

Translating Research into Policy: New Guidelines for Communicating Rights to Non-Native Speakers

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Abstract. *The purpose of this article is to introduce the Guidelines for communicating rights to non-native speakers of English in Australia, England and Wales, and the USA. The guidelines were authored by the international Communication of Rights group (CoRG) that brought together 21 linguists, psychologists, lawyers, lawyer-linguists and interpreters. The intention was to “translate” research on the communication of rights to non-native speakers in police interviews for practitioners and policy makers. Drawing on linguistic and psychological research, as well as our collective experience of working with specific cases, CoRG produced a 2000-word guidelines document with seven recommendations, an explanation accessible for police officers, lawyers, judges and justice administrators, and a bibliography of relevant research. The article explains why this project was restricted to three common law countries, and encourages others to consider using the document, following this article, as a starting point for a similar development in their own country or jurisdiction.*

Keywords: *Right to silence, non-native speakers, Miranda rights, cautions, police interviews.*

Resumo. *Este artigo apresenta as Orientações para comunicação de direitos a falantes não nativos de inglês na Austrália, Inglaterra e País de Gales, e Estados Unidos da América. As orientações são da autoria do grupo internacional Communication of Rights (CoRG), que agrega 21 linguistas, psicólogos, juristas, jurilinguistas e intérpretes, e procuram “traduzir” investigação realizada sobre comunicação de direitos a falantes não nativos em interrogatórios policiais para profissionais e decisores políticos. Baseando-se em investigação em linguística e psicologia, bem como na própria experiência coletiva com casos específicos, o CoRG produziu um documento de 2000 palavras com sete recomendações, uma explicação acessível para agentes policiais, juristas, juízes e oficiais de justiça, e uma bibliografia relevante. O artigo explica a delimitação do projeto a três países da tradição “common law” e incentiva outros investigadores a utilizar o documento (no final do artigo) como ponto de partida para o desenvolvimento de trabalho idêntico no seu próprio país ou jurisdição.*

Palavras-chave: *Direito ao silêncio, falantes não nativos, direitos Miranda, cautions, interrogatórios policiais.*

Introduction: the right to silence in police interviews

In 1948, the United Nations (UN) General Assembly in Paris adopted the Universal Declaration of Human Rights as a common standard of achievements for all peoples and all nations. Article 11, part (1) of the Declaration states: “Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense”. This fundamental human right has been further elaborated in the International Covenant on Civil and Political Rights (ICCPR) adopted by the UN General Assembly in 1966 and signed, ratified, and enforced by 168 states. Article 14 of the ICCPR restates the right to be presumed innocent and outlines several concomitant rights, including the right to be informed about the charges in “a language which [the suspect] understands” and the right “not to be compelled to testify against himself or to confess guilt.” In many legal systems around the world, this right against self-incrimination, commonly known as the right to silence, is communicated to suspects at the beginning of the police interview. In the US this communication is referred to as the Miranda Rights, and in Australia, England and Wales, it is known as the Caution. The exact wording varies across jurisdictions, but here is an example from Australia:

You are not obliged to answer any questions.
Anything you do say may be recorded and later given in evidence.¹

Research shows that even native speakers of English do not always understand their rights: their comprehension is affected by individual factors, such as their level of education and cognitive abilities, by the wording of the rights, and by situational factors, including stress and trivialization strategies used by the police (e.g. Rogers *et al.*, 2010, 2011; Scherr and Madon, 2013; for further references see the Guidelines). The difficulties persist even in jurisdictions where the communication of the rights is less formulaic and more interactional, yet suspects still fail to understand the consequences of choosing to answer police questions (Rock, 2007).

The problems are even greater among vulnerable populations, including juveniles, people with mental disorders, and speakers with limited English proficiency who may be able to conduct basic transactions, but do not understand legal terms, such as “waiver”, or complex sentences, such as “Everything you say can and will be used against you in a court of law.” (e.g. Pavlenko, 2008; for further references see the Guidelines). The common means of ensuring understanding in police interviews is a direct question “Do you understand?”, but many suspects may say “yes” out of fear or deference to authority, even when they have not understood what was said to them. If, at the subsequent hearing, the defense shows that the rights were not properly communicated and understood by the suspect, the evidence produced during such interrogation may be suppressed or ruled as inadmissible by the judge.

