primary studies on intercept interpreting in English and additionally German by broadening the range of databases searched (2.2).

In a third step, a further search was carried out (October – ­­November 2020) as part of a critical literature review (Grant & Booth 2009, 93), this time aiming to assess the state of research on interpreting in court and during police operations, in particular with respect to translatorial transfer strategies and competence requirements for interpreters (2.3).

## Systematic Literature Review

### *Methods*

For the first literature review, which given its short time frame (February – July 2020) can be described as a rapid systematic review (Grant & Booth 2009; Petticrew & Roberts 2012), literature was collected from the databases listed in Figure 1, which are all international databases that can be accessed electronically and index publications in translation studies, the social sciences and law. In order to delimit the range of relevant electronic resources and specify the search terms, the body of literature was explored using various search terms via the database service *Metalib* and the software *Publish or Perish* (Harzing 2007).

|  |  |
| --- | --- |
| *Database* | *Date of Inquiry* |
| Heinoline | 03/13/2020 |
| Web of Science | 03/18/2020 |
| Google Scholar | 03/19/2020 |
| Taylor & Francis | 03/16/2020 |
| JSTOR | 03/21/2020 |

Figure 1: Databases Searched

This search (February – March 2020) returned a total of 18,665 results.

Defining the search terms and Boolean operators was central to searching the databases. In order to systematically narrow down the search, the following search terms were used across all databases: “interpreter” OR “translator” AND “wiretap” OR “intercept” AND “evidence.” The process of determining the search terms was based on the PICO scheme: the target group (P = population) “interpreter” OR “translator” and the action (I = intervention) “wiretap” OR “intercept” as well as the result (O = outcome) “evidence” were expected to return relevant primary studies in English. “Evidence” was chosen as the ‘outcome’ because interception aims to collect evidence. Given the nature of the research question, no comparison value (C = Comparison) was assigned. For consistency, the search was carried out exclusively in English.[[3]](#footnote-5) No time limit was set.

All references were fed into a Citavi project and duplicate results were deleted. The references were then imported into the web-based program Rayyan (Ouzzani et al. 2016), which was developed specifically for systematic literature reviews.

In step two, exclusion criteria were defined in Rayyan in order to identify sufficiently relevant references. The program (Figure 2) allows the user to define inclusion and exclusion criteria. The date of publication for the results was limited to 1980–2020 and all references related to interpreting in healthcare and education, interpreting for children, as well as all articles on conference interpreting were excluded. Specifically, references with the following terms in the title or abstract were excluded: ‘medical,’ ‘patient,’ ‘clinical,’ ‘healthcare,’ ‘hospital,’ ‘psychiatric,’ ‘psychiatry,’ as well as ‘sign language,’ ‘deaf,’ ‘deafness,’ ‘classroom.’

References with the following terms were included: ‘interpreter,’ ‘language,’ ‘translator,’ ‘legal,’ ‘intercept,’ ‘investigation,’ ‘criminal,’ ‘multilingual,’ ‘police,’ ‘wiretap,’ ‘transcript,’ ‘pretrial,’ ‘tap,’ ‘evidence.’

Ein Bild, das Screenshot enthält.

Automatisch generierte Beschreibung

Figure 2: Screenshot of the literature review in Rayyan (Ouzzani et al. 2016)

In step three, all 1,294 references listed in Rayyan were manually reviewed for thematic relevance based on their titles and abstracts. After a manual full-text review of 63 works in Atlas.ti, step four finally yielded four references that qualified as primary studies. All further content analysis of the primary studies was conducted using Atlas.ti.

Step 1: Collecting sources

(n = 18,665)

Step 2: Limiting date of publication to 1980–2020, exclusion of duplicates, automated scanning of references in Rayyan (n = 1,294)

Step 3: Manual review of references based on titles and abstracts (n = 63)

Step 4: Manual review of complete texts

(n = 4)

Figure 3: Flow chart of the systematic literature review

### *Interim Results*

Although the systematic literature review initially produced a large number of search results, ultimately only four primary studies on translation in police operations with reference to intercept interpreting could be identified. The presentation of results was designed in accordance with the code structure created in Atlas.ti. To this end, the translating agents, the translational ​​activity and the competence requirements of each communicative setting were recorded.

All primary studies not discussing language mediation[[4]](#footnote-6) in the context of interception were excluded. Accordingly, jurisprudence studies focusing exclusively on the legal context of interception without making relevant reference to translation were excluded, as were secondary studies reporting on intercept interpreting (e.g., Gamal 2017).

Two of the primary studies included originate in Europe (González Rodríguez 2015; Herráez Ortega & Foulquié-Rubio 2008) and two in the USA (Bucholtz 2009; Nunn 2010). The studies cover questions in three research areas: translation studies, linguistics and law.

