



Interpreter Commission Meeting
Friday, December 6, 2019
8:45 AM – 2:00 PM
AOC SeaTac Office Building
18000 International Blvd, Seattle, WA 98188

MEETING MINUTES

Members Present:

Justice Steven González
Francis Adewale
Florence Adeyemi
Judge Andrea Beall
Kristi Cruz
Maria Luisa Gracia Camón
Sharon Harvey
Diana Noman
Naoko Inoue Shatz
Frankie Peters
Donna Walker

Members Excused:

Katrin Johnson
Elisa Young

Members By Phone:

Judge Teresa Doyle
Fona Sugg

AOC Staff:

Cynthia Delostrinos
Robert Lichtenberg
James Wells
Moriah Freed
Michelle Bellmer
Sierra Rotakhina

Guests:

Eileen Farley
Judge Mafé Rajul
Judge Laura Bradley
Thea Jennings
Phil Neff
Chris Kunej
Irene Anulácion
LaTricia Kinlow
Czar Peralta
Nicole Walker
Ashley Lipford
Joseph Todd
Joel Bush
Marcus Chinn
Dr. Dana Raigrodski (by phone)
Emma Garkavi (by phone)
Justice Sheryl Gordon McCloud (by phone)

CALL TO ORDER AND INTRODUCTIONS

The meeting was called to order by Justice Steven González at 8:45 am.

APPROVAL OF JUNE 7, 2019 MEETING MINUTES

Minutes were approved.

CHAIR'S REPORT

Announcements

- There will be an event on April 4th, 2020 at Bellevue College. Luisa Gracia Camón is seeking volunteers from the Interpreter Commission to be on a panel for the event.

Service Recognition Awards

- Justice González presented plaques to recognize outgoing members for their service.
 - Thea Jennings
 - Eileen Farley
 - Judge Laura Bradley
- Justice González recognized other members and staff of the Commission for their recent recognitions and achievements.
 - Fona Sugg – Superior Court Manager of the year award from the BJA
 - Cynthia Delostrinos – new city council member of Tukwila

New Members and Committee Assignments

- New Commission members Florence Adeyemi and Naoko Inoue Shatz gave brief introductions and were asked if they wished to serve on a particular committee.
 - Ms. Adeyemi was appointed to the Disciplinary Committee.
 - Ms. Shatz choose to join the Issues and Court Education Committees.
- Judge Mafé Rajul's nomination was confirmed by the Commission and she gave a brief introduction.
- Judge Doyle has announced her resignation from the Commission. Judge Rajul will now chair the Disciplinary Committee after January 31, 2020. Judge Beall will chair the Interpreter Commission specifically for the purpose of hearing a Disciplinary Committee appeal that may be filed by an interpreter currently in disciplinary proceedings before the Commission. Justice González announced he is recusing himself from hearing the merits of any appeal filed in that case.

New Supreme Court Justice Appointment

- Judge Raquel Montoya Lewis was appointed to the Washington Supreme Court following the retirement of Chief Justice Fairhurst. She will be the first Native American Supreme Court Justice in Washington.

2020 Commission Meetings Update

- The February 14, 2020 Commission meeting will be held at the Washington State Bar Association's conference center in Seattle to accommodate members attending the Goldmark Luncheon nearby at noon.
- The June 6, 2020 Commission meeting may be changed to a meeting and roundtable discussion with educational institution representatives about

interpreter recruitment and needs of the interpreter industry. Does the Commission support this change, and where should the meeting take place?

- There will be a meeting on December 12, 2019 from 2:00 pm – 4:00 pm at the AOC office in Olympia to confer with state agency representatives responsible for language access in their programs regarding preparatory interpreter training program needs and goals. It is open to members of the Commission.

Commission Budget

- Robert Lichtenberg informed the Commission that about \$14,000 remains in the Commission's budget for 2019, which can support the cost of an out-of-town Commission meeting and stakeholder forum should the Commission wish to do it in June.

Bench Card Revision

- Katrin Johnson's workgroup prepared a version that was approved by the Commission members by online vote but errors were subsequently noted and revisions were made. The correct version is in the meeting packet. **Motion to adopt the revised bench card was unanimously approved.**

Reimbursement Program Expansion

- Cynthia Delostrinos gave the Commission background information about the plans for the distribution of funding for the Interpreter Reimbursement Program expansion. Currently about 33 courts participate in the program. The goal is to eventually expand the program to include all courts in the state, with a focus in onboarding rural courts this fiscal biennium.
- A project manager, Michelle Bellmer, was hired to assist with integrating new courts into the program. An applications developer is still in the process of being retained by the AOC on a contract basis to update the reimbursement reporting software application.

