

**Washington State Supreme Court
Interpreter Commission**

February 26, 2021

Meeting Packet

**Washington State
Administrative Office of the Courts
1112 Quince Street SE
PO Box 41170
Olympia, WA 98504-1170
Phone: 360-753-3365**

Interpreter Commission Meeting Agenda



WASHINGTON
COURTS

Interpreter Commission Quarterly Meeting

Friday, February 26, 2021

9:00 AM to 12 Noon PM

<https://wacourts.zoom.us/j/94071759515?pwd=Z1JvRU11Q3hVYnBCZm9hR1RMUFZGQT09>

Meeting ID: 940 7175 9515

Passcode: 1112

Dial-in: +1 253 215 8782 US (Tacoma)

AGENDA

<ul style="list-style-type: none"> • Call to Order: • Member Introductions • Meeting Rules for Observers 	Judge Mafé Rajul	
<p>Chair's Report</p> <ul style="list-style-type: none"> • Approval of December 18, 2020 Minutes • Recognition of Service Award: Judge David Estudillo • Commission Co-Chair?: Discussion • Legislative Report: SHB 5255 Update • 2021 Legislative Session Update • Reimbursement Program Funding Request and Support Documents <ul style="list-style-type: none"> ➤ Commission Role in Legislation • BJA Court Recovery Task Force Update • Vaccination Authorization Update <p style="text-align: center;">BREAK</p> <ul style="list-style-type: none"> • ASL Testing Report • Committee Assignments Update • Member Bios and Pictures for Website 	<p>Judge Rajul</p> <p>Judge Rajul</p> <p>Judge Rajul</p> <p>Judge Rajul</p> <p>AOC Staff</p> <p>Jeanne Englert/Cynthia Delostrinos</p> <p>Jeanne Englert/Katrin Johnson</p> <p>AOC Staff</p> <p>Donna Walker</p> <p>AOC Staff</p> <p>Judge Rajul</p>	<p>Pg. 6</p> <p>Pg. 13</p> <p>Pg. 18</p> <p>Pg. 19</p> <p>Pg. 24</p> <p>Pg. 36</p>
<p>Committee and Partner Reports</p> <p><u>Issues Committee Meetings Report</u></p> <ul style="list-style-type: none"> • <i>Barriers with Counsel in Jail Settings</i> • <i>DMCJA Proposal to Amend CrRLJ 3.4</i> • <i>Revisions to Amended GR 11.3 and GR 11.4: Process</i> <p><u>Education Committee Meetings Report</u></p> <ul style="list-style-type: none"> • <i>2021 Judicial College Update</i> • <i>2021 Conference Activities Update</i> 	<p>Judge Matthew Antush</p> <p>Katrin Johnson</p>	<p>Pg. 43</p> <p>Pg. 54</p>

<p><i>Disciplinary Committee Report</i></p> <ul style="list-style-type: none"> • Disciplinary Grievance Review Update • Updates for Disciplinary Process Manual <p><i>Liaison Reports (placeholder)</i></p>	<p>Justice Helen Whitener</p> <p>OAH and ODHH</p>	<p>Pg. 58</p>
<p>Commission Staff Report</p> <ul style="list-style-type: none"> • Commission Manager’s Report • Reimbursement Program Update • Interpreter Program Report <ul style="list-style-type: none"> ➤ Vietnamese Interpreter Report 	<p>Cynthia Delostrinos Michelle Bellmer AOC Staff Rosemary Nguyen (placeholder)</p>	<p>Pg. 61</p>
<p>Announcements:</p>		
<p>Next Commission Meeting</p>	<p>June 4, 2021; 9 AM-12 PM (Zoom)</p>	

Meeting Minutes



Interpreter Commission Meeting
Friday, December 18, 2020
Zoom Videoconference

MEETING MINUTES

Members Present:

Justice Steven González
Florence Adeyemi
Judge Matthew Antush
Maria Luisa Gracia Camón
Kristi Cruz
Jeanne Englert
Katrin Johnson
Diana Noman
Frankie Peters
Judge Mafé Rajul
Naoko Inoue Schatz
Fona Sugg
Donna Walker
Justice Helen Whitener

AOC Staff:

Michelle Bellmer
Robert Lichtenberg
James Wells

Guests Included:

Anita Ahumada
Lori Bashor-Sarancik
Riddhi Mukophadhyay
Deborah O'Willow
Judge Joshua Sundt

CALL TO ORDER

- Commission Members introduced themselves, and guests to the meeting were welcomed.

APPROVAL OF PREVIOUS MEETING MINUTES

- Meeting minutes from the 9/25/2020 meeting approved with modification

CHAIR'S REPORT

Introduction of New Members

- The appointment of Justice González to become the Chief Justice of the Supreme Court means he will be leaving the Interpreter Commission.
- Judge Rajul will become the new chair of the Commission.
- Justice Whitener was introduced as the new appellate court representative. She will also become chair of the Disciplinary Committee.
- Jeanne Englert was introduced as the new AOC representative.

Resubmission of ESSB 5984

- Senator Wellman and Naoko Inoue Schatz discussed the status of ESSB 5984.
- Several interpreter members of the Commission and guests at the meeting volunteered to provide input to the bill: Luisa, Donna, Louise Morehead, and Maria Farmer.
- The input would be needed by January 11, 2021.

Welcome Office of Deaf and Hard of Hearing (ODHH) Liaison

- Deborah O'Willow from ODHH will act as liaison to the Interpreter Commission.
- She will join as a consultant for issues related to the individuals who are Deaf, Deaf-blind, hard of hearing or who have hearing loss.
- She will also be able to provide updates from the ODHH and resources.
- ODHH can gather input from the deaf community and their ability in accessing the courts and the legal system.

Community Organizations Representative Nominee Interviews

- There were two nominees for the community organization representatives, Lori Bashor-Sarancik and Anita Ahumada.
- Each nominee introduced themselves and discussed their background and reasons for wanting to join the Commission.
- The Commission went into an executive session to discuss the nominees and choose between the nominees.
- The Commission voted to have Anita Ahumada to become the next member.
- The Commission asked Lori Bashor-Sarancik to consider being on the outreach committee.

Barriers with Remote Hearings and with Counsel in Jail Settings

- Recently an article was published by Cross Cut discussing the situation in King County jail where attorneys have had difficulties working with clients who are LEP.
- These problems are not unique to King County and similar problems have been reported in several locations across the state.
- Public defenders and interpreters are not at the table when decisions are made about these facilities. Communication between public defenders, their clients and, interpreters is an essential service. Delays can have huge impacts.
- The booth for communication with the person in jail and is often very small. When an interpreter is involved it get very complicated and even finding a second chair can be an issue.
- Some jails have spaces for mental health evaluations but using this space requires a lot of pre-planning and coordination for everyone involved.
- Some jails have a communication system setup for family visits, although they are generally recorded.

- The solutions will depend on the local situation.
- Financial resources will be a factor.
- Potential Actions for the Commission
 - There isn't a court rule change that will affect the issue. Language Access Plans (LAPs) only look at conditions in the court itself.
 - Judges may not think about access to defendants in custody since it is outside their normal area of authority.
 - The Commission can encourage judges put this on their radar.
 - The Commission can recommend that an interpreter representative be on law and justice councils in each county to help inform their policies.
 - Leverage may come from ADA for sign interpreters
 - Specific jurisdictions that have certain issues cannot be easily identified.
 - Any letter should give the opportunity to ask for assistance.

Additional testimony:

- Riddhi Mukophadhyay spoke about Project Safety, which provides civil legal aid to victims of DV/SA and works with a number of partners.
- The process for pro se litigants is being changed and there has not been work to reach out to communities at many issues. Procedures are being changed without input from interpreter or non-English speaking communities.
- There are serious issues for people accessing the clerk's office and there isn't proper notification about getting an interpreter and information is not getting to the LEP litigants.
- Forms and instruction are only in English and the clerk's office is saying there are no interpreters.
- Using technology to increase access. LEPs individuals are sometimes asked to come to the courthouse and are not able to use the technology afforded to English speakers.

Action Item:

- The Issues Committee will discuss this issue. They are encouraged to hold a special meeting to address the issue. Run any draft letter by Justice Whitener. Donna would be happy to provide a perspective and the ODHH can also provide input.

Racial Justice Initiative Consortium Kick-Off

- Spurred out of the killing of George Floyd and the Black Lives Matter movement.
- The Supreme Court sent a powerful letter about looking at the court's role in racial inequities in our system.
- Many court associations are now making an effort to look at how these issues are affecting own groups.
- The Minority and Justice Commission is launching this initiative and is inviting the Interpreter Commission to have representation.

- The group will look at education, polices, and practices.
- They are looking to hire a consultant.

Presentation for Justice González

- Chief Justice Debra Stephens presented Justice González with a plaque for his service.

DMCJA Proposal to Amend Criminal Rule 3.4

- CrRLJ 3.4 is inconsistent with what has been occurring at the trial court level regarding the placement of the interpreter. The rule should be updated.

Action Items:

- The Issues Committee will review the rule. Luisa will be invited to this discussion.

Revisions to GR 11.3

- The Education Committee can take on updating the bench cards based on the updates to GR11.3 and 11.4. The authors of the bench card can be involved in updating the bench cards.
- There were concerns about GR 11.3 and that it would need to be updated.
- The process of voting on line was complicated and timeline for review was very short.
- The rule is moving forward and has been approved by the Supreme Court.
- There should be an education component regarding the new rules.
- The Commission should look into providing training to new Commission members and refreshers for current members on the basics of how interpreting is done in the courts.

Action Item

- The rule will go back to the Issues Committee for further review. The Supreme Court Rules Committee will need any changes by March 1 to be reviewed at their meeting on March 15, 2021.

COMMITTEE REPORTS

Education Committee

- The Judicial College will occur at the end of January. Luisa and Judge Rajul are part of that panel
- The session “Meaningful Communications in Complicated Times” was originally submitted for the spring conference, but there was a request to bring this forward to March 8.