Table 1. Meta-Analysis of the Primary Studies Identified in the Systematic Literature Review.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Reference | Discipline | Method | Research Object | Translational agents | Translational activity | Competence requirements |
| Herráez Ortega & Foulquié-Rubio (2008) | Translation studies | Qualitative survey using the snowball principle | Activities of interpreters in police settings in Spain | Interpreter, translator, interpreter/translator | Interpreting in police interviews and in filing reports, interception transcribing, translation of documents, operating international calls and interpreting at international meetings, assisting non-native speaking citizens in immigration matters | Interpreting, translating, transcribing, assisting |
| Bucholtz (2009) | Linguistics | Discourse analysis | Process of producing written records in the context of interception | Interpreter, forensic linguist, auditor/  interpreter /transcriber | Interception for the purpose of creating evidence for use in legal proceedings | Auditory perception of spoken content, institutional classification, identification of content, purpose-oriented transcription for further use as evidence |
| Nunn (2010) | Law | Conversation analysis | Possible influence of the police in the production of transcripts in the context of interception | Monitor and translator, monitor-translator, forensic linguist | Interception in real time and recorded audio, for the purpose of producing evidence in form of translated transcripts for use in legal proceedings | Auditory perception with special consideration of codes and colloquialisms, criminal classification of intercepted content, purpose-oriented transcription for further use as legal evidence |
| González Rodríguez (2015) | Translation studies | Self-observation | Activities of intercept interpreters | intérprete de escuchas telefónicas | Interception in close collaboration with police officers to produce evidence in the form of translated transcripts for use in court proceedings | Auditory perception in interception with special focus on the voices and their linguistic, para-linguistic and kinetic information, identification of the intercepted conversation content |

## Targeted Traditional and Critical Literature Review

We complemented the systematic literature review with two further research phases: a targeted traditional literature review (September 2020) and a critical review (Grant & Booth 2009: 93) (October – November 2020). These were conducted in both German and English, and a broader range of databases was used.

Phase two yielded the following studies: Bajrić (2005), Salaets et al. (2015), Härdi (2015), Gradinčević-Savić (2020) and Drugan (2020).

Finally, phase three examined the state of research on court and police interpreting with reference to three central aspects: translational agents, translational activity and competence requirements.

The findings of phases two and three are presented in Section 4, where translatorial action in court and police interpreting is compared to that required in interception.

# **Possible Reasons for the Research Gap**

The limited results of the systematic literature review may at first seem surprising, especially when taking into account that similar interpreting activities within the criminal justice system have been much more widely researched.

Our findings coincide with those of Monteoliva-Garcia (2018). Based on a bibliometric analysis, the author was able to identify several hundred studies (n = 464) on interpreting in court and at public authorities published in the period of 2008–2017. These included interpreting in all phases of criminal proceedings (in court, with the police, in prisons), in the asylum and immigration systems, in the military and at other jurisprudential communicative events. A quantitative analysis revealed a clear focus of scientific interest on court interpreting (54%). Nevertheless, a decline in studies on interpreting in court in favor of studies in police settings (12%) could be identified (Monteoliva-Garcia 2018, 46).

Researchers’ focus on interpreting in court settings possibly provides a clue regarding the main reason for the lack of research on intercept interpreting: the feasibility of empirical research strongly depends on the accessibility of the research setting. In this context court hearings have the distinct advantage of being subject to the principle of public disclosure – an important pillar of any constitutional state affirming that all court hearings must in principle be open to the public. The principle is anchored not only in national legal systems, but also in international conventions such as the European Convention on Human Rights (Art. 6 Paragraph 1) or the International Covenant on Civil and Political Rights (Art. 14 Paragraph 1 Sentence 2).

This means that court interpreting is much more accessible, transparent and easier to observe for interested researchers (Angermeyer 2013, 107) than the work of interpreters engaged in interception activities in the police force.

While translatorial work processes in the police sector are not kept secret as a matter principle (Gamal 2017, 314), interpreting in police operations is less frequently the subject of research than is court interpreting. The existing research here concerns primarily interpreting assignments at interrogations of defendants, witnesses or victims (Donk 1994a; Krouglov 1999; Nakane 2009). Although these are not open to the public, they do not take place entirely without observation: lawyers, records clerks, the interviewer, and possibly additional parties along with their lawyers and interpreters are present. Hence we may conclude that a general awareness of the problematic aspects of police interpreting exists and encourages research interest, as difficulties always manifest in front of witnesses. It is noteworthy that with few exceptions, the researchers who have delivered pioneering work in this area are also practicing interpreters, which makes them so-called ‘practisearchers’ (Wadensjö 1998; Berk-Seligson 2009; Gamal 2017; Lai & Mulayim 2014; Mulayim et al. 2015; Mulayim & Lai 2016; Nakane 2009, 2014; Sami Sauerwein 2006). Up to now, professional access also seems to have been essential to opening the doors to research on intercept interpreting (Bucholtz 2009; Drugan 2020; González Rodríguez 2015; Gradinčević-Savić 2020).

Access is in fact a major challenge. First, there is less awareness of existing problems because intercept interpreting is not carried out in public and is extremely hard to reliably verify; second, it takes place during a delicate phase of police operations when secret investigations are ongoing. Thus confidentiality needs to remain the top priority. Furthermore, it is hardly in the interest of law enforcement authorities to disclose their working strategies and tactics in this field to the public.

