

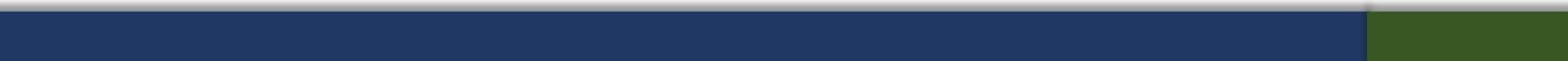


FUNDING COURT INTERPRETERS

A survey report on court interpreter services and funding needs in
Washington State

Board for Judicial Administration Interpreter Services Funding Task Force

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EXECUTIVE SUMMARY

The public has a right to effectively access and meaningfully participate in the judicial process. Individuals must be able to present information and understand proceedings and rulings. Those with limited English proficiency and those who are deaf or hard of hearing need appropriately qualified interpreters to do this.

The Board for Judicial Administration Interpreter Services Funding Task Force conducted a survey in December 2017 to gather information about local courts' interpreter services and funding needs.

KEY FINDINGS

- 1) Over one-half of Washington State courts frequently use appropriately qualified interpreters, either daily or at least weekly. While trial courts recognize the importance of providing this access, courts experience many challenges when providing court interpreter services.
- 2) Interpreter costs have increased over the last two years and around one-half of courts responding exceeded their allocated interpreter budgets.
- 3) Jury trials, multi-day trials and rare language interpretation costs are unexpectedly expensive.
- 4) Compared to urban courts, small and rural courts report more difficulties accessing qualified interpreters.
- 5) Courts overall have difficulties finding rarer language interpreters and qualified interpreters.
- 6) Courts experience delays in proceedings when they cannot find interpreters, when they are not aware in advance that an interpreter is needed for next-day hearings and jury trials, and when interpreters are not local and must travel from a distant location.

To meet increasing needs, it is critical that courts have access to state funding to provide quality and timely interpreter services, especially in rural and smaller courts. The Interpreter Services Task Force recommends that funding be increased to expand courts' access to state reimbursement funds for interpreter services and certified interpreters to ensure individuals can meaningfully participate in the judicial process.

INTRODUCTION

People need to be able to communicate. Equal and fair access to justice requires full engagement of all parties. Individuals must be able to present information and understand proceedings and rulings. For individuals whose English proficiency is limited, or those who are deaf or hard of hearing, this can only be accomplished through the use of appropriately qualified interpreters.

Over the past two years, Washington State courts have experienced:

- Increased court interpreter costs, and
- Difficulties finding qualified interpreters.

State and federal laws require Washington courts to provide meaningful access to court proceedings and court services for persons who have functional hearing loss or have limited English proficiency.¹ Washington law also prescribes the requirements for providing services² and who pays for them³, and compels the courts to use interpreters certified by the Administrative Office of the Courts (AOC).⁴ Additionally, the Department of Justice requires recipients of federal funds to provide interpreter services for all court cases as well as meaningful access to all court managed programs and activities, including those outside the courtroom.

There have been many impacts on interpreter services over the years. Washington State has experienced an increase in its limited English proficient population, resulting in more languages requiring interpretation, and increased interpreter court costs. The AOC Interpreter Reimbursement Program was created to help with these costs.

The AOC's Interpreter Reimbursement Program (Reimbursement Program) contracts with 33 courts covering 41 jurisdictions across Washington to partially reimburse costs of hiring interpreters. The AOC reimburses courts for up to 50 percent of interpreters' hourly rate and travel costs. Since 2011, the AOC has annually expended approximately \$610,500 to reimburse courts in the program. Almost every court spends well beyond what the AOC has available to reimburse for interpreter expenses and the funds provided by AOC are routinely exhausted by year's end.

With interpreter needs and costs increasing, the Board for Judicial Administration (BJA) adopted the goal of obtaining adequate and sustainable funding for interpreter services as one of their strategic priorities for 2017-2019. The Interpreter Services Funding Task Force was created to identify the current demand for interpreter services statewide, the costs associated with providing these services, and statewide funding options to meet these needs. The Task Force will submit a legislative funding proposal for the 2019-21 Biennium.