Issues Committee

Recognition Immigration Court Exam

- A Marshallese interpreter asked to get reciprocity in Washington State. Washington does not have a language exam for this language. This interpreter passed a bilingual interpreting exam used for immigration court.
- The Issues Committee approved the recognition of the immigration court exam in lieu of the oral exams normally used by Washington.
- The interpreter will complete the other steps required of court interpreters before becoming credentialed

Court Interpreter Education Requirements (CEUs)

- AOC staff asked the issues committee to review the requirements that interpreters must complete every two years and see if any changes would be appropriate for the current cycle due to the challenges faced by court interpreters during COVID.
- AOC staff reviewed the results of recent survey questions for court interpreter regarding their CEUs.
 - 80% indicated they believed they would be able to complete all of their education requirements.
 - 92% indicated they believed they could meet their court hours requirements.
- AOC staff is also approving a number of free recorded webinars and will be sponsoring additional webinars next year to help court interpreters meet their requirements.

Motion: The Court Hours requirement for the 2020-2021 compliance cycle will be waived.

Translation of forms

- The AOC is beginning a new project of updating translated forms.
- Due to the number of forms, the AOC was looking at using contracts set up by the Department of Enterprise Services (DES) rather than contracting with individual translators.
- The contracts require one less level of review than is suggested by the translation protocol previously approved by the Commission.
- Suggestions from Commission members included:
 - The corrections clause in the contract could be a way to provide an additional level of review.
 - Use any already developed glossaries in the translations. Consider creating one during this project if they do not exist.
 - Plain English should be used in the forms.

There was a motion that passed by the majority of Commission members with two abstentions:

Motion: The Commission endorses the AOC to move forward using the DES contracts.

Disciplinary Committee

- An interpreter previously suspended pursuant to a disciplinary action has continued to interpret despite the suspension of his credential. A complaint was filed by a King County judge and he was asked to respond to the allegations. He has responded to a letter from the committee claiming that the committee has no jurisdiction. A letter was sent to him notifying him the Commission still has jurisdiction and requested his factual response.
- The Disciplinary Committee has been revising the disciplinary manual and will review the jurisdiction of the committee's authority over non-credentialed interpreters and proceedings outside the courtroom.

Remaining Agenda Items

- The remaining agenda items were tabled due to the lack of time for the meeting.

Chair's Report

Washington State Supreme Court Interpreter Commission

COMMISSION MEMBERS

Honorable Mafé Rajul, Chair
King County Superior Court

Honorable G. Helen Whitener
Washington State Supreme Court

Honorable Matthew Antush
Spokane Municipal Court

Fona Sugg
Chelan County Superior Court

Frankie Peters
Thurston County District Court

Jeanne Englert
Administrative Office of the Courts

Kristi Cruz
Northwest Justice Project

Katrin Johnson
WA State Office of Public Defense

Francis Adewale
Spokane City Office of the Public Defender

Anita Ahumada
Community Member

Naoko Inoue Shatz
Ethnic Organization Representative

Luisa Gracia Camón
Interpreter Representative

Diana Noman
Interpreter Representative

Donna Walker
American Sign Language
Interpreter Representative

Florence Adeyemi
Public Member Representative

February 8, 2021

Sen. Lisa Wellman
218 John A. Cherberg Building
PO Box 40441
Olympia, WA 98504-0403

Re: Senate Bill 5255

Dear Senator Wellman,

The Washington State Interpreter Commission strongly believes it is critical for the judicial system to take affirmative steps to protect the rights of litigants who are limited English-proficient or who are Deaf or hard of hearing. This is especially important in the context of dissolution proceedings and family court where it is not uncommon for parties to present agreed forms that require mutual party signatures.

Frequently, the parties reach an agreement on the division of property and child custody issues, such as residential schedules, medical and education decision-making, and other family matters, and submit those agreements to the court. Through their signature, the parties are bound by the terms and conditions of the written agreement without seeing a judge. When one party is not English-proficient, there is a risk that the English proficient party can take advantage of the other party's lack of English comprehension. This risk is compounded when the non-English proficient person has been subjected to the dynamics of power and control in Domestic Violence situations. Moreover, it is not uncommon for these individuals to not have the resources to hire counsel to ensure their rights are protected.

As a result, it is imperative that such documents be presented to the non-English proficient party in a language they understand. The spirit of Senate Bill 5255 seeks to achieve this procedural due

process. The Commission supports the policy and rationale behind SB 5255. However, the Commission has reservations with the current language of the Bill.

One concern the Commission has is the potential conflict of interest an interpreter may have by being required to conduct sight translation of the forms one-on-one with the non-English proficient party and nobody else present. This practice would be conducive to the interpreter violating the rules of the Code of Professional Responsibility for Judiciary Interpreters. The unfortunate consequence of this will be that professional and high-quality interpreters will not want to accept these assignments, hindering the main purpose of SB 5255.

The other concern the Commission has with the proposed language is with respect to when the court would know that a party needs an interpreter. These forms are provided to the court without the litigants being present in the courtroom. As such, the court has negligible information about the parties. The current language would result in the court making inappropriate assumptions based on the litigants' names.

The Commission has an earnest desire to ensure that the rights of litigants who are limited English-proficient or who are Deaf or hard of hearing are fully protected, and to that end, we would like to work collaboratively with you in drafting a Bill that accomplishes the goals SB 5255 seeks to achieve in a way that avoids ethical challenges for the professional interpreters and eliminates the possibility of implicit bias.

Thank you for your hard work and your dedication to justice. I look forward to hearing from you.

Sincerely,



Judge Mafé Rajul
Chair, Supreme Court Interpreter Commission

CC: Law and Justice Committee Members

Jarrett Sacks
Labor & Commerce
February 16, 2021

1 NEW SECTION. Sec. 1. A new section is added to chapter 26.09 RCW
2 to read as follows:

3
4 (1) In any matter brought pursuant to a domestic relations
5 proceeding under this chapter, any agreed to order presented to the
6 court for signature must include a certification from an interpreter
7 that a sight translation of the order has been provided to a party
8 when:

9 (a) A limited English proficiency party requests interpretation
10 services or sight translation of materials into a spoken message in
11 the limited English proficiency party's language;

12 (b) Affidavits submitted or other information provided to the
13 court indicates that either party to the proceeding may require an
14 interpreter for the relevant language; or

15 (c) A party is deaf, deaf-blind, or hard of hearing and relies on
16 a form of manual communication to communicate.

17
18 (2) The interpreter appointed for a person with limited English
19 proficiency under subsection (1) of this section must be an

Commented [SJ1]: Reference to sign language was changed below, so changed this to align the references.

Draft

p.1

1 interpreter certified or registered by the administrative office of
2 the courts pursuant to chapter 2.43 RCW or, where the necessary
3 language is not certified or registered, the interpreter must be
4 qualified by the judicial officer pursuant to chapter 2.43 RCW. In the
5 event a party who is deaf, deaf-blind, or hard of hearing relies on
6 any form of manual communication, the interpreter appointed for this
7 purpose must be an interpreter appointed pursuant to chapter 2.42 RCW.
8 When requested, and upon reasonable advance notice, an interpreter
9 must be provided for limited English proficiency litigants by the
10 court at no cost to the party for this purpose.

11

12

--- END ---

SB 5255

New Section. Sec. 1. A new section is added to chapter 26.09

RCW to read as follows:

In any matter brought pursuant to domestic relations proceedings under this chapter, when a limited English proficiency party requests interpretation services, or when a Limited English Proficient (LEP) party requests sight translation of written materials into a spoken message in the LEP's language, or when from the affidavits submitted or other information provided to the court indicating that either party may require an interpreter for the relevant language, or when a party is deaf, deaf-blind or hard of hearing and relies on sign language to communicate, any agreed orders being presented to the court for signature must include a certification from an interpreter that a sight translation of the orders has been provided to the party.

The interpreter appointed for this purpose for a person with limited English proficiency must be an interpreter certified or registered by the administrative office of the courts pursuant to chapter 2.43 RCW or where the necessary language is not certified or registered, the interpreter must be qualified by the judicial officer pursuant to chapter 2.43 RCW. In the event the party who is deaf, deaf-blind, or hard of hearing relies on any form of manual communication, the interpreter appointed for this purpose must be an interpreter appointed pursuant to chapter 2.43 RCW. When requested, and upon reasonable advance notice, an interpreter must be provided for limited English proficiency litigants by the court at no cost to the party for this purpose.

--END--

Supreme Court Interpreter Commission
Position Statement Proposal Regarding Legislation

Statement of Intention Regarding Legislation from Gender and Justice Commission:

“The G&J Commission is a judicial branch commission. As a judicial branch commission, we typically do not take positions on proposed legislation, unless it impacts the administration of justice, especially with respect to gender issues. But our goal is to “eliminate gender bias in the legal profession and within the law and justice system.” In order to achieve that goal, we have to stay informed about current events, including developments in the other branches of government, that might impact our goals. We have compiled this Summary of Bills for that limited purpose. Any Commission member should share any bill of particular interest with the Commission Co-Chairs and/or Kelley for possible further discussion.”

DRAFT Statement of Intention from Interpreter Commission:

“The Supreme Court Interpreter Commission is a judicial branch commission. As a judicial branch commission, we typically do not take positions on proposed legislation, unless it impacts the administration of justice, especially with respect to language access issues affecting individuals with limited English language proficiency and persons with hearing loss. But our goal is to “eliminate barriers to language access in the legal profession and within the law and justice system.” In order to achieve that goal, we have to stay informed about current events, including developments in the other branches of government, that might impact our goals. Any Commission member should share any bill of particular interest with the Commission and/or AOC Commission Staff for possible further discussion.”

February 8, 2021

Dear Senator:

The Board for Judicial Administration (BJA) understands the hard task of balancing the state's budget priorities. The judicial branch is requesting \$2.7 million for the state Interpreter Reimbursement Program so that all courts throughout the state can hire qualified court interpreters. Interpreter services are fundamental to justice and provide the ability for all participants to meaningfully participate in court proceedings. We support this funding request and are writing to urge the legislature to include these funds in the state budget.

Prior to the 2019–21 biennium the Interpreter pass through funding was approximately \$610,000 per year. In the 2019–21 biennium, the Administrative Office of the Court (AOC) requested that the amount be increased incrementally to \$3,572,000 over a four year period. The incremental approach allows AOC to develop the program and roll it out in a thoughtful way to the counties. The legislature only funded the first increase of \$1,755,000 and did not fund the incremental increase for the next two years. This leaves about 30,000 cases woefully underfunded annually.