However, based on our own and Monteoliva-Garcia’s (2018, 46) experience, changes in this sector are currently taking place. Both the police and public prosecutors show an increased willingness to allow scientific research. Indeed, a public awareness of existing problems is also slowly developing. Employing intercept interpreters in police operations comes at a major financial cost, producing a correspondingly high pressure to ensure that the methods applied deliver useful results; poor-quality interpreting may generate wrong information or unusable evidence.

# **Intercept Interpreting: Only Formally Part of Public Service Interpreting**

The fact that the systematic literature review yielded only four primary studies on intercept interpreting (see Section 2.1) would not be worrisome if its functional translatorial action framework[[5]](#footnote-7) was sufficiently covered within the research areas of court and police interpreting in the context of criminal justice.

The international standard for legal interpreting, *ISO 20228: 2019 (E) Interpreting services – Legal interpreting – Requirements*, situates interpreting in telecommunications interception along with the work of court interpreters as follows:

The interpreter should either interpret simultaneously the telephone communication (in operative cases, immediately before detention, etc.) or provide a written summary in the target language, or a word-for-word transcript of the intercepted communication in the target and/or source language, depending on the instructions of the investigating or court authority. Sometimes, companies or private individuals require a written summary or a transcript of the intercepted communication in the target language. (ISO 20228 2019, 19)

In this section we therefore assess whether this is the case based on the range of tasks, translational strategies and competence requirements of intercept interpreters.

## Range of Translational Activity

### *Interpreting for Court and Public Authorities*

Like in other legal fields, translation services in the criminal justice sector are deployed in court, in police operations, pre-trial detention and penal institutions (Berk-Seligson 2017, 239f). Thus a distinction is sometimes made between translatorial work in court (judicial interpreting / court interpreting) and at other public authorities (quasi-judicial interpreting / out-of-court interpreting) (Berk-Seligson 2017, 220; González et al. 2012, 95). The latter work also takes place in a legal context, and the respective communication can have far-reaching legal consequences (González et al. 2012, 95f). Berk-Seligson (2017, 220) includes interpreting for the police, asylum and immigration authorities and in penal institutions in this subset of interpreting activities.

In his study on the development of interpreting work in the European Union criminal justice system during the period of 1999–2014 and in particular on the effects of the EU Directive 2010/64 on translatorial activities, Hertog shows this dichotomy between court interpreting on the one hand and public service interpreting on the other to be problematic (Hertog 2015; Monteoliva-Garcia 2018). According to his research, the term ‘court interpreting’ fails to adequately reflect the importance of considering the entire range of translatorial activities in all phases of the proceedings, from the preliminary investigation to the pronouncement of a judgment. Ensuring a consistent quality of interpreting services throughout these phases appears fundamental to safeguarding the rights of the defendant and the public interest in a well-functioning judiciary (Capus 2015, 403ff).

In the course of police investigations, interpreters are deployed for questioning victims and suspects at crime scenes, in police stations or prisons, and at border police interviews upon entry (Sami Sauerwein 2006). It can be assumed that these communicative events occur more frequently than interpreting assignments in court hearings (Mikkelson 2017, 62f).

In all these settings the translatorial action consists in openly interpreting between people who are communicating orally. Dyadic communicative events form the usual interpreting situation in communicative settings at court and in the context of hearings and interviews with the police. These include at least two primary interlocutors, with the interpreting being bidirectional and mostly dialogic, and serving the purpose of immediate exchange and understanding (Mulayim et al. 2015).

The language proficiency of the interlocutors may vary widely, but the target language is always a standardized bureaucratic language. Further, the exchange is always entextualized, which however is outside the scope of the interpreter’s work.

### *Telecommunications Interception*

Lawful interception is undertaken in order to collect information and evidence during police investigations (Bucholtz 2009; Drugan 2020; González Rodríguez 2015; Gradinčević-Savić 2020; Härdi 2015; Herráez Ortega & Foulquié-Rubio 2008; Nunn 2010; Salaets et al. 2015). The military and secret service sectors (Ruiz Rosendo 2020; Stocklauser 2019) are not taken into account here as they are not part of the criminal justice system. The primary focus is on drug dealing and other types of organized crime, such as the illegal arms trade and human trafficking (González Rodríguez 2015, 110).

This field of translatorial action thus overlaps with that of interpreting at public authorities discussed above, in that both jobs involve cooperation with the police. However, this is actually their only commonality: unlike interpreters working in the public settings described above, intercept interpreters are never physically present with the wiretapped persons, the latter do not communicate in an official language, and the entextualization of the extracted information is part of the interpreters’ work. While persons being interpreted for at public authorities aim to be understood, persons who are being wiretapped usually participate in a completely different type of communicative event in which nobody considers the needs of the interpreter. In addition to rapid, slurred or imprecise speech, interruptions and overlapping auditory segments (several people speaking simultaneously), the use of coded language and code switching is prevalent (Bajrić 2005).

Consequently, even though interpretation work in the context of interception is part of police investigations and is therefore regarded as a form of legal interpreting, the language services required differ substantially. The following two subsections examine how this affects translatorial transfer strategies and competence requirements.