The scope of the Guidelines document

Widespread concerns about the communication of rights – such as the right to silence – to non-native speakers of English in police interviews have led to the development and release of the Guidelines for Communication of Rights to Non-Native Speakers of

English (see following this article or <http://www.aal.org/?page=CommunicationRights>) by the international Communication of Rights Group (CoRG). This group, co-convened by the authors of this article, comprises 21 linguists, psychologists, lawyers, lawyer-linguists and interpreters in Australia, England and Wales and the United States. Grounded in relevant research, but written for a non-specialist audience, the Guidelines provide workable recommendations for best practices in the delivery of the right to silence. Most of the recommendations are also relevant, to some extent, to native speakers and to administration of other rights.

From the outset, we realised the formidable challenge involved in writing a document which is specific enough to provide law enforcement and judicial officers with practical guidelines, while remaining sufficiently general to embrace the differences in law and practice. Despite the very wide occurrence of rights delivery in police interviews, there is considerable jurisdictional variation in mandatory rights, their wording, and regulations governing their usage. For example, the right to a lawyer, while mandatory in the United States, is not mandatory in every jurisdiction in Australia. Furthermore, rights are mandated by statute (written law) in some jurisdictions and by judge-made law (written judgments which act as legal precedents) in others. The resulting document takes this variation into account. The main limitation of the document is the focus on specific English-speaking countries. This limitation stems from the fact that most of the linguistic and psycholinguistic research on the communication of rights to native and non-native speakers, involves studies and cases in Australia, England and Wales, and the United States. In order to produce a document that could inform actual practice, rather than a general declaration, we decided to limit the scope of the Guidelines to these countries and to non-native speakers of English.

In the next three sections of this article we outline the content of the Guidelines. Readers are encouraged to read the full (2000 word) document which follows this article. The final sections of the article detail responses to the document from professional associations in the fields of linguistics, interpreting and law and invite scholars and practitioners to use the Guidelines in their own work and develop similar documents specific to their own legal and linguistic situations.

Misconceptions about second language proficiency

One of the challenges faced by the group in creating a set of short, non-technical guidelines for adoption by law enforcement was the extensive variation in English proficiency among non-native speakers. It was important to go beyond suspects with basic proficiency and include the needs of speakers who have good conversational skills, but are not familiar with legal terms and cannot easily process syntactically complex sentences. The preamble in the Guidelines addresses the misconception held by many monolingual English speakers that, if a person can speak English conversationally, then they must be able to understand the sentences about their rights (see also Pavlenko, 2008; Northern Territory Law Society, 2015):

Psycholinguistic research, (including studies listed in the Appendix), shows that people who have learned another language later in life, process information differently in this second language than in their native language. This processing difference compounds their linguistic and cultural difficulties in communicating in English. Even speakers who can maintain a conversation in English may not

have sufficient proficiency to understand complex sentences used to communicate rights/cautions, legal terms, or English spoken at fast conversational rates. They also may not be familiar with assumptions made in the adversarial legal system.

The wording of the rights

The first two recommendations deal with the wording of the rights/cautions. Recommendation #1 outlines linguistic principles to follow in producing a Plain English (or clear English) version (<http://plainlanguagenetwork.org>). While the document provides examples, it also makes clear that there is no wording that works equally well for all jurisdictions. Rather, each jurisdiction needs to undertake a collaborative effort, involving police officers, defense lawyers, and experts in linguistics, to produce a standardized version in Plain English that can be used with native and non-native speakers alike.

Recommendation #2 calls for standardized translations of the rights/cautions (and indeed all vital documents) into other languages. It also makes general recommendations about the development and use of these cautions in the first language of non-native speakers of English. In England and Wales, translations are available in more than 50 languages (<https://www.gov.uk/notice-of-rights-and-entitlements-a-persons-rights-in-police-detention>). And in the Northern Territory of Australia translations are being introduced for the 18 most commonly used Aboriginal languages (<http://www.pfes.nt.gov.au/Media-Centre/Media-releases/2015/December/21/Caution-App-Wins-Award.aspx>). The need for standardized translations is also highlighted in the USA by the work of Rogers and associates (2009) who show that the adequacy of numerous translations of the Miranda Rights into Spanish varies dramatically, from minor omissions to substantive errors.