REPORT: ICE ACTIONS IN WASHINGTON COURTS

Presentation – Phil Neff

- Phil Neff, from the University of Washington Center for Human Rights, presented on the Center's findings and research of ICE and CBP activity at Washington Courthouses. He acknowledged that the statistics included are likely underreported, and that ICE and CBP activity could actually be higher. Most of their research a result of federal Freedom of Information Act and state public records requests, although not all counties were cooperative with public records requests. Their research focused on Grant and Adams counties. The findings indicated that information about individual defendants was being shared with CBP and ICE freely and voluntarily between county prosecutor and police agencies to assist in arrests.

- Phil Neff's team is seeking assistance and data sharing from the Commissions as they proceed with additional research.

Discussion – Commission and Guests

- Immigration enforcement has created a deep chill in Eastern Washington. Francis Adewale presented at a CLE event on immigration, and emphasized that immigration is not a criminal offense. He found the UW report very helpful.
- Discussion was had regarding data sharing, and what information can be easily accessed by the public or other organizations. It was made clear that dockets are commonly published with DOB, name, and if an interpreter is needed. This could assist in targeting people with a presumed immigration status.
 - Could this assist in targeting individuals who are not defendants, but going to court for other reasons, such as to testify?
 - It is important to look at arrests outside of the criminal context as well, such as family and dependency cases.
- Currently there is a proposed GR 38 related to immigration issues in our state courts out for comment and is supported by the Gender and Justice Commission, Minority and Justice Commission, and Access to Justice Board. There is also an ethical conduct amendment to RPC 4.4 being proposed for attorneys. The Interpreter Commission needs to decide if they want to support the proposed GR and RPC changes, and if so, will they write their own letter of support or sign on to the other Commissions' letter.
 - The Supreme Court Rules Committee voted unanimously to publish the proposed GR 38 for comment on an expedited basis. The deadline for comments is mid-March.
- Next steps include monitoring implementation of the Keep Washington Working Act
- What can AOC / Commission do to help?
 - Ongoing work to gather narratives and testimony from interpreters
 - Supporting rule changes and policy changes
 - Provide guidance to UW center for human rights on data collection, court practices, etc.
- Interpreter information on court calendars is being used to make arrests. Could a letter be sent to courts to ask how to interpreter calendars are used? A letter was sent in the past to warn of misuse.

PRESENTATION: VIDEO REMOTE INTERPRETING (VRI) PILOT

Presentation – LaTricia Kinlow, Joseph Todd, Joel Bush, and Marcus Chinn

- LaTricia Kinlow, Court Administrator from Tukwila Municipal Court, and Joseph Todd, Joel Bush, and Marcus Chinn from City of Tukwila Technology and Innovation Services presented to the Commission about “Sheldon”, a VRI pilot project being explored by Tukwila Municipal Court.
- The team from Tukwila Municipal Court gave a live demonstration of how Sheldon works, and allowed Commission members to test it out themselves.

- “Sheldon,” has been developed to provide a mobile VRI option for courthouse use. The device can follow those needing interpreter services throughout the courthouse, providing more privacy and mobility than traditional VRI interpreting and in more locations. It is not limited to use with a desktop-type screen and can be controlled from a smart phone. The device is still in its pilot stage, and is not ready for all situations or for ASL interpreting.
- Sheldon will be getting a larger screen or “head” and other modifications from the robot seen at the Commission Meeting, such as the ability to set waypoints.
- Sheldon will cost roughly \$1500 and can be used anywhere in the state to reduce court-paid travel costs associated with hiring interpreters from other cities or states to attend non-evidentiary hearings in person.

Discussion – Commission and Guests

- The Commission voiced concerns about use of Sheldon during a trial. The team from Tukwila Municipal Court assured the Commission that the technology was not ready and it is not intended to replace interpreters during a trial.
- Technical questions were raised about Sheldon:
 - Screen was tested in the meeting and is too small for ASL
 - How will the device work with simultaneous interpreting?
 - There were audio quality issues, which could impact how the interpreter hears in the courtroom. Is there a way to ensure clearer audio?
 - Is the device secure to use in confidential interpreting situations? Are there issues involving data sharing, unauthorized recording, etc.?
 - Would training be developed to accompany the use of this device?
- Sheldon might be useful in other non-court settings, such as interpreting in jails or during attorney consultations. At the courthouse, it might be most helpful in non-scheduled proceedings, ex-parte settings, and in the clerk’s offices.
- The Commission agreed that extensive testing should be conducted before Sheldon is put into practice, and an in-person interpreter should still be used whenever possible. Special consideration also must be taken when testing with ASL and the deaf community.
 - ASL is a 3D language, and is difficult to transfer to a flat screen
 - There are national lawsuits over use of VRI in medical settings with the deaf community
- The Commission discussed the differentiation and similarities between telephonic and video interpreting – should a new court rule be created?
 - Good cause requirement – do not want video interpreting to become the default
 - 9th Circuit Court in Florida – has provided courts nationally with information about its regional VRI program, which has been in place for several years.
 - Alaska has been using VRI for full trials as the lack of proximity to courthouses is a big issue for Alaska residents
- The Commission is excited to see how the team from Tukwila Municipal Court uses their feedback as they continue to work on Sheldon and to see how the new technology is put into practice.