## Translatorial Transfer Strategies

### *Translatorial Transfer Strategies in Legal Interpreting and Especially Police Interpreting*

Legal interpreting is usually consecutive and bidirectional (Edwards 1995; Colin and Morris 1996; Kadrić 2006; Hale 2007; Berk-Seligson 2017; Mikkelson 2017; Kadrić 2019). Forms of interpreting practiced in this area include chuchotage, sight-translation (Berk-Seligson 2017, 38) and summarized interpretation (Berk-Seligson 2017, 38; Mikkelson 2017, 52). Based on the principle of multipartiality (Kadrić 2019), interpreters support the respective communication goals of the interlocutors and adapt the interpreting mode whenever possible. The translatorial action is mainly focused on ensuring mutual understanding and is functional in character (Kadrić 2020). According to Kadrić (2020), interpreting in the judicial sector can also include the translation of documents that are relevant to the judicial process.

Legal interpreting can be carried out in a preserved or customized style. Preserved interpretation should stay as close as possible to the original utterance in both form and content (“*in Form und Inhalt der Originaläußerung möglich[st] nahe*”[[6]](#footnote-8)) (Kadrić 2019, 91). Culturally relevant information must be made explicit in the interpretation. The way in which a statement is made, including redundancies and intonation, as well as the language register and style are reproduced in the target language, especially when the legal classification (“*die rechtliche Einordnung*”[[7]](#footnote-9)) (Kadrić 2019, 91) of a statement is necessary. On the other hand, being purposive and comprehension-oriented, customized interpreting aims to achieve mutual understanding in conversations.

Based on the strict protocol of court hearings, in their course statements are usually interpreted at the request of the presiding judge (Kadrić 2006, 26ff, 40).

In general this setup also applies to police interrogation. The interrogator is in charge of managing all proceedings and determines who may speak at which time. He or she ensures that the interpreter has sufficient time at his or her disposal and always has the possibility to clarify questions of comprehension. The police interrogation takes place as a planned and highly standardized form of communication (“*hochgradig standardisierte Kommunikationsform*”[[8]](#footnote-10)) (Sami Sauerwein 2006, 113), in which all actors are assigned fixed tasks.

Like in a court hearing, communication in an interrogation takes place as part of an institutionalized situation. It is subject to legal norms and rules, follows an action plan and has a clear objective.

Consecutive bidirectional interpreting with or without notes is used in police interviews or interrogations. During interrogations, interpreters are expected to transfer the interrogation tactics in accordance with the Criminal Investigation Department’s (CID) objectives, but also to remain as true to the original utterance as possible. Since the interpreter is involved in the relationship between the interrogator and the interrogated person, the distinction between the role of interpreter and that of auxiliary police officer can sometimes become blurred (Donk 1994a, 41). Wadensjö (1998:105) defines interpreting as translating (‘talk as text’) and coodinating utterances (‘talk as activity’).

The final product of a police interrogation is a written protocol of an oral dialogue ­– usually according to the question-and-answer scheme (Capus et al. 2014, 225 ff.) – made available for further use as evidence in judicial proceedings (Berk-Seligson 2009, 36). In such a communicative event, both the interrogator and the interrogated person are informed of the ensuing entextualization. The purpose of this communicative event is precisely the production of a protocol that can be further used in the judicial process. The interrogated person has the opportunity to influence the written content during and after the interview by choosing the information he or she wishes to provide at his or her own discretion and correcting and supplementing it afterwards. Sight-translation follows the interpretation of the oral conversation, that is, the written protocol of the conversation is interpreted back to the interrogated person, including both the questions and the interpreted answers. Both this production process and the interpreters and/or translators involved remain largely invisible in the final protocol (Berk-Seligson 2009, 211ff).

### *Translatorial Transfer Strategies in Intercept Interpreting*

Intercept interpreting involves a high level of dynamism and spontaneity, since the communication is inherently dictated by the intercepted actors. Translatorial action in intercept interpreting does not follow any protocol or institutional framework; however, it requires particular and hybrid translatorial strategies from the interpreters.

A characteristic feature of intercept interpreting is that interpretation takes place unidirectionally, that is, into the language of the public authorities. The interpretation is conducted either as a faithful (“*wortgetreue*”[[9]](#footnote-11)) translation (Härdi 2015, 25) of an audio file or as a summarized rendering of the content of a conversation. Particular attention is paid to allusions, subtle nuances or ambiguities (“*Anspielungen, feine Nuancen oder Mehrdeutigkeiten*”[[10]](#footnote-12)) (Härdi 2015, 25). Special attention should also be paid to the use of regionalisms, slang or in-group language specific to particular communities.

Unlike in other interpreting forms , the aim of intercept interpreting is not successful communication between the interlocutors, but the identification of the conversation content in accordance with the institutional mandate and its transfer into an objectified format (in writing or orally). The conversation parameters that are usually known in an interpreted situation after Alexieva (1997) (interpreting mode, participants, interpreting topic, text type and structure, spatial and temporal restrictions as well as the communication goal) are often of no help in intercept interpreting, since the conditions for an interpreted bidirectional communicative event are not given. On the contrary, in this setting discussion parameters such as participants, topic, type of text, structure, spatial and temporal restrictions as well as the communication goal are often unknown.