¹ RCW 2.43.010, Title VI of the Civil Rights Act of 1964, Executive Order 13166

² RCW Chapters 2.42 and 2.43

³ RCW 2.42.120, RCW 2.43.040

⁴ RCW 2.43.030

SURVEY METHODOLOGY

The Board for Judicial Administration Interpreter Services Funding Task Force (Task Force) conducted a survey in December 2017 to gather information about local courts' interpreter services and funding needs. The Task Force wanted to determine the frequency at which interpreter services were accessed around the state, what types of cases they were most used for, the approximate costs, and challenges and successes in administering interpreter services. Past interpreter survey information and other information collected from the Interpreter Commission and the Reimbursement Program are incorporated in the overall data review and helped shape this report's recommendations.

AOC staff first met with five court administrators and interpreter coordinators representing different geographic areas and varying participation in the Reimbursement Program to better understand local interpreter services issues. Survey questions were then developed by AOC staff, including the Washington State Center for Court Research, and reviewed and revised by Task Force members. The survey was distributed to all presiding judge and court administrator listservs and remained open four weeks. Weekly reminders were sent by listservs or to specific courts.

For the purposes of this survey, interpreter services refers to services provided by an interpreter via in-person, telephonic means and remote interpretation for individuals with limited English proficiency or who are deaf and hard of hearing. In-court proceedings refers to any pretrial hearings, trials, attorney meetings, case hearings, etc. Other court services refers to all other services such as courthouse facilitation, front desk services, court-mandated programs, etc.

There were 132 court responses out of a possible 165, giving an 80% response rate.

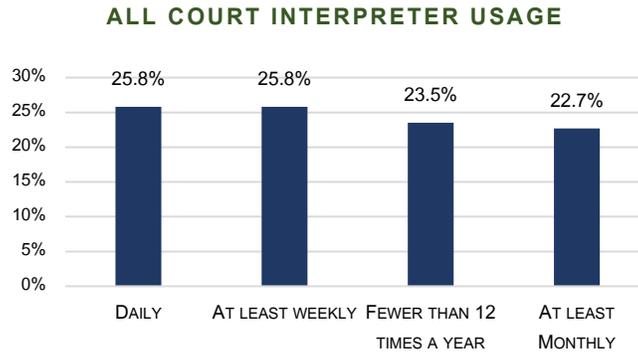
COURT LEVEL	PERCENTAGE OF TOTAL RESPONSES
Municipal	44%
District	28%
Superior	26%
Court of Appeals	2%
Supreme Court	1%

The Supreme Court and Court of Appeals rarely use interpreters during their court proceedings. Not all courts completed the survey to the end. Many of the courts that did not complete the survey to the end identified only needing interpreters fewer than 12 times a year. Supplemental data sources provided additional costs for interpreter services for 2015 and 2016 for courts that did not complete the survey.

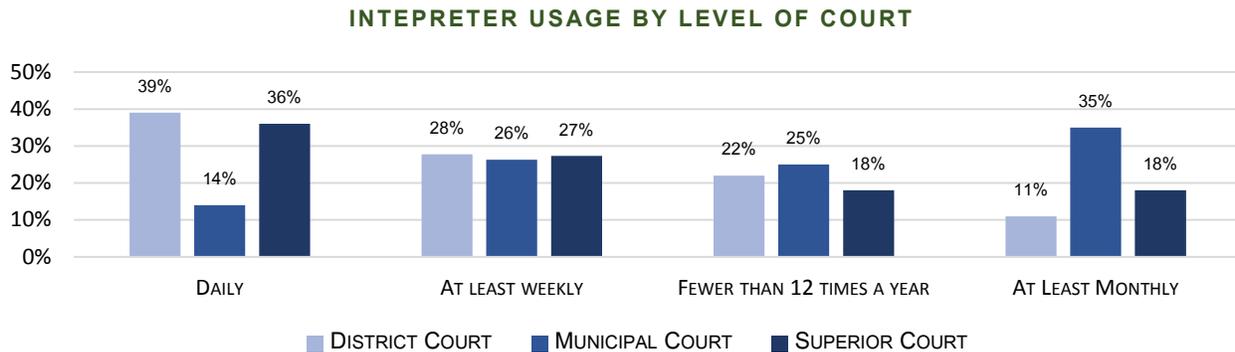
KEY FINDINGS

INTERPRETERS USED FREQUENTLY

Over 50% of courts were most likely to use interpreters daily or at least weekly⁵.