COMMITTEE AND PARTNER REPORTS

Education Committee

- **2020 Conference Proposals**
 - Judge Jeffrey Smith, on behalf of the District and Municipal Court Judge's Association (DMCJA) has requested that a session similar to the Fall Judicial Conference presentation be given at their Spring Conference in June. AOC staff will contact the same faculty members for their availability.
- **Webinar Development**
 - The Education Committee is working on creating short 5 minute educational webinars about court interpreting for judges. Because of the new bench cards, they decided to begin with a webinar that orients judges to the bench card information.
 - On behalf of Education Committee chair Katrin Johnson, James Wells gave a video presentation of the bench card webinar currently in development. He shared that California is developing similar short informational videos about language access and interpreting.
 - NCSC gave the Interpreter Commission two software user licenses for Storyline 3, a webinar development software. In addition to using it within the AOC to create webinars for judicial and court staff education, the AOC has agreed to share any webinars regarding video remote interpreting it develops with the NCSC for sharing with other states.

Issues Committee

- **Team Interpreting Court Rule**
 - The Issues Committee discussed whether or not a court rule should be created about team interpreting. The Committee reviewed court rules ranging in specificity from other states. Concerns were raised regarding creating an obligation for courts that vary widely in resources. A court rule could be considered an unfunded mandate and possibly lead to delays in proceedings.
 - Alternatives to a court rule were proposed:
 - Educate courts that team interpreting is a best practice
 - Re-evaluate the use of team interpreting in Washington at a later date and see if the practice has increased
 - Justice González proposed a court rule requiring that proceedings longer than 2 hours will have more than one interpreter. If two interpreters are not available, then the court will take breaks at certain intervals.
 - Other discussion included:
 - In actual proceedings, courts may plan to take breaks but then forget to take them. Interpreters are often not comfortable about speaking up for themselves.

- Only having one interpreter may be cheaper on paper, but in the long run it is less effective given the possibility of bad interpretation affecting the outcome of a case and/or creating appealable issues.
 - There are some courts outside Washington that pay an interpreter double if the interpreter is interpreting by themselves, which defeats the argument that it is cheaper to only hire one interpreter.
- **Non-Credentialed Interpreter Ad Hoc Committee Recommendation**
 - The ad hoc committee recommends that there be a database at the AOC with the names of interpreters who have met certain criteria.
 - The exact criteria has not been decided. It may include watching videos of best practices and court interpreter ethics.
 - A new category of interpreter would not be created.

Motion to approve the ad hoc committee's recommendation and have AOC create a database of non-credentialed interpreters approved unanimously.

Disciplinary Committee

- **Disciplinary Hearing Update**
 - The full Commission was given an update of the hearing.
 - Justice González has recused himself due to approving revocation of credentials for the interpreter and denying a stay for the revocation.
 - Luisa Gracia Camón has recused herself because she was a witness in the hearing.
 - Judge Beall will chair the Commission hearing of the appeal if one is filed. She will coordinate with Bob Lichtenberg on next steps.
 - Commission members should read the disciplinary rules in preparation of the hearing.

Office of the Deaf and Hard of Hearing (ODHH): Discussion

- ODHH was on the agenda today to discuss the work they are doing around ASL interpreter services, particularly as it relates to the list of ASL interpreters qualified to interpret in Washington Courts. The ODHH director was not able to attend the meeting today. Commission members held a brief discussion on the topic of certification for ASL court interpreters. The Registry of Interpreters for the Deaf (RID) court interpreter test that WA courts have relied upon as a court interpreter credential will no longer be offered. Washington has a limited number of interpreters holding the Specialist Certificate: Legal (SC:L) to meet current needs. ODHH is looking that kinds of standards and tests that interpreters need to pass in order to be considered certified to work in the courts. Commission members discussed the need for the AOC and for the Interpreter Commission to be involved together in this review process. Donna Walker requested that the Commission be more formally involved with the standards that ODHH is looking at and to engage more fully in that process with ODHH.