As a result of the 2019 funding, the AOC was able to support fifty-nine courts, of which twenty-five of the new courts are located in rural areas. Courts participating in the program increased by 84%. It is critical that we continue the partnership between local courts and the State to ensure that all courts have sufficient funds to hire qualified interpreters and provide broader language access for citizens trying to access the courts across Washington.

Timely access to credentialed interpreters is vital to ensure that Washington courts can meet very critical and sometimes urgent needs of individuals with limited English proficiency and those who are deaf or hard of hearing.

When proceedings are delayed because court interpreters are not available, justice is delayed. For victims seeking protection orders and resolution to other high-risk situations, it can be a matter of life and death. Furthermore, availability of qualified interpreters from the beginning of a case can resolve minor legal issues before they become bigger ones.

Please consider funding our full request of \$2.7 million in the budget so that more individuals can access timely and qualified interpreter services.

If you have any questions or need additional information, please contact Jeanne Englert at jeanne.englert@courts.wa.gov or 360-705-5207.

Sincerely,



Chief Justice Steven González, BJA Chair
Supreme Court



Judge Gregory Gonzales, BJA Member Chair
Clark County Superior Court

Washington State Supreme Court Interpreter Commission

February 11, 2021

COMMISSION MEMBERS

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Interpreter Representative

Donna Walker
American Sign Language
Interpreter Representative

Florence Adeyemi
Public Member Representative

Representative Drew Hansen
Chair, Civil Rights and Judiciary Committee
Olympia, WA 98504

Representative Jim Walsh
Ranking Minority Member, Civil Rights and Judiciary Committee
Olympia, WA 98504-0600

RE: Support for Court Interpreter Services

Dear Representatives Hansen and Walsh,

I am writing to you as Chair of the Washington Supreme Court Interpreter Commission.

Please support the request for the funding allocation for the state Interpreter Reimbursement Program so that our courts can have the resources necessary to meet State and Federal language access obligations. The requested amount of \$2.7 million for the 2021-23 biennium is reflected in the budget request from the judicial branch and is fully supported by the Interpreter Commission.

We know that our State faces major budget difficulties, but the benefit of this request is crucial to the integrity of the justice system. The American Bar Association's Standards for Language Access in Courts, adopted in 2012, noted that a very high level of English proficiency is required for meaningful participation in our court system due to the use of legal jargon, the structured nature of court proceedings, and the stress normally associated with such proceedings.

In Washington, our system of justice relies on accurate communication. As leaders in our courts, we count on accurate communication as a basic right that must be guaranteed for all using our system. As a judicial officer responsible for ensuring due process to all who use our courts, it is critical to our responsibility that we have full access to what is being pleaded by the parties. To assure the reliability of our system, we must provide language interpreters to those who do not communicate in English.

We have a state-mandated system of certification and registration for professional court interpreters, but courts often appoint non-certified bilingual speakers, even relatives or friends to interpret for the non-English speaker. This is not a system that judges and administrators in our state support, but is often done out of necessity. This necessity is often a result of insufficient funding for court interpreter services.

Our goal is to provide equal access to professional level interpreters in all courts across the State and at each trial court level. Rather than fund pockets of advancement in only a handful of courts, our aim is to adequately provide resources to ensure fair justice for all residents, in all counties and cities, in all levels of court. Ensuring accurate communication is a fundamental necessity in our system of justice and we request your support in advancing that basic right for our shared constituents.

Please do not hesitate to contact Cynthia Delostrinos, Manager of the Supreme Court Commissions at Cynthia.delostrinos@courts.wa.gov for additional detail about the Interpreter Reimbursement Program funding request.

Sincerely,

Judge Mafe Rajul
Chair, Washington Supreme Court Interpreter Commission
King County Superior Court

CC: Representative Peter Abbarno
Representative Lauren Davis
Representative Debra Entenman
Representative Greg Gilday
Representative Roger Goodman
Representative Jenny Graham
Representative Steve Kirby
Representative Brad Klippert
Representative Tina Orwall
Representative Strom Peterson
Representative Tarra Simmons
Representative My-Linh Thai
Representative Javier Valdez
Representative Amy Walen
Representative Alex Ybarra

Washington State Supreme Court Interpreter Commission

February 11, 2021

COMMISSION MEMBERS

Honorable Mafé Rajul, Chair
King County Superior Court

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Public Member Representative

Senator Jamie Pedersen
Chair, Senate Law and Justice Committee
Olympia, WA 98504

Senator Mike Padden
Ranking Minority Member, Senate Law and Justice Committee
Olympia, WA 98504-0600

RE: Support for Court Interpreter Services

Dear Senators Pedersen and Padden,

I am writing to you as Chair of the Washington Supreme Court Interpreter Commission.

Please support the request for the funding allocation for the state Interpreter Reimbursement Program so that our courts can have the resources necessary to meet State and Federal language access obligations. The requested amount of \$2.7 million for the 2021-23 biennium is reflected in the budget request from the judicial branch and is fully supported by the Interpreter Commission.

We know that our State faces major budget difficulties, but the benefit of this request is crucial to the integrity of the justice system. The American Bar Association's Standards for Language Access in Courts, adopted in 2012, noted that a very high level of English proficiency is required for meaningful participation in our court system due to the use of legal jargon, the structured nature of court proceedings, and the stress normally associated with such proceedings.

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We have a state-mandated system of certification and registration for professional court interpreters, but courts often appoint non-certified bilingual speakers, even relatives or friends to interpret for the non-English speaker. This is not a system that judges and administrators in our state support, but is often done out of necessity. This necessity is often a result of insufficient funding for court interpreter services.

Our goal is to provide equal access to professional level interpreters in all courts across the State and at each trial court level. Rather than fund pockets of advancement in only a handful of courts, our aim is to adequately provide resources to ensure fair justice for all residents, in all counties and cities, in all levels of court. Ensuring accurate communication is a fundamental necessity in our system of justice and we request your support in advancing that basic right for our shared constituents.

Please do not hesitate to contact Cynthia Delostrinos, Manager of the Supreme Court Commissions at Cynthia.delostrinos@courts.wa.gov for additional detail about the Interpreter Reimbursement Program funding request.

Sincerely,

Judge Mafe Rajul
Chair, Washington Supreme Court Interpreter Commission
King County Superior Court

CC: Senator Manka Dhingra
Senator Jeff Holy
Senator Patty Kuderer
Senator Jim McCune
Senator Jesse Salomon
Senator Keith Wagoner

INCREASED FUNDING IS CRITICAL FOR FUNDAMENTAL ACCESS TO QUALIFIED INTERPRETERS

The Washington Judiciary is requesting \$2.7 million for the state Interpreter Reimbursement Program to allow more courts in all parts of the state to access funding.

INCREASED DEMAND, INSUFFICIENT LOCAL RESOURCES

The legislature approved funding in 2019 for the first implementation phase which provided additional funds for small and rural courts. Courts participating in the program increased by 84%. Additional funding is needed for the final implementation phase to ensure all courts across Washington have resources for qualified interpreters.

DUE PROCESS AND PROTECTION OF LEGAL RIGHTS

Individuals face severe and costly consequences affecting their safety, health, families, property, and finances if they're unable to access qualified interpreter services. Providing qualified interpreters from the beginning of a case can resolve minor legal issues before they become bigger ones.

LIFE-ALTERING CONSEQUENCES

Without access to qualified interpreters, victims often face many negative impacts such as emotional stress, delayed response or no assistance, and conflicts of interest. For victims who are seeking resolutions to high-risk situations, such as a protection order, a court interpreter can be a matter of life and death.

THE FACTS



59%

A 2019 survey revealed that 59% of courts experienced delays in proceedings when interpreter services were needed and unavailable.

165

The number of languages courts must accommodate has increased 30%, with one court reporting 165 languages.

50%

Approximately 50% of courts report exceeding their interpreter budgets. Small and rural courts often face a shortage of qualified interpreters in their communities and larger courts have a higher volume of cases that impacts resources.



Without an interpreter, my clients would not be able to address the court or understand what was happening. It is crucial for interpreting services to be available — especially in court — which is already an intimidating setting and communication is particularly important.

DOMESTIC VIOLENCE COMMUNITY ADVOCATE



www.courts.wa.gov

CONTACT cynthia.delostrinos@courts.wa.gov or (206) 683-1585

Interpreter Services Funding 2021 Talking Points

Increase State Funded Interpreter Program

1. The judicial branch is requesting \$2.7 million for the state Interpreter Reimbursement Program so that all courts throughout the state can hire qualified court interpreters. Interpreter services are fundamental to justice, providing the ability for all participants to meaningfully participate in court proceedings.
2. Funding for court interpreters is meant to be a partnership. The legislature established funding for the Interpreter Reimbursement Program in 2008 as a partnership between local courts and the State to provide 50% funding for interpreter services. The legislature reaffirmed this relationship by increasing state funding for rural courts in 2019. This funding request increases financial support to all courts across Washington.
3. Prior to the 2019-21 biennium the Interpreter pass through funding was approximately \$610,000 per year. In the 2019-21 biennium, AOC requested that the amount be increased incrementally to \$3,572,000 over a 4 year period. The incremental approach allows AOC to develop the program and roll it out in a thoughtful way to the counties. The legislature only funded the first increase of \$1,755,000 and did not fund the incremental increase for the next two years. This leaves about 30,000 cases annually woefully underfunded.
4. The 2019 funding allowed the AOC to support fifty-nine courts, and twenty-five of the new courts are located in rural areas. Courts participating in the program increased by 84%.

Increased Demand, Insufficient Local Resources

5. A 2019 study of Washington Courts found that the costs of providing interpreters is increasing. Courts, especially small and rural ones often face a shortage of qualified interpreters in their communities, which can lead to unexpected interpreter travel costs that break the bank.
6. Program changes provide funding for much needed local services such as document translation, signage for language assistance, and interpreter equipment which are critical to ensure broad language access services for court participants throughout the state.

Due Process and Protection of Legal Rights

7. Individuals can face severe consequences affecting safety, health, families, housing, and finances if they're unable to access qualified interpreter services at the needed time in court. Having qualified interpreters from the beginning of a case can resolve minor legal issues before they become bigger ones.
8. A 2019 survey of Washington courts revealed that 59% of courts experienced delays in proceedings when interpreter services were unavailable. Delays cost the courts, community, and individuals. Delays may increase staff, attorney, and jail costs. Individuals may lose work days, struggle to find additional child care, or spend more time incarcerated.
9. Delays can be especially challenging for persons who are low income or who have health and mobility challenges.