Around 66% of district and superior courts were most likely to use interpreters daily or at least weekly⁶.



COUNTY AND CITY FUNDS PAY FOR MAJORITY OF INTERPRETER SERVICES

State funding for court interpreter services was limited through the Reimbursement Program, covered only a portion of interpreter costs⁷ and was available to only 25% of the courts. Therefore, counties and cities primarily paid for interpreter services. According to survey results, 93% of courts paid for interpreters with county or city funds. Of the courts responding, 33% also received funding through the Reimbursement Program. Only 3% of courts reported that litigants paid for interpreter costs.

⁵ Don't know responses (2%) were removed.

⁶ Supreme Court and Court of Appeals were excluded due to limited use of interpreters.

⁷ Interpreter costs usually include hourly/daily rates and travel

Approximately 91 courts reported interpreter costs for both 2015 and 2016⁸. The data shows costs increased between 2015 and 2016 and that approximately 50% of courts exceeded allocated budgets each year.

- In 2015, these courts spent \$4,345,207 for interpreter services⁹.
- In 2016, these courts spent \$5,582,234 for interpreter services.
- Of the 70 courts that reported, approximately 50% exceeded their allocated budgets.

Unexpected/Extraordinary Costs Experienced

“The court has a trial currently scheduled to start in December 2017 in which the interpreter costs are estimated to be \$14,000 for the trial alone.” -- Survey Respondent

Court environments are dynamic. Even with the best planning, courts cannot account for every situation impacting their services and budgets. Courts were asked to describe unexpected or extraordinary costs associated with their courts’ interpreter needs over the past two years. Of the 76 courts responding:

- 38% identified unexpected costs resulting from jury trials/multi-day trials/hearings (multiple interpreters and travel costs).
- 32% identified unexpected costs resulting from utilizing rarer language interpreters (includes higher interpreter rates and travel costs and multiple language interpreters for one person).
- Other identified costs resulted from overall increasing interpreter rates and travel costs, needing higher than budgeted interpreter services, and interpreter cancellation costs.

One survey respondent shared unexpected costs: “A civil case with two deaf parties, one of which did not understand sign. We had two sign interpreters and a real time transcriptionist. That one three day case used approximately 25% of our annual budget. A Samoan interpreter was used for two hearings at \$1000/day. A French interpreter was used for two hearings and cost \$900/day.”

Courts Maximize Resources

Many courts have explored different approaches to increase efficiencies and decrease costs when providing interpreter services. Courts reported that they maximized resources with the following:

- 69% scheduled cases with interpreters on the same day
- 40% used collaborative efforts with justice partners (includes shared calendars, shared interpreters)

⁸ 34 courts did not provide financial information. Three of these courts included Supreme Court and two Court of Appeals courts that do not use many interpreters. 14 courts use interpreter services fewer than 12 times a year. Seven use interpreter services at least monthly. Six use interpreter services at least weekly. Two use interpreter services at least daily. Four don’t know. An additional 6 courts only provided costs for 2016 and were excluded in these numbers.

⁹ A portion of coordinator staff salaries were only included in costs if the coordinator provided interpretation services.

- 22% used remote technology (such as video remote interpreting)
- 21% used online interpreter scheduling
- 18% used other practices such as multiple methods for contacting interpreters – emailed, called, texted, and used alternate calendaring approaches

Furthermore, 30 courts identified practices that could be implemented in the future. Of those that responded: 12 courts identified shared, coordinated and online scheduling (the vendor 1Lingua was identified most commonly for online scheduling); two courts identified video remote interpreting; and the remaining courts identified mentoring, multilanguage forms, front desk interpreters, and interpreter only calendars as promising practices.

Interpreter Services Desired But Lack Funding

Twenty-five percent (25%) of courts expressed that if they had the funding, they would provide more translated forms in different languages or seek additional staffing, either as bilingual staff and/or interpreter coordinators.

PROVIDING TIMELY INTERPRETER SERVICES

It is often said justice delayed is justice denied. Fifty-nine percent (59%) of courts were often unable to acquire timely interpretation services:

- For rarer languages
- For jury trials and next day hearings
- When there was a lack of advance knowledge of interpreter need
- When interpreters were not available
- When greater distance and travel were required

Some courts reported this occurred monthly, while others reported only several times a year. Consequently, most of these cases were rescheduled; a few were dismissed if they missed speedy trial requirements or for other purposes not shared in the survey.