Communicating the rights

The inadequacy of the existing translations and procedures reminds us that comprehension of rights by non-native speakers is intrinsically linked to language access, which, in the case of a police interview, involves access to an interpreter. Thus Recommendation #3 states that “at the beginning of the interview all non-native English-speaking suspects should be provided with the opportunity to request the services of a professional interpreter for the police interview”. However, situations can arise where suspects who originally declined an interpreter realise during the interview that it is harder than they had thought to understand the rights, follow the questions, or express what they wish to say. Consequently, we recommend that “it should be made clear that an interpreter is available at any time when a suspect no longer feels confident to continue in English without one.”

In some jurisdictions there is no right to an interpreter in a police interview. For example, in the USA there is no equivalent for police investigative interviews to the *Court Interpreters Act 1978*, which mandates the provision of an interpreter in court. However, Executive Order 13166 “Improving access to services for persons with limited English proficiency”, signed by President Clinton in 2000, serves as a legal framework for a wide range of language access accommodations. The Guidelines therefore recommend “developing or clarifying the right to a professional interpreter as a matter of law reform” in “jurisdictions that do not have an unambiguous right to an interpreter”.

But even where interpreter provision is mandated for police interviews (e.g. Western Australia, *Criminal Investigation Act* s138.2), police have been criticised for their failure to recognise the need for an interpreter (e.g. *WA v Gibson 2014 WASC 240*). Police do not have the training or expertise to determine independently when a suspect can “understand or communicate in spoken English sufficiently” and when they require an interpreter to understand their rights. As Judge Hall commented in the *Gibson* case (#77):

What the police need to consider is not whether the person can make themselves understood in English in casual conversation, but whether they have the capacity to understand their rights and the types of questions that will be put to them in the police interview. And also, whether the person has the ability to express themselves in English such that they are able to fairly and accurately give their own account if they wish to do so.

Related to this issue, Recommendation #5 states that understanding cannot be determined by means of a yes-no question, such as *Do you understand?*. This applies to any communication with second language speakers, including the right to silence, and entitlement or arrangements concerning availability of an interpreter. The document explains that “there are many reasons why suspects may say yes, regardless of whether they actually understand their rights”.

Furthermore, the suspect should not be burdened with assessing the need for an interpreter, as they may be unable to accurately assess their own needs. Thus, a central goal of the Guidelines is to provide some expert guidance about what is involved in understanding or communicating in spoken English sufficiently to understand the rights. It would be unrealistic to expect that people without linguistic training, such as police officers, could make this judgment accurately, on the basis of their brief interaction with suspects. Instead, the Guidelines propose what is sometimes referred to as the paraphrase test, explained in Recommendation #6, which calls for police to adopt an in-your own words requirement:

After each right has been presented, police officers should ask suspects to explain in their own words their understanding of that right and of the risks of waiving this right, as explained by the police officer. If suspects have difficulties restating the rights in their own words in English (e.g., if they repeat the words just read to them or if they remain silent), the interview should be terminated until a professional interpreter, with expertise in legal interpreting, is brought in. This should be done even if a suspect had earlier declined the offer of interpreting services.

The remaining two recommendations are clearly relevant to police interviews with any suspect, not just non-native speakers. Recommendation #4 advises facilitating the comprehension process by presenting each right individually (for example, not advising about the right to a lawyer, until after the right to silence has been fully communicated). Recommendation #7 advises that “the communication of the rights and the suspect’s restatement should be video-recorded, capturing all of the participants”. This already occurs routinely in Australia, and England and Wales, while the USA currently lags behind. As the document explains, such recording “is crucial to the court’s ability to determine whether the rights were properly communicated and understood by the suspect”.

Although this article has discussed the recommendations in the order which best explains the linguistic issues involved, the Guidelines document presents them in a slightly different order, to facilitate a police officer's easy understanding of their application to the police interview process.

Responses to the Guidelines from the law

As of December 2016, the Guidelines have been featured on the websites of the following professional associations:

Australian Lawyers' Alliance (online newsletter *Opinion*)

(<https://www.lawyersalliance.com.au/opinion/communicating-rights-to-non-native-speakers-of-english>)

The Advocate's Gateway (UK group which "gives free access to practical, evidence-based guidance on vulnerable witnesses and defendants")

(<http://theadvocatesgateway.org/resources/#procedure>)

Champion (the USA magazine for the National Association of Criminal Defense Lawyers)

(<https://www.nacdl.org/Champion.aspx>)

Clarity (an international association promoting plain legal language)

(<http://www.clarity-international.net>)

Washington State Coalition for Language Access

(<https://www.wascla.org/>)

The month after the Guidelines were released they were cited in a judgment in the Northern Territory Supreme Court (Australia): *The Queen v BL* NTSC 2015. In this case, Justice Jenny Blokland ruled that a police interview with an Aboriginal partial speaker of English (*BL*) was inadmissible, because the defendant spoke English as his second language, but not well enough to be interviewed without an interpreter. The judge said that "the fact that there was no 'in your own words' explanation of the caution does not generate any confidence that *BL*'s English was at a satisfactory level to participate without error" in the recorded police interview, (see *The Queen v BL* #54; also #42, #56 and the conclusion on this point in #77-78).