Defending Clients in the COVID-19 Environment: Survey Results from Private and Public Defense Counsel

Jason Schwarz, Snohomish County Office of Public Defense
Katrin Johnson, Washington State Office of Public Defense

February, 2021

Survey Respondents



Defense attorneys are generally satisfied with online hearings....









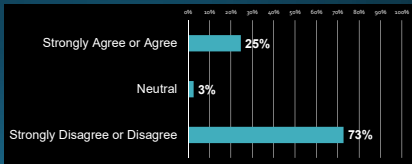
Remote Hearings – Breakout Rooms



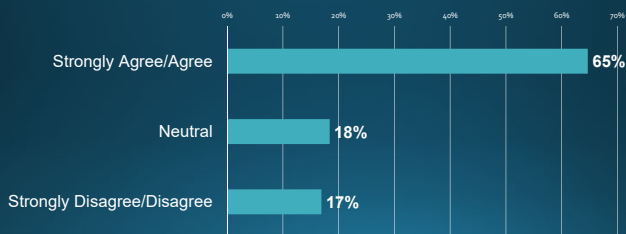
Confidentially Communicating in Courtrooms Six Feet Apart?



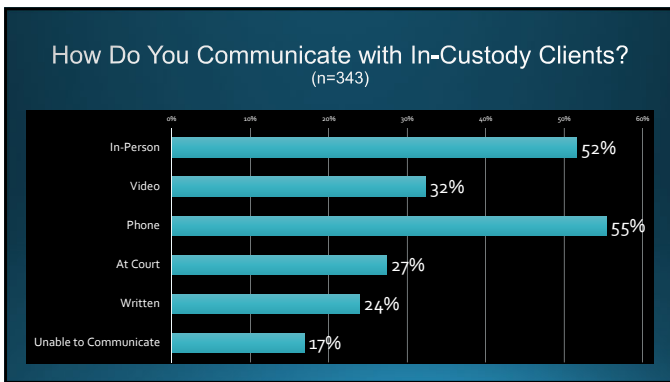
In Trial My Client and I Maintained Distance and Engaged in Confidential Communication

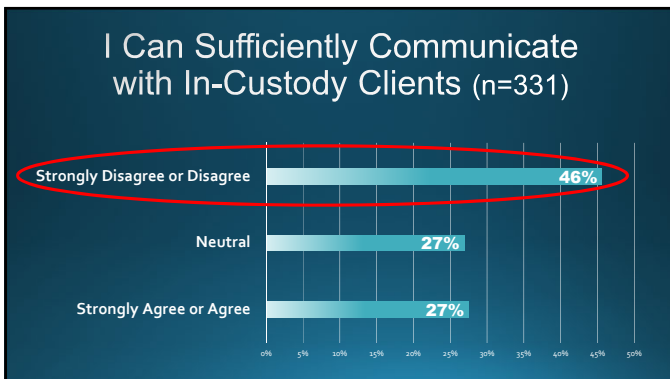


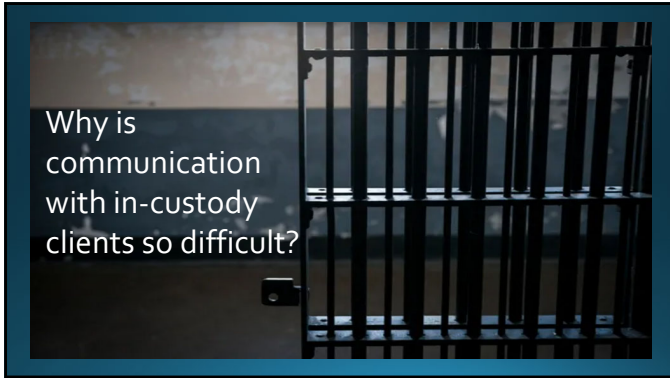
COVID Makes Communication with Out-of-Custody Defendants More Difficult







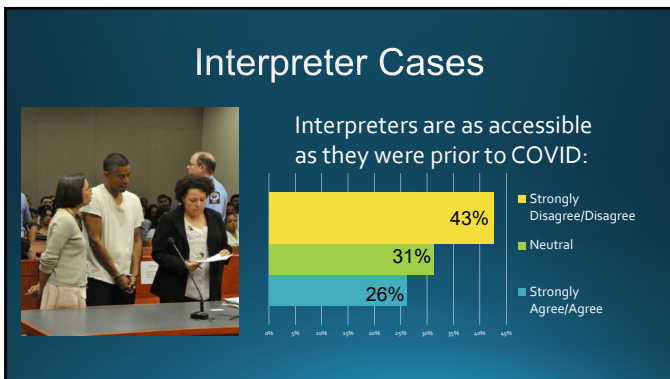


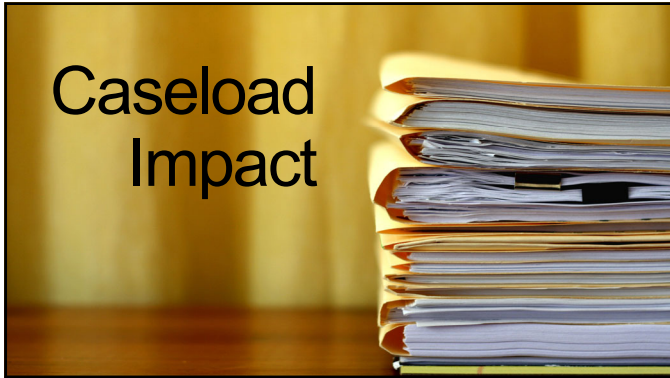


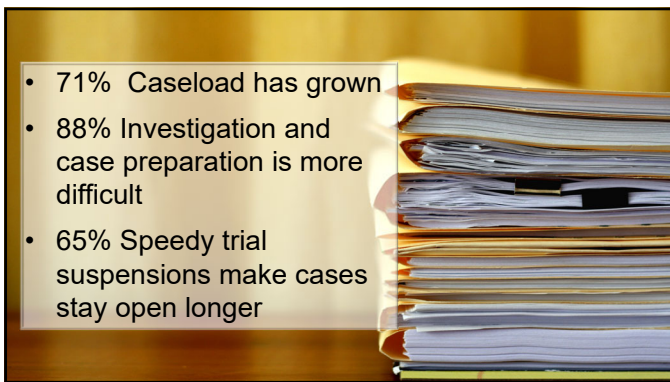
“Jail does not allow phone or virtual contact, only in-person, even during the stay-at-home order.”

“The videoconferencing that is available to us cuts off automatically every 15 minutes, which is inadequate to cover what needs to be covered.”

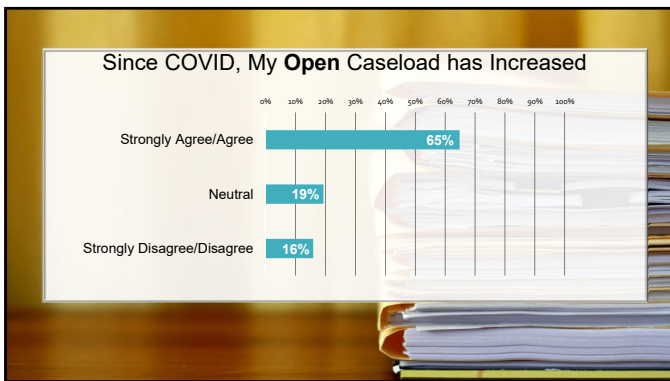
“Communication with in-custody clients has been greatly reduced. In-person visit hours have been reduced as has their opportunity to schedule them since the jail uses some of the meeting rooms as temporary holding cells for social distancing. Client communication has suffered, but particularly for in-custody clients.”

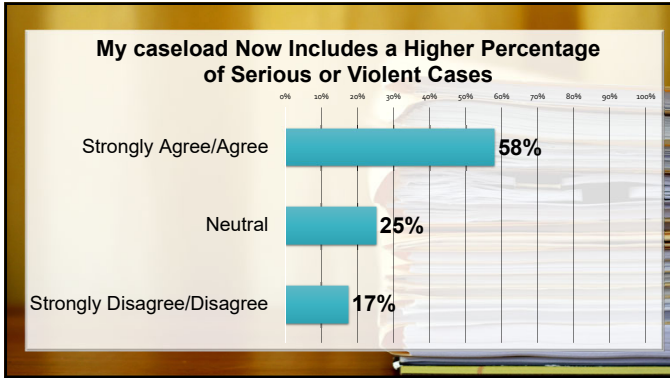






- 71% Caseload has grown
- 88% Investigation and case preparation is more difficult
- 65% Speedy trial suspensions make cases stay open longer

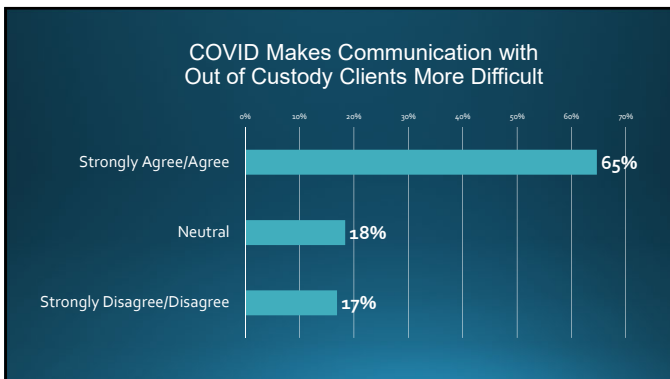




69% of defense attorneys report they are spending more time per case

Why?

1. Increased time due to communication barriers
2. Decreased negotiation leverage

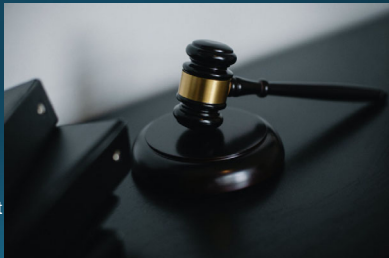


Effective Client Communication in COVID Takes More Time



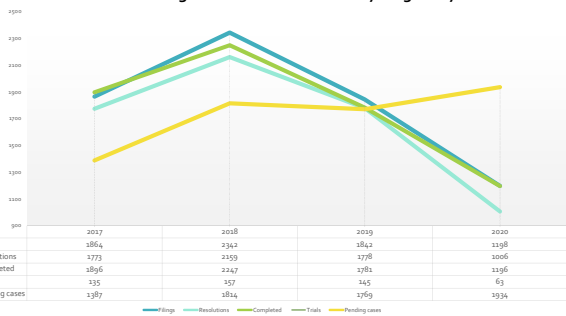
Without trials, fewer cases resolve.