COMMISSION STAFF UPDATE

Commission Manager's Report – Cynthia Delostrinos

- **New Project Manager**
 - Cynthia Delostrinos introduced Michelle Bellmer to the Commission. Michelle will be the project manager for the Interpreter Reimbursement Expansion Project and is excited to work closely with the Commission.
- **Proposed Court Rule and Rule for Professional Conduct**
 - The other Commissions have not yet decided whether to provide comment on the proposed Court Rule and Rule for Professional Conduct. A call will be scheduled during the next two weeks to discuss a potential comment.

Commission Staff Update – Bob Lichtenberg

- **Law Student Liaison**
 - The other Commissions have Law Student Liaisons from the 3 Washington law schools. Would the Interpreter Commission be interested in having law student liaisons?
 - Justice González welcomes any law students interested in the Interpreter Commission's work to attend the meetings. Bob Lichtenberg will reach out to the interested law student.
- **Embedded Law Librarian**
 - The other Commissions receive article lists from the Washington State law librarians on selected topics of interest. Would the Interpreter Commission be interested in working with the law library to create a similar project?

Interpreter Program Report – James Wells

- **Oral Exams – Registered**
 - The Oral Exams took place over July and August. 3 interpreters passed the summer exam: 1 Amharic, 1 German, and 1 Turkish.
 - The registered languages currently require 2 exams: one exam assesses the candidate's English, and one exam assesses their target language. The English exam is supposed to begin offering remote testing sometime next year. This will allow the test to be scheduled more easily since test candidates will no longer need to come to Olympia.
- **Oral Exams – Certified**

The oral exams took place in Shoreline, Spokane, and Olympia. 53 tests were proctored. Results will be ready in early 2020.
- **Ethics and Protocol Classes**

This class is the final step for court interpreters who are getting their certification. Typically it is held twice per year. The last session was held on November 15th at Seattle Municipal Court. 6 new interpreters received their court interpreter credentials.
- **Spokane Interpreter Workshop**

A 5 hour workshop was held at Gonzaga University School of Law on November 2, 2019. Two main topics were covered: The Code of

Professional Responsibility for Judiciary Interpreters and Team Interpreting. Over 35 interpreters from around Eastern Washington attended, with about 65% being court certified interpreters.

- **Written Exam**

AOC is working with a testing company that is currently being used in Florida, Ohio, and other states to further streamline the testing process and make it more accessible. There are 15 testing centers throughout Washington. The test could be offered over a several month period, and possibly be able to be taken more than once per year. This hopefully will begin in early 2020.

- **Compliance**

The current compliance cycle ends on December 31, 2019. Currently, 32% of interpreters are in compliance.

- **CLAC**

- James Wells presented on the Filipino/Tagalog online class from last year. Other topics that were discussed included: Pro-se litigant assistance, hub for video interpreting, data collection from courts, and the recruitment of interpreters.

ANNOUNCEMENTS

Reception for Chief Justice Fairhurst

- There will be a reception for Chief Justice Fairhurst on December 18th from 3:00 pm – 8:00 pm at the Temple of Justice in Olympia, WA. All are welcome to attend.

Next Commission Meeting

- The next Commission meeting will be on February 14th, 2020 at the Washington State Bar Association office in Seattle, WA.

GOOD FOR THE ORDER

OAH Use of Telephonic Interpreters

- The Office of Administrative Hearings has been using telephonic interpreters and hiring one interpreter for full day hearings. While concerns of the Commission, involvement in the matters could potentially create an issue due to the different branches of government and separation of powers issues.
- A line of communication could be opened with the chief judge or administrator at OAH to relay concerns and offer advice.

VRI and Telephonic Interpreting Distinction

- A meeting guest suggested review of the bench card due to a lack of distinction in VRI and telephonic interpreting. This may limit the use of VRI in ways that are unnecessary.

- A change could be made to GR 11.3 to add language clarifying the differences between VRI and telephonic interpreting. The Issues Committee will consider the suggestion. Concern was expressed that courts could take advantage of a rule change to not hire in-person interpreters.

ACTION ITEMS

Issues Committee: Recommend if the Commission should comment on proposed court rule GR 38; Review and recommend on need for a general rule concerning video remote interpreting use in courts

Commission: Research whether having an interpreter publicly noted on the court calendar or docket information impedes access to justice.

Commission: Send topics of interest for the embedded law librarian to provide information about to Bob Lichtenberg.

Staff: Bob Lichtenberg will reach out to the law student interested in the Interpreter Commission's work.

The meeting was adjourned at 1:30 pm