What is particularly important here is that the judgement cites the Guidelines, even though they were not introduced as evidence in this case. That is, the judge's reference to this document did not result from expert evidence, and thus the document was not the subject of any cross-examination. Rather the judge cited the Guidelines as a standalone document helpful in reinforcing 1974 Australian judicial guidelines for police interviews with Aboriginal suspects, and in showing that an 'in your own words' explanation is now a "widely accepted form of language testing in respect of whether a person understands their rights" (*The Queen v BL* #54). Such a judicial reference, drawing directly on the doc-

ument, rather than expert evidence, marks an important development in the translation of applied linguistic research into legal practice.

Responses to the Guidelines from linguistics and interpreting

By December 2016, the Guidelines have received endorsement from the following professional associations in linguistics and language teaching: American Association for Applied Linguistics, Australian Linguistics Society, British Association for Applied Linguistics, International Linguistic Association, International Research Foundation for English Language Education, Linguistic Society of America, and the international association of Teachers of English to Speakers of Other Languages.

They also have been endorsed by executive boards of the following associations that will, in addition, be presenting them to the membership at upcoming business meetings: Applied Linguistics Association of Australia, and the International Association of Forensic Linguists.

In addition, the Guidelines have been featured on the websites of the following professional interpreting and translating associations:

National Association of Judiciary Interpreters and Translators (NAJIT)

(<http://www.najit.org/documents/Communication%20of%20rights%20for%20distribution.pdf>)

The Australian Institute of Interpreters and Translators Inc (AUSIT)

(http://www.ausit.org/AUSIT/Home/Practitioners_Resources.aspx?WebsiteKey=ad2123cf-3ad2-4bfd-a396-6d4a71297fbf)

British Association for Applied Linguistics (BAAL)

(<http://www.baal.org.uk>)

Beyond this document

The document is not copyrighted. Our hope is that it could become a starting point for concerned scholars and practitioners in other countries who are interested in taking up this issue and producing guidelines specific to their legal and linguistic situations. There is an obvious advantage in the production of different guidelines which can speak directly to police, lawyers and judges in the countries in context, using the name of the dominant language, (as in “Mesmo os falantes capazes de manter uma conversa em português poderão não conseguir compreender ...o Português falado a alta velocidade”). This clearly results in a document that is more immediate and easier to read than one that uses a more abstract term such as “dominant language of the law” in order to accommodate a wide range of linguistic situations. We look forward to the development of similar documents around the world.

Notes

¹Since 1994, the caution in England and Wales has included a third element “It may harm your defence if you fail to mention something now that you later rely on at trial”. Since 2013, this is also the case in the Australian state of NSW in the investigation of some serious crimes. It has been suggested (e.g. Stokoe

et al., 2016: 312) that the addition of this element can be seen as a “weakening or even removal” of the right to silence, an issue not dealt with in this article.

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**Guidelines for communicating rights to non-native speakers of English in
Australia, England and Wales, and the USA**

Communication of Rights Group

(an international group of linguists, psychologists, lawyers and interpreters,
whose names appear at the end of the document)

November 2015

PREAMBLE

Suspects' interview rights, referred to as Miranda Rights in the United States and as police cautions in Australia, England and Wales, are country-specific mechanisms for protecting due process in criminal investigations and trials. These rights include the right not to incriminate oneself. They are protected in various national and state criminal justice systems through legislation, common law or constitutional interpretation and are considered fundamental in much of the international community. The purpose of the requirement to communicate these rights/cautions to suspects is to ensure that those in criminal proceedings know their fundamental rights under the law. A failure to protect the rights of individuals during interviews risks the integrity of any investigation.