Our resources are limited in Eastern Washington. We occasionally have to reschedule hearings in order to secure an interpreter. One infraction case was dismissed as we were unable to secure a sign-language interpreter within speedy trial limits.” – Survey Respondent

INTERPRETER SERVICES

Certified Versus Non-Certified Interpreters ¹⁰

Washington State's court interpreter certification process ensures minimum standards for interpreter competency in linguistic and interpreting skills and legal knowledge which leads to greater confidence and consistency of interpreter services across the state. Courts were asked if they used non-certified interpreters when court certified interpreters were available. The majority of courts, 76%, said they do not use non-certified interpreters when certified interpreters are available. Twenty-one percent (21%) of courts reported they may use non-certified interpreters: if they have multi-lingual staff; if the person is qualified by the judge; for certain types of hearings; when Language Line interpreters are used (they are not court certified); when there is a difference in monetary fees; and when certified interpreters are not available or local.

Interpreter Priorities and Challenges

We primarily use freelance interpreters as they are more cost effective. However, we have an increasing number of rare languages in our region that require us to use an agency. This increases our expenditure. We also have difficulty finding certified and registered interpreters in certain languages. ” – Survey Respondent

Courts identified local court priorities and challenges when providing interpreter services. These responses were categorized and ranked according to number of times mentioned.

Court priorities for interpreter services are to:

- Increase certified interpreters and access to interpreters
- Hire more multilingual staff and coordinators for interpreter services
- Translate more forms into different languages
- Explore video remote interpreting

Courts also mentioned priorities around increased funding, access to rarer language interpreters and for rural areas, and online scheduling.

Court challenges when providing interpreter services are:

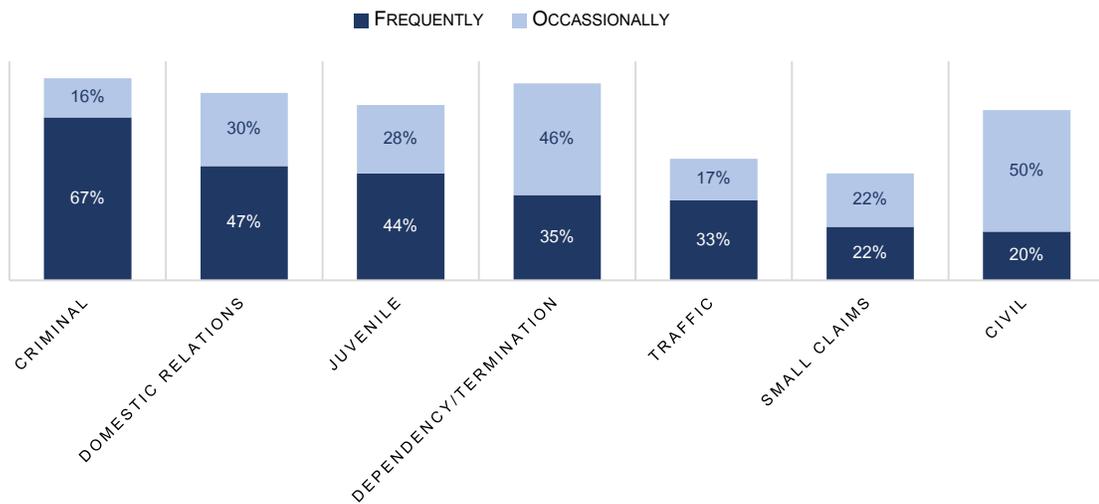
- Costs
- Finding rarer languages, local and certified interpreters
- Accessibility of interpreters at time of need and for rural areas
- JIS issues, screening, and training

¹⁰ Unless respondent identified, this question did not discern what types of situations non-certified interpreters are used in.