"Slow case resolution is more about not having jury trials than lack of client communication."



"Lack of jury trials results in less favorable offers from some prosecutors and therefore some cases don't resolve as quickly that might otherwise resolve."

SnoCo Criminal Filings and Resolutions January-August by Year





Please Keep:

- Online Hearings with Breakout Room Capabilities
- Ex Parte Orders
- E-Signatures and Counsel Signing for Defendants
- Courthouse Safety Measures
- Collaboration with Defense



What Needs Fixing:

- More Collaboration – Especially with Jails
- Resumption of Speedy Trial
- Negotiated Resolutions on Violent Offenses
- Allow Technology for Attorney-Client Communication in Court
- Be Bold

Defending Clients in the COVID-19 Environment: Survey Results from Private and Public Defense Counsel

Executive Summary

In December 2020 public defense and private criminal defense attorneys were surveyed on ways that the COVID-19 pandemic has impacted their practice and client representation. Defenders bring a unique and important perspective. They practice in a wide range of case types – criminal, juvenile offender, dependency, civil commitment, juvenile civil, appeals, and contempt of court. Defenders must develop and maintain trusting representational relationships with their clients, guided by constitutional mandates and rules of professional conduct, while many of their clients face obstacles such as poverty, mental illness, chemical dependency, and systemic racism and bias. Defense work is challenging in the best of circumstances. Survey results show that COVID-related limitations make their work harder.

More than 300 attorneys responded to the survey, representing a diverse range of geography, legal specializations, and employment structures. Key findings include:

1. Defense attorneys in many jurisdictions cannot maintain safe and reliable confidential communication with their in-custody clients. These limitations place defenders in a position of compromising their own health and safety to maintain professional ethical standards and their clients' constitutional right to counsel.
2. Defense attorneys are generally satisfied with how courts have conducted web-based hearings. However, confidential client communication continues to be a challenge when courts do not use "breakout room" features.
3. Communication with in-custody clients is most dire when interpreters are needed. Technological and logistical limitations make interpreting either impossible or hazardous.
4. The increasing backlog of pending cases reduces defenders' ability to provide effective assistance to all clients they represent. Cases now take longer to resolve, particularly violent offenses. Attorneys require more time to work with clients and investigate facts, and the limited availability of community resources (e.g. treatment, licensing, family support services) create further delays.
5. Speedy trial deadlines trigger negotiations and the prioritization of cases for trial. In the absence of any jury trials, however, defendants cannot obtain mutually acceptable plea agreements or dismissals, and have little incentive to plead. This contributes to case backlogs.
6. The defense bar hopes that judges, court administration, corrections, prosecution, and other justice partners continue to include them in local stakeholder discussions about services in the COVID-9 environment and continued use of technology after the pandemic. The defense perspective will be particularly critical in the months ahead as filings increase and jury trials resume amidst the backlog from the past year.

The Supreme Court
State of Washington

STEVEN C. GONZÁLEZ
JUSTICE
TEMPLE OF JUSTICE
POST OFFICE BOX 40929
OLYMPIA, WASHINGTON 98504-0929



(360) 357-2029
FAX (360) 357-2103
E-MAIL J_S.GONZALEZ@COURTS.WA.GOV

December 17, 2020

Governor Jay Inslee
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

John Wiesman, Secretary of Health
Washington State Department of Health
PO Box: 47890
Olympia, WA 98504-7890
jmwiesman@doh.wa.gov

Lacy Fehrenbach, Deputy Secretary for COVID Response
Washington State Department of Health
PO Box: 47890
Olympia, WA 98504-7890
lacy.fehrenbach@doh.wa.gov

Dear Governor Inslee, Secretary Wiesman, and Deputy Secretary Fehrenbach,

The purpose of this letter is to provide additional information regarding the phased rollout of the COVID-19 vaccines to essential judicial branch personnel in accordance with Washington State's COVID-19 Vaccine Distribution Plan. As previously raised by State Court Administrator Dawn Marie Rubio and Chief Justice Stephens of the Washington State Supreme Court in their letter of December 8, 2020, judicial officers and employees of the Washington Courts, listed under "Community-based governmental operations and essential functions," appear to be included in Phase 1 of the State of Washington's Safe Start guidance plan. In addition to that letter, correspondence dated December 11, 2020 has been sent to you by the King County Office of Public Defense and key stakeholders representing public defender agencies requesting that the Vaccination Plan to include public defense employees and private attorneys who are appointed at public expense in Phase 1 as essential workers who face risks similar to that faced by law enforcement and other essential services personnel.

In addition to public and private defense counsel, judges, and court staff who should be considered as essential government services personnel, there are those who make our justice system accessible to people who cannot effectively communicate in the English language.

The Washington State Supreme Court Interpreter Commission, currently chaired by Chief Justice-elect Steven González, is a policy-making body on matters affecting language access to our state courts and seeks to ensure constitutional due process protections for those who do not speak or use the English language. It also serves as a policymaking body for the Administrative

Office of the Court's Court Interpreter Program, primarily on matters regarding interpreter certification, testing, training, and best practices.

Washington has a significantly large population of individuals who are limited-English proficient speakers, the majority of whom are lawful residents and citizens of this great State of Washington, as well as individuals with hearing loss who rely on manually signed languages. The people who make possible effective and meaningful communication with attorneys, their clients, and the courts are those individuals who are credentialed as court interpreters by the Washington State Administrative Office of the Courts and the Office of the Deaf and Hard of Hearing, as well as those interpreters in languages of lesser diffusion who are court-appointed to assist with client-counsel communications in and outside of court. Like private and public defense attorneys, court-appointed interpreters must are often required to stand closer than otherwise safe to defendants who are meeting with counsel in jail settings, where there is no option to appear remotely to provide interpreting services to those attorneys and their clients. In addition, interpreters often rely on public transportation to provide interpreting services, especially in a large metropolitan area such as King County and this provides an additional risk-of-exposure scenario for both the interpreter and those they come into contact with later. Like public defenders and court-appointed private counsel, court interpreters are a critical aspect in an individual's Constitutional due process protections and the Supreme Court Interpreter Commission requests that court interpreters be included in the Phase 1b group of individuals under the state's vaccine distribution plan.

The Interpreter Commission thanks the Office of the Governor, its critical infrastructure partner agencies, and local health agencies for its sound science-based approach to dealing with this pandemic and investing its significant resources in ensuring the safety of all Washingtonians.

Vaccination Plan for Interpreters
December 17 Letter to DOH
Page 3

It is not only those who have prominent roles in serving society that should be protected by government actions. It must also include those who enable them to serve as effectively as they can. Thank you for considering those upon whose shoulders those service providers stand, in hopes that they will receive equitable priority protections.

Most sincerely yours,

A handwritten signature in black ink, appearing to read "Steven González", written in a cursive style.

Justice Steven González
Washington State Supreme Court
Chair, Court Interpreter Commission

Cc: via email only

Kathryn Leathers, General Counsel, Office of the Governor
Chief Justice Debra Stephens, Washington Supreme Court
Dawn Marie Rubio, Office of the State Court Administrator
Judge Mafé Rajul, Chair-elect, Court Interpreter Commission



February 19, 2021

«ApplicantFirstName» «ApplicantMiddleName» «ApplicantLastName»
«HomeAddress1»
«HomeCity», «HomeState» «HomeZip»

Dear «ApplicantFirstName»:

While all court and justice partner staff are considered essential workers, the current limited supply of the COVID-19 vaccine requires the phased implementation of vaccinations. This letter is to inform you that you **are** eligible to receive your COVID-19 vaccination under Phase 1B, Tier 2 because your work-place risk has been determined to be high and/or because of your age. This letter also serves as verification for your vaccination eligibility under Phase 1B, Tier 2 and may be requested by vaccination providers when you schedule your vaccination or arrive at the vaccination location.

Vaccination for Phase 1B recipients will begin following the completion of Phase 1A (health care workers, first responders and seniors living in congregant care facilities). To find out more about the current vaccination phase please visit:

<https://www.doh.wa.gov/Emergencies/COVID19/Vaccine>. To schedule your vaccination, please call your health care provider or visit <https://www.doh.wa.gov/YouandYourFamily/Immunization/VaccineLocations>.

This letter verifies that «**ApplicantFirstName**» «**ApplicantMiddleName**» «**ApplicantLastName**» is an interpreter credentialed by the Administrative Office of the Courts and «**ApplicantFirstName**» «**ApplicantMiddleName**» «**ApplicantLastName**» is eligible for COVID-19 vaccination under phase 1B, Tier 2 based on Washington State Department of Health COVID-19 Vaccine Allocation Guidance available at <https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/820-112-InterimVaccineAllocationPrioritization.pdf>

Sincerely,

James Wells
Court Interpreter Program
Washington State Administrative Office of the Courts
James.Wells@Courts.wa.gov
360-705-5279



Washington State Supreme Court Interpreter Commission

February 5, 2021

COMMISSION MEMBERS

Honorable Mafé Rajul, Chair
Superior Court Judges Representative

Honorable G. Helen Whitener
Appellate Court Representative

Honorable Matthew Antush
District and Municipal Court
Judges Representative

Fona Sugg
Superior Court
Administrators Representative

Frankie Peters
District and Municipal Court
Administrators Representative

Jeanne Englert
Administrative Office of the Courts
Representative

Luisa Gracia Camón
Interpreter Representative

Diana Noman
Interpreter Representative

Donna Walker
American Sign Language
Interpreter Representative

Kristi Cruz
Attorney Representative

Katrin Johnson
Attorney Representative

Francis Adewale
Public Defender Representative

Anita Ahumada
Community Member Representative

Naoko Inoue Shatz
Ethnic Organization Representative

Florence Adeyemi
Public Member Representative

Dear Court Interpreter,

As you are aware, the COVID-19 public health crisis presented significant challenges to court operations over the last year. Our state courts and justice partners, being an essential and critical sector of our system of governance, have consequently adopted responsive measures enabling the courts to conduct official business via remote participation technologies. There are, however, hearings and other court and justice operations that must continue to be conducted in-person, thus placing those individuals meeting in-person at a higher-risk for COVID-19.