Given the urgency of the situation, interpreters in interception are required to identify and contextualize auditory content within seconds (González Rodríguez 2015, 114). The high degree of spontaneity in communicative events and interlocutors in combination with emotionally stressful conversation content represent the particular difficulties of this type of work.

Generally, the conversation content is captured remotely and exclusively via the auditory information channel (González Rodríguez 2015, 114). The communicative action is reconstructed based on auditory cues. This is where referential translatorial competence, which can be described as a metacommunicative translatorial strategy (Havelka 2018), becomes especially relevant. In translatorial action, available auditory, visual, and situational information is generally used in the translational process. Especially code switching, that is, changing from one language to another within a single utterance, requires an extraordinary capacity to anticipate possible content.

The intercepted persons are of course not informed about the wiretapping during their communicative event. Their communicative behavior is therefore not influenced by the interception. In addition, intercepted persons have no influence on the entextualized content resulting from the interception. They are unable to take additional or corrective action, as is possible in other interpreted communications. This also implies that the work of intercept interpreters can hardly be verified for correctness of content (Härdi 2015, 26).

## Competence Requirements

The following subsections present a breakdown of the core and specific competence requirements relevant to the three areas of interpreting discussed here (court, police and intercept interpreting).

### *Core Competences*

Interpreters in court and in the police force are expected to demonstrate a high level of language and translatorial competence, as well as professional competences relevant to the respective institution (Colin & Morris 1996, 169). According to international standards (ISO 20228 2019, 7–9), the following competences are generally required to work as an interpreter at courts and public authorities: language competence (e.g., command of language registers, dialects, and regionalisms), professional competence, translatorial competence (e.g., proficiency in consecutive and simultaneous interpreting as well as chuchotage), intercultural competence, social competence, and digital competence. Quality assessments of these competences are increasingly in demand.

Apart from the mere transfer of content, the provision of information on the cultural context is also expected, which is why interpreters are to be regarded as experts (Edwards 1995, 137f; Kadrić 2006, 49ff; Kadrić 2019, 48). In addition, interpreters can be called upon as experts to assess third-party translations or interpretations (Berk-Seligson 2017, 55). Gamal considers the production of forensic transcripts an expert activity, but also recognizes that few interpreters working in interception have received formal training in this area (2017, 305). Drugan (2020, 316f) describes these expert activities, including quality assessments of the work of fellow interpreters, as part of language services in the field of interception.

It has not yet been researched whether the fulfillment of these requirements is systematically demanded of intercept interpreters. As discussed above, while their work is definitely set in an institutional framework, it does take place in the judiciary or another publicly accessible setting; rather, the isolated task is performed without interaction by one person alone in a room. While interception work requires close cooperation between investigators and intercept interpreters, there is as yet no institutional framework for this to happen (Drugan 2020, 318); thus institutional competence requirements are lower in this regard. It remains unknown whether, and, if so, how linguistic and translatorial competences are tested.

While communication in court hearings as well as in interrogations and police interviews is structured as a bidirectional and strictly regulated institutional process, interception work is dictated by the spontaneous communicative behavior of the intercepted persons outside an institutional context. In addition, the main purpose of translatorial action in interception settings is not to facilitate the communication goal of the primary interlocutors, as is the case with legal interpreting. As a result, both its linguistic and translatorial competence requirements differ from those of legal interpreting. It has not yet been researched to what extent this is the case.

It is important not to ignore so-called digital competence. The primary interlocutors in a court hearing or a police interrogation can communicate both in-person and remotely by telephone or video calls (Braun 2012). Video-mediated remote interpreting allows the perception of visual cues during the communicative event, while audio interpreting is based only on auditory information. Non-verbal communication plays an essential role here: how a message is to be interpreted depends in part on non-verbal communication elements and their cultural context (Knapp et al. 2014).

In contrast, intercept interpreting is always carried out remotely and mediated by technology, which is why digital competences are required for handling this setting and producing high-quality target texts. Gradinčević (2020, 182) explicitly mentions IT skills as a necessary competence for intercept interpreters, as they must be able to work independently using IT interception systems. Drugan (2020, 313f) also describes the use of different media formats that can serve as the basis for intercept interpreting, such as video or audio materials as well as short text messages via messenger services or e-mail. Correct use of these media is imperative.

The following three subsections present specific competences that are particularly relevant to intercept interpreting.

### *Criminological Competence*

Research on the work of interpreters in police operations has demonstrated and critically assessed the fact that interpreters adopt police interrogation strategies and apply them in their translational interaction (Donk 1994b; Nakane 2014; Sami Sauerwein 2006). Intercept interpreters are expected to demonstrate a much higher level of criminological competence, as their main task is to gather information and evidence (Nunn 2010, 28; Drugan 2020, 313f). Depending on the relevance of the intercepted content to the investigation, these results may be used in the course of preliminary proceedings. It is up to each interpreter to develop his or her criminological intuition (Härdi 2015, 25). To further the investigation, interpreters classify the intercepted content as either criminally relevant or irrelevant. The investigation team’s interim findings may influence this classification and thus the working out of a target text.