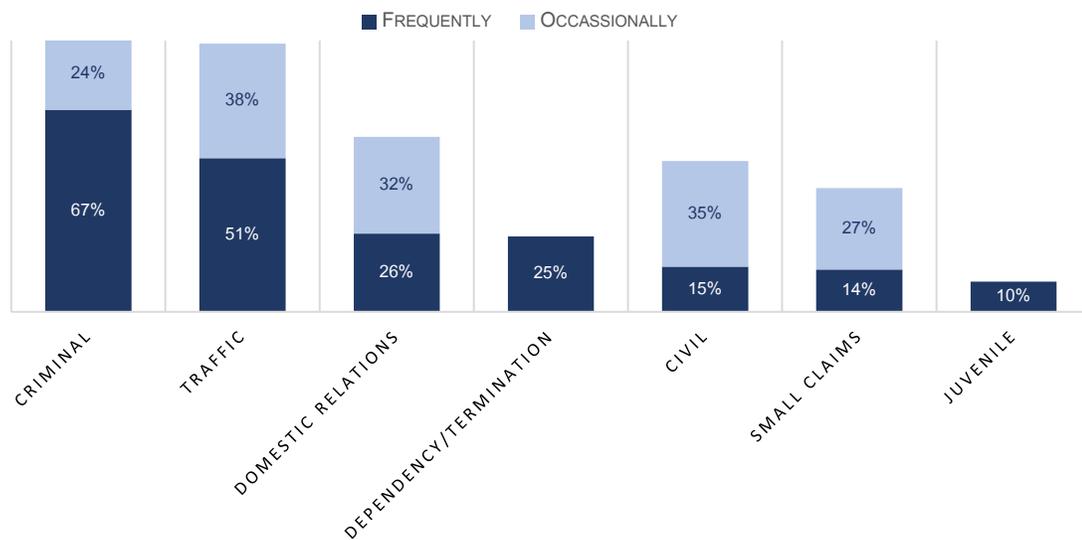
Interpreters Used More in Criminal Cases

When interpreter services were used, they were most likely to be provided for criminal cases. In superior courts, interpreter services were more frequently used in criminal, domestic relations, juvenile and dependency/termination cases. In district/municipal courts, they were more frequently used in criminal, traffic, domestic relations and civil cases. Not all courts hear all case types. Appellate courts and missing or N/A data was removed from the following charts.

TYPES OF SUPERIOR COURT CASES UTILIZING INTERPRETERS



TYPES OF DISTRICT/MUNICIPAL COURT CASES UTILIZING INTERPRETERS

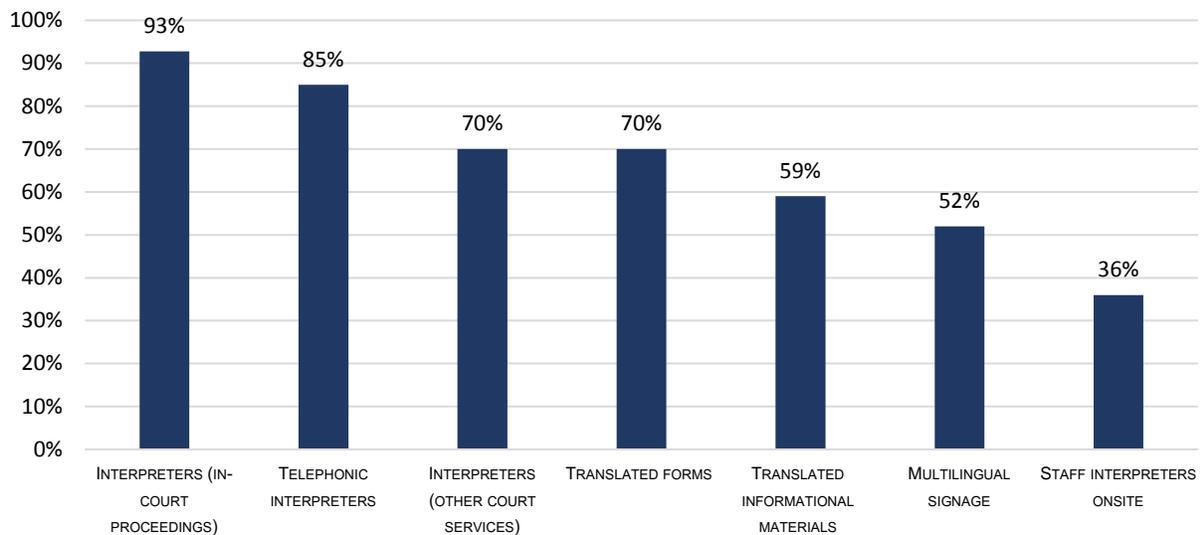


Language Services Provided

The majority of courts, 93%, provided interpreter services for in-court proceedings and 85% of courts provided telephonic interpreters. Over 50% of courts also provided multilingual signage, translated forms and information, and interpreters for other court services.