Because of this increased risk, the Administrative Office of the Courts (AOC), the Governor's Office, and the Department of Health (DOH) have identified mission critical staff and justice partners for vaccine eligibility, beginning with **Phase 1B, Tier 2** of the COVID-19 Vaccine Distribution Plan. These include judicial officers, county clerks, prosecutors, public defenders, and court interpreters.

Currently, Washington is in Phase 1B, Tier 1 of Vaccine Distribution, and will not move to Phase 1B, Tier 2 until 50 percent of Tier 1 is vaccinated. The amount of vaccine is in short supply at this time, but is expected to increase in the coming weeks due to Presidential action. As a result, the vaccination of Phase 1B, Tier 2 eligible individuals will not happen immediately and will likely occur over an extended period of time, which may also differ by region. In the meantime, presiding judges, court administrators, county clerks, defender offices and prosecutor offices have been asked to identify eligibility for their employees following the DOH criteria. Because AOC-credentialed and non-credentialed interpreters work as independent contractors, the AOC will issue individual vaccine authorization letters (attached) for use by AOC-credentialed interpreters and those frequently used non-credentialed interpreters whose names have been provided to the AOC by individual courts.

Please refer to DOH's website

<https://www.doh.wa.gov/Emergencies/COVID19/VaccineInformation/PhaseFinderTool> for Vaccine Phase Finder and Vaccine Locations and continue to monitor it so that you can become aware of when it is your time to secure a vaccination appointment. After you have been given an appointment, you may be asked at the vaccination site to show the attached authorization letter.

The Washington State Supreme Court Interpreter Commission, the AOC, and many justice partners wish to extend their thanks to each of you who have continued to offer your high-quality interpreting services to public servants and the public involved in court proceedings and attending court service counters. Each is aware of the sacrifice you have made to provide this essential professional service so that justice may be timely and properly conducted. Please accept this note of personal thanks from the court community for your care and dedication.

Please use the attached letter when it is time to receive your vaccination. If you have questions or concerns regarding this correspondence, please feel free to reach out to Robert Lichtenberg at Robert.Lichtenberg@courts.wa.gov or James Wells at James.Wells@courts.wa.gov.

With sincere thanks and wishes for your continued safety,



Judge Mafé Rajul
King County Superior Court
Chair, Supreme Court Interpreter Commission



Dawn Marie Rubio
State Court Administrator
Administrative Office of the Courts

Committee Reports



Interpreter Commission – Issues Committee Meeting
Tuesday, January 5, 2021
Videoconference Meeting
12:00 PM – 1:00 PM
Zoom

MEETING MINUTES

Present: James Wells, Moriah Freed, Bob Lichtenberg, Frankie Peters, Judge Matthew Antush, Interpreter Louise Morehead, Donna Walker, Fona Sugg, Kristi Cruz, Diana Noman, Maria Luisa Gracia Camon, Francis Adewale, J Benway, Naoko Inoue Shatz, Judge Goodwin, Noah Burgher

Approval of December 2020 Meeting Minutes

- Approved as presented

ESSB 5984 Discussion: Process and Deliverables

ESSB 5984 was presented once again before the Committee. Naoko Inoue Shatz is anticipating that it will be re-introduced this legislative session and is hoping for its passage. She is seeking input from the Committee on how to improve the bill, and to gain feedback. The Committee noted the following:

- Who would be providing the legal voice for the LEP person? The interpreter cannot provide legal advice. Additionally, the interpreter cannot be left alone with the LEP client – it is a breach of code of conduct. The bill lacks proper knowledge of sight translation and how interpreters provide that service.
- ‘Qualified Interpreter’ language should be modified – will create issues later.
- With remote hearings taking place, how can remote interpretation be ensured in reference to ESSB 5984?
- Kristi Cruz noted that NJP prepares a certification that the document was translated to the LEP client using an interpreter. This document does not certify that the LEP client understood. The form is signed and submitted to the court. However, there are very different circumstances if a party is represented versus unrepresented.
- Who will be responsible for providing the interpreter? Courts likely would need to take a more active role and make the request and pay for the services. This needs to be clarified in the bill. We need to be mindful of the toll it will take on courts and court staff, and the availability of interpreters in certain locations.
- Translation would be better for literate clients, but more costly than sight translation.

ACTION: Bob will reach out to AOC about possible court funding for ESSB 5984.

ACTION: Feedback and changes can be provided by emailing Naoko directly before 1/15/21

ACTION: Naoko will loop Judge O'Donnell into the discussion regarding funding.

Amendment to CrRLJ 3.4 Comments

- This issue came up in analysis of CrRLJ 3.4. There is a provision in (d)(3) and (e)(2) that concerns interpreter seating in remote proceedings. The DMCJA has proposed that the last line in (d)(3) be removed and instead cite standards in GR 11.3. They are seeking the Interpreter Commission's input on the change.
 - Current language regarding seating does not work for ASL interpreters.
- Other options proposed by the Committee include adding 'interpreters' into list of people to 'see and hear' and strike last line.
- Were GR 11.3 and GR 11.4 ever put out for comment? The trial courts would like opportunity to comment.
 - If the last line of CrRLJ 3.4 is eliminated, then GR 11.3 must stand. DMCJA currently has concerns on GR 11.3 and would like the opportunity to comment.
- Recommendations were provided to the DMCJA Rules Committee chair, Judge Goodwin, by the Committee. The Committee will await the DMCJA modification and suggestion.

ACTION: Judge Goodwin will provide the memo to the Committee and will be invited back to the next Issues Committee meeting.



**Interpreter Commission – Issues Committee Meeting
Wednesday, January 13, 2021**

Videoconference Meeting
4:00 PM – 5:00 PM
Zoom

MEETING MINUTES

Present: Francis Adewale, Kristi Cruz, Maria Luisa Gracia Camon, Diana Noman, Judge Antush, Judge Goodwin, Louise Morehead, Fona Sugg, Anita Ahumada, Cynthia Delostrinos, Moriah Freed, Bob Lichtenberg, James Wells

Approval of January 5th Meeting Minutes

- Approved as presented

Letter to Courts Re: Access to Counsel and Interpreters in Jail Settings

- A letter needs to be drafted for Judge Rajul to review to encourage administrators to include interpreters when making policy decision that have to do with access to jail and access to incarcerated LEP clients. During COVID, interpreters have struggled with jail access – this impacts language access.
- The letter is not meant to tell the jails what to do, but provide moral persuasion by making them aware of the issue.
- Every county has a law and justice council. They discuss these types of policies and it would make sense to direct this letter to them first.
- Other suggestions when drafting the letter include:
 - Interpreters should be consulted when developing policies that impact language access
 - Opportunity to ask for assistance from the Interpreter Commission
 - Possible policy suggestions, although these likely will differ jail by jail
 - Recommendations should serve beyond COVID as long term considerations
- ADA policy could provide leverage for ASL clients
- Other groups such as ATJ, WSBA, etc. could be asked to sign onto the letter for additional support.

ACTION: Maria Luisa, Diana, and Francis will write the first draft of the letter. They will work with other interpreters to gain insight into jail experiences.

Final Revision Process for GR 11.3 and GR 11.4

- The letter drafted by Judge Goodwin was not forwarded to the Committee.
- This agenda item was tabled until the next Committee meeting.
- Judge Goodwin would like to see both rules put out for comments.

ACTION: Judge Goodwin will present at the next Committee meeting.

Rule 3.4 Changes

- Add interpreters to the list of participants who can “see and hear” and then eliminate the last sentence and use 11.3 for remote interpreting.
- Judge Goodwin will run this suggested change past his Rules Committee and report back to the Issues Committee.



Interpreter Commission – Issues Committee Meeting
Friday, January 29, 2021
Videoconference Meeting
12:00 PM – 1:00 PM
Zoom

MEETING MINUTES

Present: Bob Lichtenberg, Frankie Peters, Anita Ahumada, Fona Sugg, Krisi Cruz, Judge Matthew Antush, Justice G. Helen Whitener, Judge Jeffrey Goodwin, Moriah Freed, Francis Adewale, James Wells

Approval of January 13th Meeting Minutes

- Approved as presented

Process for Revisions to GR 11.3 and GR 11.4

- The letter from Judge Goodwin was circulated. It raises some questions about remote interpretation, mainly regarding GR 11.3.
- The suggestion was proposed to move interpreters to list of other participants who can “see and hear.” Will be voted on soon.
- Judge Goodwin listed concerns with GR 11.3:
 - 11.3 (a) – Use of “fully and meaningfully participate” – somewhat ambiguous. Hearings are often rescheduled if these conditions are not met.
 - 11.3 (c) - Use of the word “litigant” – oftentimes witnesses need interpreter services as well, perhaps a broader term would be better.
 - 11.3 (h) – We can’t do simultaneous interpreting remotely. Unaware of how simultaneous can be recorded via Zoom.
 - Comment 3 – Not all courts have the capacity to meet the internet specification.
 - 11.3 (f) – CLJs feel they cannot comply with this. Staffing and scheduling issue – could create fiscal impact in needing to hire additional clerks. Getting documents to interpreter ahead of time is impractical.
- Are there proposed amendments? Mechanism for input?
 - Judge Goodwin suggested that GR 11.3 goes out for comment.
 - Judge Goodwin is hoping the rule gets pulled back until end of comment period so that feedback can be received.
- Justice Whitener – Agrees with Judge Goodwin that this rule is difficult to implement. However, we need to figure out what specifically is crucial that interpreters have ahead of time. In subsection (f), it says “if practicable” – presents a loophole to courts. It needs to be decided what documents are absolutely necessary for the interpreter to make it clearer for courts.
- Frankie – There is some fine tuning that the Committee can do. Agrees that it needs to be put out for comment. Feedback is needed from all court levels.