Current research shows that even native speakers of English do not always understand the rights delivered to them (see Appendix for studies of comprehension of rights by native and non-native speakers of English). The ability of native speakers of English to understand their rights is affected by their level of education, their cognitive abilities, the context and manner of communication of the rights and the wording used to express individual rights. The problems are even greater among vulnerable populations, including juveniles and people with mental disorders. The focus of the present guidelines is on a different vulnerable population, non-native speakers of English.

Psycholinguistic research (including studies listed in the Appendix) shows that people who have learned another language later in life process information differently in this second language than in their native language. This processing difference compounds their linguistic and cultural difficulties in communicating in English. Even speakers who can maintain a conversation in English may not have sufficient proficiency to understand complex sentences used to communicate rights/cautions, legal terms, or English spoken at fast conversational rates. They also may not be familiar with assumptions made in the adversarial legal system. Yet, like other vulnerable populations, non-native speakers of English have the right to equal treatment. Therefore, if they do not have mastery of English, it is crucial that their rights be delivered to them in the language they can understand.

The purpose of these guidelines, prepared by linguistic and legal experts from Australia, England and Wales, and the United States, is to articulate recommendations in terms of (a) wording of the rights/cautions (Part A) and (b) communication of the rights/cautions to non-native speakers of English (Part B). These recommendations are grounded in linguistic and psychological research on the comprehension of rights (listed in the Appendix) and in our collective experience of working with cases involving the understanding of rights by non-native speakers of English. Our focus is on the right to silence, as this is the only right shared across jurisdictions in our respective countries, but the same principles apply to the communication of other rights. We recognize that some of the recommendations below apply to all suspects, not only those who do not speak English as their main language. However, the focus of this document is on non-native speakers of English. We also recognize that non-native speakers of English experience difficulties in invoking their rights but this issue is beyond the scope of this document.

A. THE WORDING OF THE RIGHTS/CAUTIONS

RECOMMENDATION 1: USE STANDARDIZED VERSION IN PLAIN ENGLISH (CLEAR ENGLISH)

To enhance understanding by non-native and native speakers of English alike, we recommend that traditional formulas, such as *You have the right to remain silent, anything you say can be used against you in a court of law*, should be re-worded in clear English (also known as Plain English). Revisions should be made in consultation with police officers, defense lawyers, and experts in linguistics. They should be based on the following linguistic principles that derive from the research listed in the Appendix:

Avoid

- words with multiple meanings and homophones, such as *waive*;
- technical language (i.e., legal jargon), such as *waiver, evidence, or matter*;
- low-frequency words and other expressions that are likely to be unfamiliar to speakers with limited English proficiency, such as *remain silent*;
- abstract nouns and expressions, such as *anything you say*;
- derived nouns, such as *failure* in the expression *failure to do so*;
- passive and agentless constructions, such as *may be used as evidence*;
- grammatically complex sentences and sentences with multiple clauses;
- sentences with conditional clauses introduced by *unless* and *if*, because these terms do not have exact translations in many languages and, as a result, may be misunderstood by non-native speakers of English.

Whenever possible, use:

- frequently-used English words, e.g., *speak, talk*;
- short sentences with single clauses (one idea, one sentence), e.g., *You do not have to talk to anyone*;
- active voice that clearly indicates the agent of the action, e.g. *I will ask you some questions. You do not have to answer.*

RECOMMENDATION 2: DEVELOP STANDARDIZED STATEMENTS IN OTHER LANGUAGES

All vital documents must be made available in a language the suspect can understand. These documents include, but are not limited to, the following: (a) information about the rights of the suspect, (b) information about restrictions on the suspect's liberties, (c) information about language assistance, and (d) documents that require response from the suspect (including signature). We recommend that all jurisdictions develop standardized statements of rights/cautions in languages other than English.

These statements should be prepared in consultation with bilingual lawyers, linguistic experts, and professional interpreters and translators with expertise in legal interpreting and the varieties of the languages involved¹. They should then be tested in relevant populations to make sure that they are generally understood. These translations should be made available to all suspects alongside the English version both in writing and via audiorecording. Sign language users should have access to an interpreter and a videorecorded version of rights in their own sign language.

