

3.20B
Translation of Non-English Language Recording

You [(are about to (hear) (watch)) (have (heard) (watched))] a recording in the _____ language. You [(have been) (were)] given a transcript of the recording that has been admitted into evidence. The transcript is an English-language translation of the recording.

Although some of you may know the _____ language, it is important that all jurors consider the same evidence. The transcript is the evidence, not the foreign language spoken in the recording. Therefore, you must accept and rely only on the English translation contained in the transcript. Disregard any perceived different meaning. Do not comment to fellow jurors on what you heard in the _____ language. Do not reinterpret for other jurors evidence that has been translated because that would be providing information not admitted in court.

Committee Note

This instruction should be given both before a recording in a language other than English is played for the jury as well as at the conclusion of the case in the final instructions to the jury.

The instruction is premised on the principle that a juror must “be capable of disregarding his or her impressions or opinions and decide the case based solely upon the evidence presented in court.” *People v. Kirchner*, 194 Ill. 2d 502, 529, 743 N.E.2d 94, 108 (2000); IPI-Criminal Instruction No. 1.01[3] (“It is your duty to determine the facts and to determine them only from the evidence in this case.”).

Where a recording contains statements in a foreign language, it is proper for the trier of fact to rely upon translations in the transcript as substantive evidence. *People v. Betance-Lopez*, 2015 IL App (2d) 130521, ¶¶ 31-33, 38 N.E.3d 36, 43-44. When addressing a recorded conversation in a language other than English, merely giving “the usual admonition that the [recording] is the evidence and the transcript only a guide is not only nonsensical, it has the potential for harm where the jury includes bilingual jurors.” *Betance-Lopez*, 2015 IL App (2d) 130521, ¶ 32, 38 N.E.3d at 43 (citing *United States v. Fuentes-Montijo*, 68 F.3d 352, 355-56 (9th Cir. 1995)).

When applicable, give Instruction 3.20A.

Use this instruction when the original recording is not in English. In these circumstances, do not give Instruction 3.20.

Insert in the blanks the non-English language spoken.

Use applicable bracketed material.