- Fona – 11.3 (h) was already a requirement in the old rule. It is commonly not complied with in many courts.
 - Kristi – On the record, the recording is the English. Consecutive interpreting, LEP testimony on the record, would be able to be recorded.
 - Needs to be used in high stakes situations – have to ensure accurate interpretation.
 - There are tools available to record interpreter channel.
 - Bob - RCW 2.42 – ensures accurate interpretation for deaf clients. Only fair to ensure accurate interpretation for LEP clients.
- Frankie – This is just a court rule. We are not writing policy and procedure.
- Francis – Court Rules are meant to set standards all across the state. Policy statements made by the court. Meant to set a standard – justice should be across the board. If resources are needed for small jurisdictions to follow the rule, maybe that should be addressed.
- Judge Antush – Good idea that we take a step back and put the rule out for comment.
- Bob – Either we use the existing rule to get comments, or adjust the rule using comments from Judge Goodwin and then send it out for comments.
 - Kristi – make some adjustments before comment to get to the core of good feedback, not repetitive feedback.
 - Judge Antush – Agrees with Kristi.
 - **ACTION:** Workgroup will be formed with various court representatives to revise rule before comment period
 - Kristi
 - Superior Court Representative – Bob will reach out to Judge Rajul to join workgroup.
 - Judge Goodwin
- **ACTION:** Bob will contact Shannon Hinchcliffe re: timeline for revision.

Review Draft Letter Re: Jail Access

- The timeline has been pushed back on the letter. Diana and Luisa are consulting interpreters on their experiences.
- Anita – The group met last Friday to discuss the letter.

Next Meeting: Second week of February.



Interpreter Commission – Issues Committee Meeting
Friday, February 12, 2021
Videoconference Meeting
12:00 PM – 1:00 PM
Zoom

MEETING MINUTES

Present: Francis Adewale, Naoko Inoue Shatz, Judge Matthew Antush, Judge Mafe Rajul, Maria Luisa Gracia Camon, Diana Noman, Noah Burgher, Senator Lisa Wellman, Moriah Freed, Bob Lichtenberg, James Wells

Approval of January 29th Meeting Minutes

- Approval of the minutes was tabled for discussion at another meeting.

Vote on SB 5255

- A vote was conducted via email regarding whether to submit a letter concerning SB 5255 to Senator Wellman. The letter expressed general support of the policy and intent with concerns about some wording.
- The Commission voted to submit the letter. Justice Whitener and Kristi Cruz abstained from the vote.

Address SB 5255 Concerns and Devise Solutions

- SB 5255 has passed out of Committee and has been referred to Ways & Means. This gives us time to work with the bill sponsor to propose amendments before it goes to the floor for a vote. If the bill is unfunded, courts and judges' associations with not support an unfunded mandate and oppose passage in either chamber.
- Judge Rajul proposed two changes to SB 5255 to address concerns:
 - 1) Add wording to the form that asks what a person's primary language is. This question would be in different languages, and the person would be able to check if they need an interpreter or not. This alleviates concerns of reason to know based on nothing other than a name. "Under penalty of perjury" would be included on the form as well. This puts burden of knowing on the court.
 - Naoko –If only the English speaking litigant appears in court, will the court ask the non-English speaking spouse to come before the court for translation of the documents?
 - Yes. If the spouse does not reside in Washington, it can be addressed on a case by case basis or appearance can be by video.
 - 2) Interpreters are concerned with being placed in a situation where they're witnesses. To fix this, interpreters would do a sight translation of documents, and inform the LEP that they cannot answer any questions if

asked. Afterwards, they would both go before a judge to do a brief colloquy to ensure the LEP understood.

- Luisa and Diana agreed with Judge Rajul's proposals.
- Senator Wellman raised concerns regarding divorces conducted online. Should a provision be included for online divorce forms that the person understands English?
 - Judge Rajul – The concern is that there are two parties giving the agreed order, and that the English speaker will take advantage of the non-English speaker. How would the non-English speaker understand the language?
- Judge Rajul – It needs to be clear in the rule how the court will know that the individual needs an interpreter. If it is not clear, courts will be making assumptions based on names. The amended language should include something about the indication in the form. Some evidence for the record – a reason to inquire.
- Naoko clarified that the following sections will be amended:
 - "A court has reason to know" will be modified.
 - Judge Rajul suggested the language be similar to the following: "The interpreter will sight translate for the LEP, and the LEP with then appear before the court for a brief colloquy to ensure the party understood the form."
 - Make sure that the word "translate" has "sight" in front of it
 - Line 13/14 – "certification" should be stricken and replaced
- The bill could go to the floor as soon as it leaves Ways & Means. Senator Wellman can add amendments in Ways & Means as a committee member, or on the floor. However, it is better to add the amendments sooner.

ACTION: Next steps include drafting proposed language changes to incorporate into the bill. Judge Rajul will draft suggested changes and send them to the Committee for feedback.

Future Discussion

- Participation in translation policy and practices will be discussed at an upcoming meeting.
- A follow-up meeting will be scheduled for late next week or early the following week.



**Interpreter Commission – Issues Committee Meeting
Thursday, February 18, 2021**

Videoconference Meeting
12:00 PM – 1:00 PM
Zoom

MEETING MINUTES

Present: Judge Matthew Antush, Judge Mafe Rajul, Francis Adewale, James Wells, Cynthia Delostrinos, Frankie Peters, Diana Noman, Kristi Cruz, Anita Ahumada, Bob Lichtenberg, Moriah Freed, Maria Luisa Gracia Camon

Approval of January 29th Meeting Minutes

- Minutes approved as presented

Approval of February 12th Meeting Minutes

- Minutes approved as presented
 - Kristi abstained from the vote

SB 5255 Updates

- Most current revision of bill reflects many of the suggestions from the Committee.
 - Colloquy aspect was removed due to concerns of cost from Superior Court Judges Association. There are still some problems present in the bill.
 - Reason to know, and interpreter no longer certifying are successes.
 - Current problem is that if a language is not a certified language, sight translation creates some concerns. Colloquy is not workable as a solution.
- SCJA will likely still oppose the bill. Judge O'Donnell is concerned that the 150k allocated is not enough. Remainder of payment will come from each courts' budget.
- Future possibility could be to have AOC translate the forms.
- The Committee chose to take no further action on SB 5255.

HB 1520 and Translation Concerns

- Large section in HB 1520 that talks about translating protection order forms to top 5 languages in the state.
 - Large fiscal note attached
- Cynthia is raising the issue of form translation with AOC leadership. None of the dissolution proceeding forms are translated either.
 - Large number of pro se litigants
 - AOC only translates the forms that the legislature requires of them
- Kristi – Pattern forms does have basic forms in Spanish. Could this be used as a model for expansion?
 - Luisa – Pattern forms need to be reviewed.

- Which Interpreter Commission members are liaisons to pattern forms Committee?
 - No formal relationship with the Commission. It might be time to make a request to the Pattern Forms Committee.

ACTION: Bob and Cynthia will work with Jeanne Englert as a potential liaison to the Pattern Forms Committee.

Letter regarding interpreter services in jails and correctional facilities

The Committee discussed the draft letter re: Interpreting in Jails and provided the following feedback:

- Judge Rajul – Letter asks for interpreters to be brought into the conversation when there are changes or new facilities. Should the language be more forceful in requesting that interpreters get looped into the conversation presently?
 - Francis – Need to include language about present situation. Who will take the lead in the effort? Is there a mechanism for policy follow-up on the Commission?
- Bob – Letter would be addressed to Presiding Judges (PJs) and administrators. Some type of action plan should be proposed to the PJs.
 - Need to tailor who the letter is addressed to. End of paragraphs can be reworded to include present and future.
 - Letter should be addressed to PJs. Either Bob and Judge Rajul should sign the letter.
 - Top of second page would be a good place for action step
- Judge Rajul – Should the letter just be focused on the visitation aspect? This will make steps clearer for PJs. A different letter can address the issue of clearance.
- Kristi – Add language at top about critical role that interpreters play in access to justice. The letter also needs to be on updated letterhead.
 - Add that COVID-19 means that some places are not providing interpreters. No access being provided in some instances.
- Frankie – Generalize wording to 'jail.' Include more overarching interpreter perspective.
- Francis – Approached as an access to justice issue locally is more feasible for change than a proposed statewide process.
- Bob – solutions need to be provided in letter. Some of the information can be shared with the Court Recovery Task Force to assist in addressing PJs.

ACTION: Share revisions with Francis, Luisa and Diana. They will revise the letter and provide an updated copy to the Committee.


ADWAS Outreach and use of VRS interpreters in Court Proceedings

- Advocates from ADWAS, a DV program for deaf/deaf blind women, have disclosed concerns happening during hearings. Even as late as Oct/Nov, courts were requiring clients to call in to DVPO hearings and would not let them use VRS. Required them to come in-person, and were not provided an interpreter. Some women have had 3 hearings to get a DVPO.

- Does the Commission want to write a letter statewide reminding courts about what the requirements are for serving deaf clients? Re: providing video service.

ACTION: Kristi will start a draft of the letter. She will invite Donna Walker to review the letter. The non-profit might also be drafting a letter.

DRAFT

 <p>WASHINGTON COURTS</p>	<p style="text-align: center;">Interpreter Commission Education Committee Meeting December 29, 2020</p> <p style="text-align: center;">Zoom Videoconference 12:00 p.m. – 1:00 p.m.</p> <p style="text-align: center;">https://wacourts.zoom.us/j/98303014861</p>
Meeting Minutes	

Present: Maria Luisa Gracia Camon, Emma Garkavi, Katrin Johnson, Frankie Peters, Francis Adewale, Fona Sugg, Linda Noble, Moriah Freed, Bob Lichtenberg

Spoken Language Bench Card:

- **Remote Interpreting** – revisions to concur with GR 11.3
 - Emma Garkavi submitted proposed language via email that will comply with future rule changes. The language is short and less specific. “Less is more.” The succinct comment would provide a link to the rule for additional information.
 - Fona Sugg also submitted language that is longer and more comprehensive to provide additional guidance for judges.
 - A qualifier could be added to Emma’s language to denote certain limitations in remote interpreting.
 - The following language was agreed upon by Committee members present: “Interpreting may be provided remotely in limited circumstances. GR 11.3”

- **Team Interpreting** – revisions to concur with GR 11.4
 - Emma Garkavi submitted proposed language via email. It was reviewed during the committee meeting.
 - Should language be changed to shorter, more succinct statement?
No – group leaning towards longer proposed language.
 - Because team interpreting is now a rule, does it still belong under ‘best practices’ on the bench card? Does it belong on the first page?
 - Team interpreting is a more recent rule and might need additional information provided in the bench card.
 - Language regarding breaks – should be more specific so that judges know to comply.
 - Is “trial and other lengthy proceeding” too vague by not defining a time limit for interpreting? It might not be as accurate as the rule, but schedulers will identify the long proceeding easier than a time frame of interpreting.
 - The following language was agreed upon by Committee members present: “A team of two interpreters is required for trials and other lengthy proceedings. It is permissible to proceed with a single interpreter only when good cause has been established and the single interpreter is given a ten-minute break after every twenty minutes of interpretation. GR 11.4.”