Additionally, at least 50% of courts provided interpreter services at their front desk; 26% provided interpreter services for courthouse facilitators and court mandated programs such as parenting classes, rehab programs, etc.; and 36% provided interpreters for pro se access to courthouse information and facilities.

LANGUAGE SERVICES COURTS PROVIDE



Languages Overview

The need for different language interpreters varies across the state. While Spanish is the most interpreted language in Washington, 36% of courts provided interpreter services for over ten different languages with one court reporting 162 languages. More languages required more resources to locate and pay for services. These survey findings suggest a need for increased recruitment and certification for different language interpreters.

Multiple day trials require the services of two interpreters and this is not always available. Spanish, Mam and Kanjobal interpreters are sometimes needed as not all the parties can understand, so it has to be translated from one to the other language.” – Survey Respondent

Interpreters Often Translate Forms

Court proceedings require documents that are vital to legal system processes. These documents cover court services, initiating legal proceedings, protecting legal rights, and communicating the outcomes and consequences of proceedings for litigants. Of those responding, 72% of courts felt that more translated forms would improve local court language services. Seventy-eight percent (78%) of courts used interpreters to orally translate forms for court users and 46% of courts used interpreters to translate forms in writing for court users. State translated forms were used by 53% of the courts. For courts that used locally translated forms, the majority used forms translated into Spanish. A few courts used translated forms in Russian, Korean, Vietnamese, Chinese and Amharic.

Translated forms are not without challenges. Several respondents commented that the majority of Spanish-speaking court users with limited English proficiency have very basic reading skills and that, even with translated forms, the interpreter was needed to read the forms. Additionally, some organizations refused to accept translated forms or required bilingual forms (English and another language on one document). These considerations would need to be factored into any efforts addressing translation of forms.

RECOMMENDATIONS

The public has a right to effectively access and meaningfully participate in the judicial process. Those with limited English proficiency or who are deaf or hard of hearing need appropriately qualified interpreters to do this. Over half of Washington State courts frequently use appropriately qualified interpreters, either daily or at least weekly. While trial courts recognize the importance of providing this access, courts experience many challenges when providing court interpreter services.

The survey findings identified several issues facing the courts when providing interpreters:

- Interpreter costs have increased over the last two years and around one-half of the courts exceeded their allocated interpreter budgets.
- Jury trials, multi-day trials and rare language interpretation costs are unexpectedly expensive.
- Compared to urban courts, small and rural courts report more difficulties accessing qualified interpreters.
- Courts overall have difficulties finding rarer language interpreters and qualified interpreters.
- Courts experience delays in proceedings when they cannot find interpreters, when they are not aware in advance that an interpreter is needed for next-day hearings and jury trials, and when interpreters are not local and must travel from a distant location.

To meet increasing needs, it is critical that courts have access to state funding to provide quality and timely interpreter services, especially in rural and smaller courts.

THE TASK FORCE RECOMMENDS THE FOLLOWING STRATEGIES

- 1) Expand the AOC Interpreter Reimbursement Program to include new courts and to provide additional funds to existing courts. The Reimbursement Program currently provides limited funds to only 33 courts. No new courts have been able to apply for these funds since the program's inception in 2008. Increased funds will allow more courts access to quality interpretation. There will be a priority in the first year to recruit small and rural courts into the program.
- 2) Request increased funding to support additional recruitment, testing and training for all languages with a focus on rarer language and certified interpreters.
- 3) Evaluate and test cost savings strategies such as collaborative efforts with justice partners, online calendaring, and video remote interpretation. Cost saving strategies will be shared with all Washington State courts.
- 4) Explore a statewide system to provide telephonic interpretation. There currently is no statewide system for telephonic interpretation and the national language lines do not have certified court interpreters.

Over the past decade, the Reimbursement Program provided funding to courts in order to improve the quality of interpreter services in Washington State. It is essential that funding be increased to expand courts' access to state reimbursement funds for interpreter services and certified interpreters to ensure individuals can meaningfully engage in the judicial process.