Interception places high demands on interpreters, as relevant content must be filtered out from irrelevant content almost instantaneously at the time of overhearing the conversation (Nunn 2010, 30; Drugan 2020, 313). In a two-phase process, the intercepted communication is transferred from its spoken form into written summaries or translations as well as reorganized into institutionalized categories with legal relevance, which results in its decoupling from the original communicative event (Bucholtz 2009, 505; Nunn 2010, 31). In this context, the transcribed utterances are regarded more as an instrument and less as a documentation of the spoken communication (Nunn 2010, 28).

Bucholtz (2009) examines the entextualization of protocols for investigative purposes in legal contexts, mainly addressing the various approaches to transcription and how the respective purpose determines the form of the transcript. According to her, a difference can be established between transcripts authored by persons with a legal versus a linguistic background, which is possibly because of the former authors’ strong focus on acquiring information relevant to the investigation process: investigators record content relevant to their work and deemphasize content lacking direct legal relevance. However, when transferring spoken language into a written form in this way, contextual-sensitive content is lost.

An impartial approach is rendered considerably more difficult, since commissioning a transcript or translation serves an explicit purpose, namely incriminating one or more interlocutors overheard in the recorded communication. Therefore transcripts and translations are authored based not only on the intercepted utterances, but also on the current knowledge of the investigation team (Bucholtz 2009, 509). Thus the findings of previous investigations influence the translational action, especially with respect to the language decoding expected of interpreters (Drugan 2020, 314). Transcripts are produced largely under the supervision of the author (auditor/interpreter/transcriber) and the institution at which they are authored (Bucholtz 2009, 505). Spoken content is reviewed for criminological relevance and code words and nicknames are interpreted semantically (Nunn 2010, 34f).

#### Auditory Competence

Interception places special demands on interpreters also because the intercepted content is available exclusively in the form of auditory information originating in one or more spatial situations. González Rodríguez (2015, 114) sees a strong connection between the requirements for interpreting in the context of interception (‘*interpretación en/para escuchas telefónicas’*) and telephone interpreting in that both rely on monosensory perception via the auditory channel. In this context we can distinguish between two forms of auditory information: interception makes use of, on the one hand, verbal linguistic content and, on the other hand, extra-linguistic references to the intercepted communicative event perceived via the auditory channel. An example of the latter is the recognition and assignment of voices (Bucholtz 2009, Nunn 2010, González Rodríguez 2015, Drugan 2020). During an operation it may be required to recognize several voices, some of which may overlap in conversation. However, the voice as a three-dimensional source of auditory information reveals much more than just the identity of the speaker; it does so through verbal, paraverbal and non-verbal communication as well as kinesics. A speaker’s belonging to a specific cultural group, his or her level of education and other social characteristics can be determined at the verbal level. At the paraverbal or non-verbal level, it is possible to extract information regarding age, gender, health, but also the emotional state. Finally, through ambient noises, kinesics also allows the listener to draw conclusions about the location of the speaker and the environment in which the conversation takes place (González Rodríguez 2015, 117).

Acoustic obstacles may impede understanding of the communication. These can be a result of background noise, the speaker’s pace of speech, pronunciation featuring a strong dialect or accent, several persons speaking simultaneously, or incomplete sentence structure (Gamal 2017). Questions clarifying the intended meaning cannot be posed (Colin and Morris 1996, 17f).

#### Psychological Resilience

The asymmetric communicative events in intercept interpreting require a pronounced capacity for anticipation as well as resilience.

Herráez Ortega & Foulquié Rubios (2008) examined the work of translators in police settings by means of surveys using the snowball principle. Their study covers the translatorial activity at two police units (*Cuerpo Nacional de Policía* and *Guardia Civil*) in Spain. After surmounting various difficulties in accessing the research setting and lacking the possibility to question police officers, the researchers finally located seven interpreters and translators able to provide information about their interpreting activities for the police. As part of their work in the police force, interpreters participate in various phases of investigations. In addition to interception, they also interpret in interviews with witnesses, victims and prisoners, in communication between parties and at international police meetings, as well as taking on translation work and doing most of the transcription and translation of tapped phone calls (Herráez Ortega & Foulquié Rubios 2008, 134). According to González Rodríguez (2015, 117), throughout the interception process interpreters remain in close cooperation and continuous exchange with the investigation team (Drugan 2020, 313f). Thus González Rodríguez (2015) describes intercept interpreting as a diverse and highly stressful set of tasks.

Original surveys with intercept interpreters (Capus/Griebel/Rosset, in progress) show that their inevitable witness status can be a source of stress: they are required to listen to violent attacks occurring in real-time and can at best alert the police; however, no intervention is possible during a retrospective revision of recorded material.