¹ In England and Wales, translations are available at <https://www.gov.uk/notice-of-rights-and-entitlements-a-persons-rights-in-police-detention>

B. COMMUNICATING THE RIGHTS/CAUTIONS

Having made recommendations # 1 and # 2, we recognize that there is no one formulation of rights/cautions that would be immediately understandable to all. Our next set of recommendations deals with communication of rights/cautions. The purpose of these recommendations is to enable legal systems to meet minimal due process standards for affording rights to non-native speakers of English who enter the criminal justice system. We recognize that some of these recommendations (e.g., #6 and #7) may be seen as extending procedural rights beyond those currently afforded by some jurisdictions. We suggest that even if some of these procedures are not considered to be constitutionally or statutorily mandated, they should be adopted by law enforcement agencies as best practices, in order to ensure the integrity of the criminal justice process.

RECOMMENDATION 3: INFORM SUSPECTS ABOUT ACCESS TO AN INTERPRETER AT THE BEGINNING OF THE INTERVIEW

It is vital that all suspects are afforded due process, even if they do not speak English as their native language. Therefore, we recommend that at the beginning of the interview all non-native English-speaking suspects should be provided with the opportunity to request the services of a professional interpreter for the police interview. Police are not trained in assessing language proficiency and may be unaware of communication difficulties faced by non-native English speakers. As a result, the choice of whether to proceed with or without an interpreter should not be solely a matter of police discretion. Many jurisdictions have a clear right to an interpreter for non-native English speaking suspects. For jurisdictions that do not have an unambiguous right to an interpreter, we recommend developing or clarifying the right to a professional interpreter as a matter of law reform. If a suspect initially declines the services of an interpreter, it should be made clear that an interpreter is available at any time when a suspect no longer feels confident to continue in English without one.

When rights/cautions are communicated via an interpreter or through standardized translations, suspects should restate their understanding of the rights/cautions in their own words in their preferred language (see Recommendation # 6). Both the interpretation (or the delivery of the standardized written translation) and the restatement should be recorded because there remains the possibility of misinterpretation and misunderstanding, e.g., due to low quality of interpretation or translation, or differences between the suspect's and the interpreter's dialects.

RECOMMENDATION 4: PRESENT EACH RIGHT INDIVIDUALLY

Stress, confusion and noise reduce the ability to process information effectively in a second language. We recommend that each right be presented individually, clearly, at a slow pace, and repeated if needed. The speaker's face should be clearly visible to the suspect and background noise minimized. Suspects who can read should be given sufficient time to read each right. All suspects should be given an opportunity to ask follow-up questions about words and sentences they did not understand.

RECOMMENDATION 5: DO NOT DETERMINE UNDERSTANDING BY USING YES OR NO QUESTIONS

Just because a person can answer simple questions in English, this does not mean that the person can communicate effectively about more complex matters, such as legal concepts, terms and processes. Positive answers to yes/no questions, such as *Do you understand English?*, do not constitute evidence of language proficiency sufficient to understand legal rights/cautions. Non-native speakers of English may say *yes* out of fear or deference to authority, even if their proficiency is very limited and they are unable to understand their rights. The same argument applies to the use of questions, such as *Do you understand?*, after delivery of each right. There are many reasons why suspects may say *yes*, regardless of whether they actually understand their rights.

RECOMMENDATION 6: ADOPT AN IN-YOUR-OWN-WORDS REQUIREMENT

Jurisdictions vary with regard to the administration of rights/cautions. Some require the prosecution to show evidence of suspect understanding. Other jurisdictions treat the administration of the legally correct statement of rights as presumptive evidence of suspect understanding. We recommend that the legal standard should be 'demonstrated understanding by the suspect'. To demonstrate such understanding, we recommend the adoption of an in-your-own words requirement that is already used in some jurisdictions. After each right has been presented, police officers should ask suspects to explain in their own words their understanding of that right and of the risks of waiving this right, as explained by the police officer. If suspects have difficulties restating the rights in their own words in English (e.g., if they repeat the words just read to them or if they remain silent), the interview should be terminated until a professional interpreter, with expertise in legal interpreting, is brought in. This should be done even if a suspect had earlier declined the offer of interpreting services.

RECOMMENDATION 7: VIDEORECORD THE INTERVIEW

The communication of the rights and the suspect's restatement should be videorecorded, capturing all of the participants. Such recording is crucial to the court's ability to determine whether the rights were properly communicated and understood by the suspect and, in the US, whether they were waived knowingly, intelligently, and voluntarily.

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Appendix
Communication of rights/cautions to non-native and native speakers of English:
Bibliography

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1. Books and articles on communication of rights to non-native speakers (NNSs) of English

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