ACTION: Ask Judge Rajul if changes need to be voted on by the full Commission.

Other:

- Judicial college at end of January – materials due in a couple of weeks



**Interpreter Commission
Education Committee Meeting
January 20, 2021**
Zoom Videoconference
12:00 p.m. – 1:00 p.m.

Meeting Minutes

Present: Frankie Peters, Francis Adewale, Jeanne Englert, Maria Luisa Gracia Camon, Claudia A'Zar, Judge Buckley, Phil Zitzelman, James Wells, Bob Lichtenberg, Moriah Freed

Introductions

- Members, staff, and guests on the call gave introductions.

Session Logistics: Review of Date, Time, and Proposal for Two Sessions

- Phil – The session is currently scheduled for March 12th for 90 minutes. There is a possibility to schedule it over multiple days. We will need to check on availability for presenters and staff. The current plan is to record the webinar and post it online for those who cannot stay past the first hour.
- Two lunchtime sessions would break up screen time and allow for higher engagement and information retention. We should encourage the presenters to make interactive presentations, so that they are not just viewing a talking screen.
 - Two 45 minute sessions would allow for Q&A and fit in the lunch hour.
 - What if people could only attend one session?

There is ample material to fill two sessions. Luisa is happy to lend any materials she has developed.

- Consensus was reached to split the presentation into two sessions.
- A code could be added mid-presentation to ensure that participants are paying attention.

Draft Outline Feedback and Suggestions

- What assistance do the presenters need in developing content?
 - Judge Buckley – It would be helpful if the Education Committee could send out a survey ahead of time to the target audience requesting questions and feedback on remote interpreting. This would allow for a presentation molded specifically to the audience's concerns and comments.
 - The outline structure can be further expanded upon depending on questions received from the survey.
- Is the outline missing anything?
 - Luisa – Presentation can be tailored for court administrators and judges. Her and Claudia will work on this and provide supplemental materials.

- Frankie – Expansion of the Judge’s perspective in section III. Anecdotal experience should be included, as well as experiences, resolutions, and feedback on obtaining meaningful participation in remote hearings.
- It was noted that the sign language interpreter perspective was missing from the Committee meeting.

Next Steps

- Luisa and Claudia will put together supplemental materials. They will determine which modules will work for the presentation.
- Judge Buckley will review the selected modules and determine which part of the modules will work for judges. Frankie will follow-up with Judge Buckley.
- Luisa will contact Donna Walker regarding supplemental materials for the Sign Language sections.
- James and Bob will look into preparing and sending a survey to judges to obtain feedback and questions regarding remote interpreting.
- By the next meeting on February 5th, an expanded upon outline will be prepared.
- Deadlines:
 - February 9th – The expanded upon outline, including descriptions of presentation sections will be delivered to Phil Zitzelman to submit to the WSBA.
 - February 26th – Materials for the presentation must be submitted to Phil Zitzelman.
- Next meeting is February 5th.



**Interpreter Commission
Disciplinary Committee Meeting
Wednesday, February 10, 2021**
Videoconference Meeting
1:30 PM – 2:30 PM
Zoom

MEETING MINUTES

Present: Justice Helen Whitener, Anita Ahumada, James Wells, Donna Walker, Katrin Johnson, Maria Luisa Gracia Camon, Diana Noman, Florence Adeyemi, Bob Lichtenberg, Moriah Freed

Introductions

- Justice Whitener recently became chair of the Disciplinary Committee. She invited Committee members and staff to introduce themselves.

Approval of 12/09/29 Minutes

- The minutes were approved as presented.

2019-2020 Interpreter Continuing Education Compliance Review and Action

- The supplemental materials provided prior to the meeting by James were not circulated prior to the meeting. The Committee decided to proceed using James' representation of the non-complying interpreters.
- James gave a brief overview of the interpreter continuing education requirements. The last reporting cycle ended December 31st, 2019. Some interpreters who had not met reporting requirements were granted extensions, and others had their credentials suspended. If they did not come back into compliance, they risk revocation of their credentials.
- After this initial extension was granted, COVID happened. The reporting deadline got extended again until December 31, 2020.
- Currently, there are 3 groups of interpreters who have not completed their requirements:
 - 1 interpreter has special circumstances. She has been stuck in American Samoa throughout the pandemic with little internet access, but has been in contact with AOC. She is seeking an extension. She is only short 4 or 5 credits.
 - 2 interpreters have contacted AOC regarding requirements, but have not input their credits online.
 - 6 other interpreters have not contacted AOC.
- The following sanctions and extensions were decided upon by the Committee:
 - For the interpreter in American Samoa, an extension of 6 months was recommended until June 2021. No further extension will be granted.

- Katrin moved to grant the extension. Diana seconded the motion.
 - Vote - 5 in favor, 1 against
 - For the 2 interpreters who have not uploaded credits, one week will be offered to upload the credits. If the credits are not uploaded, the Committee will recommend a revocation of credentials.
 - The Committee was in agreement for this sanction
 - The 6 individuals who have made no contact with AOC will be referred to the full Commission for revocation of credentials.
 - The Committee was in agreement for this sanction

King County Superior Court Grievance Against Interpreter

- Luisa notified Justice Whitener that she was a witness at the hearing for the first violation, and requested this this agenda item got moved to the end of the meeting. Justice Whitener agreed so that impartiality could be maintained.
- Bob provided background on the current grievance matter involving an interpreter previously sanctioned by the Committee, including his previous credential revocation of 5 years. New violations involve misrepresentation of credentials as a certified court interpreter.
 - Section 1.3 – Deliberate misrepresentation of court interpreter credential.
- The respondent interpreter has not responded to the Committee’s preliminary findings under section 6.3.
- Katrin – Unsure if our rules allow for a default judgement with a nonresponsive respondent. Procedurally, what is within the scope of our authority?
 - Title 9 sanctions – unsure if they can be imposed without going through administrative process of title 8.
- Justice Whitener – Further review and information is needed before making a recommendation.
 - How much leeway do we give?
 - When someone is revoked/suspended, what type of notification is provided to the courts? How do we get the courts to take this information seriously?
 - Use guardian ad-litem notification as a model
 - Another discussion is needed on the matter before the Commission meeting.

Update on revision process for Disciplinary Committee Process Manual

- A process needs to be setup with a workgroup to review the disciplinary manual. Bob is looking for a lead to take on this project.
- The following Committee members agreed to undertake the project: Justice Whitener, Katrin, Luisa, Diana and Florence.

Court Interpreter Program Reports

INTERPRETER REIMBURSEMENT PROGRAM

February 2021 Update

PARTNERS AND NEXT STEPS



PARTNERS - RURAL AND URBAN COURTS

- The Program has expanded to seven new counties including:
Chelan, Douglas, Franklin, Mount Vernon, Okanogan, Pasco, Skagit.
- Total number of courts in the program increased from 32 to 57
Rural Courts 35
Urban Courts 22



PARTNERS - REIMBURSEMENT

Most courts in the Program submitted their first invoices for reimbursement from July 2020 to December 2020.

"Thank you for the opportunity to participate in this partnership to provide improved interpreter access to the community."



NEXT STEPS - MORE PARTNERS

- Personalized outreach to seven rural counties who currently do not have any courts participating in the Program. These counties are: Asotin, Ferry, Klickitat, Lewis, Pacific, Skamania, and Wahkiakum.



NEXT STEPS - MONETARY INCENTIVE

- Developing an equitable monetary incentive plan for any funds left in the Program at the end of FY21, June 30, 2021.

**PARTNERS -
RURAL AND URBAN COURTS
LIST OF CONTRACTS**

Rural Courts Grandfathered Into the Program

1. *Chelan County Superior*
2. *Douglas County District*
3. *Douglas County Superior*
4. *Franklin County District*
5. *Franklin County Superior*
6. *Mount Vernon Municipal*
7. *Okanogan County Superior*
8. *Pasco Municipal*
9. *Skagit County District*
10. *Skagit County Superior*

Rural Courts New to the Program

1. *Burlington Municipal*
2. *Clallam County Superior*
3. *Cle Elum Municipal*
4. *Columbia County District*
5. *Cowlitz County Superior*
6. *Garfield County District*
7. *Grant County District*
8. *Grays Harbor County District*
9. *Island County Superior/Juvenile*
10. *Jefferson County District*
11. *Kittitas County Superior*
12. *Lincoln County District*
13. *Lower Kittitas District*
14. *Mason County Superior*
15. *Pend Oreille County District*
16. *Ritzville District*
17. *Roslyn Municipal*
18. *San Juan County District*
19. *San Juan County Superior*
20. *Upper Kittitas District*
21. *Stevens County District*
22. *Walla Walla County Superior II*
23. *Whitman County District*
24. *Yakima County Superior*
25. *Yakima Municipal*

**PARTNERS -
RURAL AND URBAN COURTS
LIST OF CONTRACTS-CONT.**

Urban Courts Grandfathered Into the Program

1. *Benton County District*
2. *Benton County Superior*
3. *Benton/Franklin Counties Juvenile*
4. *Bremerton Municipal*
5. *Clark County District*
6. *Des Moines Municipal*
7. *Everett Municipal*
8. *Federal Way Municipal*
9. *Kent Municipal*
10. *Kitsap County District*
11. *Kitsap County Superior*
12. *Lynnwood Municipal*
13. *Pacific/Algona Municipal*
14. *Pierce County Superior/District*
15. *Port Orchard Municipal*
16. *Poulsbo Municipal*
17. *Renton Municipal*
18. *SeaTac Municipal*
19. *Seattle Municipal*
20. *Snohomish County District*
21. *Snohomish County Superior*
22. *Tukwila Municipal*