# **Intercept Interpreting as an Activity *Sui Generis***

Based on the above evaluation of the few existing studies, we conclude that intercept interpreting is a hybrid activity. It goes far beyond the translational action of spoken and written language (Pöchhacker 2004, 10f) and differs in so many ways from court and police interpreting that we propose to use an independent term for it.

## Definition of Terms in Translation Studies

Having established the independence and specificity of intercept interpreting as a hybrid activity, we thus advocate for using an independent designation, as we have already done in this article.

The interpreting studies literature shows great variability regarding the designation of translational agents in the context of intercept interpreting. Primarily, the terms ‘interpreting’ and ‘interpreters’ are used (Herráez Ortega & Foulquié Rubios 2008; Salaets et al. 2015; González Rodríguez 2015, Gamal 2017; Gradinčević 2020; Drugan 2020).

However, the term ‘monitor-translator’ (Nunn 2010) is also used, which raises questions regarding the distinction between ‘translator’ and ‘interpreter,’ which we shall discuss shortly. The term ‘forensic linguistic expert’ emphises the forensic aspect (Salaets et al. 2015). Drugan (2020) uses the term ‘linguist’ to denote a provider of language services that may differ from translating and interpreting. In the German-speaking context the terms ‘*Dolmetscherin/Dolmetscher*’ (interpreter) and ‘*Übersetzerin/Übersetzer*’ (translator) are both used (Gradinčević 2020), reflecting the hybrid nature of intercept interpreting; oral rendering is commonly referred to as interpreting, while written rendering is called translation (Colin and Morris 1996; Mikkelson 2017; Laver & Mason 2018, 68).

In view of the emerging technology-supported hybrid forms of translational activity, including intercept interpreting (Pöchhacker 2004, 11; Salaets et al. 2015, 5), it seems more appropriate to regard the various cognitive requirements placed on the intercept interpreter by the translatorial activities as the feature distinguishing between translating and interpreting. The technology-supported intra- or interlingual translational action of live-subtitling, in which a written target text is generated from an oral source text with minimal possibility of correction in a live report for a television audience (Romero-Fresco 2019), or speech-to-text interpreting (Platter 2019), which provides an intralingual written presentation of an oral source text for a hearing-impaired audience in real time, also count as forms of interpreting. Distinguishing between translating and interpreting based on written versus oral rendering therefore does not seem to be a suitable criterion (Pöchhacker 2004, 11).

The medium of the source text is therefore irrelevant to the definition of interpreting. It is not an oral or even motor-phonetic (“motorisch-phonetische”) or acoustic (Kade 1968, 34) mode of rendition that is decisive, but rather its availability and repeatability and thus also the limited controllability of the rendition. Otto Kade’s definition of interpreting proposes that the translational activity is carried out under time pressure and with only minor corrections. His definition thus seems more appropriate:

By *interpreting* we understand the rendering of a source-language text presented once (usually orally) in a target-language text which can be checked only to a limited extent and which due to lack of time can hardly be corrected. (Kade 1968, 35)[[11]](#footnote-13)

While translating is defined as translational action with a static source text, interpreting is characterized by a immidiate rendering of the source text under time pressure.

By *translating* we understand the rendering of a source-language text that has been preserved (in writing) and is hence permanently available or can be repeated at will, in a target-language text which can be checked any time and can be repeatedly corrected. (Kade 1968, 35)[[12]](#footnote-14)

Kade defines translational action as a communicatively equivalent form of language mediation (1980, 72) and divides language mediation (“*Sprachmittlung*”) into translational action (“*Translation*”) and adaptive content-processing (“*inhaltsbearbeitendes*”) transmission, the scope of which is not further defined (Kade 1980, 81).

In our view, this terminological choice is appropriate, as it allows us to grasp the particular context dependency of intercept interpreting, which consists in the transfer of colloquial or even coded utterances in the source language into the target language in a criminological context.

## Intercept Interpreting as a Hybrid Activity

We classify intercept interpreting as a hybrid activity because translatorial activities are carried out alongside other independent activities, as described above (Drugan 2020; González Rodríguez 2015; Gradinčević-Savić 2020; Herráez Ortega & Foulquié-Rubio 2008; Salaets et al. 2015).

The diversity of translational activities in the context of intercept interpreting is determined by its various types of source texts: auditory information in real time, recorded conversation segments, or even short written messages. The field thus encopasses both interpreting and translation; further, a verbatim or summarized translation may be required. Linguistic transmission takes place unidirectionally under time pressure.

One of the main work settings of intercept interpreters is participation in criminological proceedings: language codes must be recognized and decoded; relevant content has to be sifted out of large amounts of irrelevant conversational material (Drugan 2020, 313). While in court and police settings the communicative action is coordinated top-down, intercept interpreters are required to independently review content for relevance, which requires criminological competence as well as a high level of auditory and anticipatory competence.

Additionally, monitoring is part of the translatorial activities. This includes listening for criminologically relevant developments; for example, the interpreter may notice that the intercepted drug dealer sounds tense and deduce that a set meeting is not just about having a beer with a friend and handing over a pair of shoes. So far there is only rudimentary academic knowledge about this important subtask of intercept interpreting. We can also assume it to produce a significant psychological burden on the interpreter, caused by the unpredictability of the overheard conversations combined with the rapid pace of work expected in investigative proceedings.

