

## APPENDIX A

### Proposed New Instructions For Use in Cases in Which An Interpreter or a Translator Is Provided

## **2.8 JURY TO BE GUIDED BY OFFICIAL ENGLISH TRANSLATION/INTERPRETATION**

### **PRELIMINARY INSTRUCTIONS**

[Language used] may be used during this trial.

**The evidence you are to consider is only that provided through the official court [interpreters] [translators]. Although some of you may know the [language used], it is important that all jurors consider the same evidence. Therefore, you must accept the English [interpretation] [translation]. You must disregard any different meaning.**

*To be given if jurors are to be allowed to question the accuracy of the English interpretation.*

**If, however, during the testimony there is a question as to the accuracy of the English interpretation, you may bring this matter to my attention by raising your hand. You should not ask your question or make any comment about the interpretation in the presence of the other jurors, or otherwise share your question or concern with any of them. I will take steps to see if your question can be answered and any discrepancy resolved. If, however, after such efforts a discrepancy remains, I emphasize that you must rely only upon the official English interpretation as provided by the court interpreter and disregard any other contrary interpretation.**

### **Comment**

This instruction should be given as part of the preliminary instructions to the jury. See *United States v. Franco*, 136 F.3d 622, 626 (9th Cir. 1998); *United States v. Fuentes-Montijo*, 68 F.3d 352, 355-56 (9th Cir. 1995).

## 2.9 JURY TO BE GUIDED BY OFFICIAL ENGLISH TRANSLATION/INTERPRETATION

### INSTRUCTIONS DURING TRIAL

#### *Introduction and Oath to Interpreter*

The law requires that the court appoint a qualified interpreter to assist a witness who does not readily speak or understand the English language in testifying. The interpreter does not work for either side in this case. [He] [She] is completely neutral in the matter and is here solely to assist us in communicating with the witness. [He] [She] will repeat only what is said and will not add, omit, or summarize anything. The interpreter in this case is (insert name of interpreter). The oath will now be administered to the interpreter.

#### *Oath to Interpreter*

Do you solemnly swear or affirm that you will make a true interpretation to the witness of all questions or statements made to [him] [her] in a language which that person understands, and interpret the witness's statements into the English language, to the best of your abilities, So Help You God.

#### *Foreign Language Testimony*

You are about to hear testimony of a witness who will be testifying in [language used]. This witness will testify through the official court interpreter. Although some of you may know the [language used], it is important that all jurors consider the same evidence. Therefore, you must accept the English translation of the witness's testimony. You must disregard any different meaning.

*To be given if jurors are to be allowed to question the accuracy of the English interpretation.*

If, however, during the testimony there is a question as to the accuracy of the English interpretation, you may bring this matter to my attention by raising your hand. You should not ask your question or make any comment about the interpretation in the presence of the other jurors, or otherwise share your question or concern with any of them. I will take steps to see if your question can be answered and any discrepancy resolved. If, however, after such efforts a discrepancy remains, I emphasize that you must rely only upon

**the official English interpretation as provided by the court interpreter and disregard any other contrary interpretation.**

**Comment**

This instruction should be given to the jury immediately before the testimony of a witness who will be testifying through the services of an official court interpreter. C.f. *United States v. Franco*, 136 F.3d 622, 626 (9th Cir. 1998) (jury properly instructed that it must accept translation of foreign language tape-recording where the accuracy of the translation is not in issue); *United States v. Fuentes-Montijo*, 68 F.3d 352, 355-56 (9th Cir. 1995).

**2.10 JURY TO BE GUIDED BY OFFICIAL ENGLISH  
TRANSLATION/INTERPRETATION**

**TRANSCRIPT OF RECORDING IN FOREIGN LANGUAGE  
(ACCURACY NOT IN DISPUTE)**

**You are about to listen to a tape recording in [language used]. Each of you has been given a transcript of the recording which has been admitted into evidence. The transcript is a translation of the foreign language tape recording.**

**Although some of you may know the [language used], it is important that all jurors consider the same evidence. Therefore, you must accept the English translation contained in the transcript and disregard any different meaning.**

**Comment**

**This instruction is appropriate immediately prior to the jury hearing a tape-recorded conversation in a foreign language if the accuracy of the translation is not an issue. See, e.g., *United States v. Franco*, 136 F.3d 622, 626 (9th Cir. 1998); *United States v. Fuentes-Montijo*, 68 F.3d 352, 355-56 (9th Cir. 1995).**

**2.11 JURY TO BE GUIDED BY OFFICIAL ENGLISH  
TRANSLATION/INTERPRETATION**

**TRANSCRIPT OF RECORDING IN FOREIGN LANGUAGE  
(ACCURACY IN DISPUTE)**

**You are about to listen to a tape recording in [language used]. Each of you has been given a transcript of the recording. The transcripts were provided to you [by the State] [the defendant] so that you could consider the content of the recordings. The transcript is an English translation of the foreign language tape recording.**

**Whether a transcript is an accurate translation, in whole or in part, is for you to decide. In considering whether a transcript accurately describes the meaning of a conversation, you should consider the testimony presented to you regarding how, and by whom, the transcript was made. You may consider the knowledge, training, and experience of the translator, as well as the nature of the conversation and the reasonableness of the translation in light of all the evidence in the case. You should not rely in any way on any knowledge you may have of the language spoken on the recording; your consideration of the transcripts should be based on the evidence introduced in the trial.**

**Comment**

**This instruction is appropriate immediately prior to the jury hearing a tape-recorded conversation in a foreign language if the accuracy of the translation is an issue. See, e.g., *United States v. Jordan*, 223 F.3d 676, 689 (7th Cir. 2000). See also Seventh Circuit Federal Criminal Jury Instructions, § 3.18.**

**2.12 JURY TO BE GUIDED BY OFFICIAL ENGLISH  
TRANSLATION/INTERPRETATION**

**CLOSING INSTRUCTIONS**

[Language used] has been used during this trial.

**The evidence you are to consider is only that provided through the official court [interpreters] [translators]. Although some of you may know [language used], it is important that all jurors consider the same evidence. Therefore, you must base your decision on the evidence presented in the English [interpretation] [translation]. You must disregard any different meaning.**

*To be given if jurors have been allowed to question the accuracy of the English interpretation.*

**If, during the testimony there was a question as to the accuracy of the English interpretation and steps were taken to resolve any discrepancies and despite these efforts a discrepancy remains, I emphasize that you must rely only upon the official English interpretation as provided by the court interpreter and disregard any other contrary interpretation.**

**Comment**

*See United States v. Franco, 136 F.3d 622, 626 (9th Cir. 1998); United States v. Rrapi, 175 F.3d 742, 748 (9th Cir. 1999); United States v. Fuentes-Montijo, 68 F.3d 352, 355-56 (9th Cir. 1995).*