Another central activity is entextualization: the result of intercept interpreting is not oral and therefore transient; rather, the goal is to produce a written record to be used in further proceedings. As a matter of principle, both secret and open records of private communicative events as well as events with decision-makers in court and at public authorities are entextualized for evidence-related purposes and used in the further course of proceedings. Thus also the interpreter’s contribution is intended for further use in the proceedings, and may even serve as evidence.

Whether the interpreted intercept serves as evidence or leads to evidence, criminal procedure provisions demand that its mode of production be transparent (Capus / Bally 2020, 345ff.). In other words, the actions taken within the translatorial work process must be standardized. Improper methods in the production of forensic transcripts or their translation may significantly influence the course of proceedings.

The research gap regarding this translational process is enormous. Does interpreting into the target language take place in real time, while the interpreter is listening to the source text, and is the interpretation only recorded in the target language? Interviews with intercept interpreters and *in situ* observations in Switzerland (Capus/Griebel/Rosset, in progress) resulted in this finding. In theory, it is recommended that auditory text elements be transcribed into the original language first and then translated into the target language in a second step (Edwards 1995, 123; González et al. 2012, 966). This is the only way to ensure transparency in being able to trace back any ambiguities in the target language to the original utterance.

Other researchers report transcripts being an important work instrument because they provide a time-saving overview of the audio recordings collected in the course of the proceedings (González et al. 2012, 965ff). It remains unclear to which specifications these transcripts are created. When transcripts are produced in the source language, the translatorial activity evidently changes and the intercept interpreter instead translates. It is unknown whether the interpreters who produce the transcripts are also in charge of the translation. In any case, there is a double transfer: first, spoken language is transferred into written form and second, the text is transferred from the source language into the target language. A transcript can undergo several such transfers in the further course of proceedings (Havelka, work in progress). How these transfers come about and how these newly produced texts relate back to the original text has not yet been investigated either. What seems certain is that the lack of a standardized forensic transcription process is a major obstacle to quality assurance.

The same applies to the professional training of intercept interpreters. While there has been a change in awareness in the field of court and police interpreting, where initial empirical findings have been gathered (Hale et al. 2019, 107 ff.) and where over the last decade investments have been made into training quality assurance and the promotion of continued professional training (e.g., the *ImPLI – Improving Police and Legal* *Interpreting Campaign* at the European level)[[13]](#footnote-15) by means of harmonized requirements, such change is still outstanding in the field of intercept interpreting. Initial findings (Capus/Griebel/Rosset, in progress) indicate that interception work is often carried out by untrained persons whose only common denominator is bilingualism.

# **Conclusion**

Our findings are sobering: the present state of knowledge on intercept interpreting is rudimentary and there is above all a pressing need for transdisciplinary research with contributions from jurisprudential, translational, and linguistic perspectives, as well as from the sociology of law. As the systematic literature review (2.1) clearly indicates and as the subsequent reviews confirm, even though there is an increased awareness of problems in the area of ​​court and police interpreting and the work of interpreters in these contexts is largely well documented, intercept interpreting as a translatorial activity has not yet been well researched. We were able to ascertain understandable reasons for this disparity (see section 3.).

However, our null hypothesis – that intercept interpreting is not an independent research area, since its functional translatorial action framework is practically congruent with that of court and police interpreting in the context of criminal justice – could not be confirmed (see section 4.): the differences regarding the three aspects we chose for characterizing translatorial action – translational agents, translational activity and competence requirements – are too significant. Intercept interpreting is an activity *sui generis,* which not only deserves an independent term, but above all more and especially transdisciplinary research.

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1. In the sense of Holz-Mänttäri (1984) interpreting and translating is described as translatorial action (‘*Translatorisches Handeln*’), a purpose-driven and functional action integrated in a sociocultural context. [↑](#footnote-ref-2)
2. In German we suggest the term ‘*KÜ-Sprachmittlung*.’ [↑](#footnote-ref-4)
3. Publications in languages other than English are also findable since they appear with an English title and abstract. [↑](#footnote-ref-5)
4. In the sense of Otto Kade’s ‘*Sprachmittlung*.’ [↑](#footnote-ref-6)
5. In the sense of Holz-Mänttäri’s (1984) translatorial action framework we focus on transfer strategies and competence requirements. [↑](#footnote-ref-7)
6. Own translation. [↑](#footnote-ref-8)
7. Own translation. [↑](#footnote-ref-9)
8. Own translation. [↑](#footnote-ref-10)
9. Own translation. [↑](#footnote-ref-11)
10. Own translation. [↑](#footnote-ref-12)
11. Translated into English from the German original by Christiane Nord (cf. Reiß/Vermeer 2013, 9). [↑](#footnote-ref-13)
12. Ibid. [↑](#footnote-ref-14)
13. https://eulita.eu/impli-improving-police-and-legal-interpreting/ [↑](#footnote-ref-15)