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Funding Court Interpreter Services In Washington Courts

*A summary of feedback on court interpreter
services and funding needs*

**Board for Judicial Administration
Interpreter Services Funding Task Force**

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Introduction

Providing language access in legal proceedings is a fundamental and constitutional right. Individuals with limited English proficiency (LEP) and those who are deaf or hard of hearing need appropriately qualified interpreters to effectively access and meaningfully participate in the judicial process.

Over the past two years, Washington State courts have experienced increased court interpreter costs and difficulties finding qualified interpreters.

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 submitted a legislative funding proposal for the 2019–21 Biennium.

As part of this process, the Task Force conducted a survey in December 2017 to gather information from courts about local courts' interpreter services and funding needs. The Task Force further identified that customer feedback about interpreter services was critical in determining funding needs. Customer is defined as anyone who needs to be able to communicate with another person in regards to a court matter. Customers interviewed include attorneys, judges, court administrators, interpreter coordinators, domestic and sexual violence advocates, and court users.

AOC staff collected information through a survey specifically for domestic violence and sexual assault advocates, an attorney training session and individual interviews (phone, email, and in-person), a survey of court administrators and judges currently in the State Court Interpreter Reimbursement Program (Reimbursement Program)¹, and a feedback form for court users utilizing interpreters (one court implemented this). There was also a chance to listen to feedback from court interpreters at a community forum.

This report summarizes responses about interpreter services from each customer group.

¹ State Court Interpreter Reimbursement Program is a cost sharing program whereby a limited number of courts (due to limited funding) apply for approximately 50% reimbursement of applicable interpreter costs from State funding administered by the AOC.

Overview

The Board for Judicial Administration Interpreter Services Funding Task Force sought information from advocacy organizations to help assess court interpreter service and funding needs across Washington State. The Task Force's main goal is to ensure individuals are able to meaningfully participate in the judicial process. For those who are limited in English proficiency or deaf or hard of hearing, this would mean that courts provide qualified interpreters when individuals connect with the courts whether they are self-represented, need a protection order, are participating in a hearing, or are a witness.

Interpreter Services are critical for survivors of abuse, especially for all parties to communicate about the seriousness of violent situations and to understand what protection orders mean, what happens in custody hearings, and other family law matters that domestic violence and sexual assault survivors face. A recent survey of courts found that interpreters are used in at least a quarter of domestic relations cases and for some courts that number is higher.

Survey Methodology

The survey was distributed in September 2018 to community sexual assault and domestic violence programs through the Washington State Coalition Against Domestic Violence and the Washington Coalition of Sexual Assault Programs and several legal aid programs who provided legal advocacy/information without representation in court. AOC staff also talked with several local programs and attorneys who work with victims of sexual assault and domestic violence.

For the purposes of this survey, unless otherwise specified, interpreter services refer to services provided by an interpreter in person, or via telephonic means or video relay interpretation for individuals who are limited English proficient or deaf or hard of hearing.

There were 95 responses to the survey, representing all of the regions across the State.

Key Findings

- 1) Around 20% of advocates reported that the majority of their clients needed court interpreters.**
- 2) Around 50% of advocates reported that their clients needed court interpreters almost a third of the time.**
- 3) It is not always easy to obtain interpreters.** One-half of respondents said it was somewhat easy to obtain interpreter services in their courts. Almost 30% said it was not easy to obtain interpreter services. The number increases to 50% of respondents from Region 2 (Adams, Chelan, Douglas, Grant, Kittitas, Klickitat, Okanogan, Skamania) who said that obtaining interpreters at their courts is not easy.

| How easy is it to obtain interpreter services at your court? | |
|--|-----|
| Very easy | 11% |
| Somewhat easy | 51 |
| Not easy | 29 |
| Don't know | 9 |

- 4) **Advocates reported delays in 56% of hearings** when court interpreters were not available for individuals at the time they were needed. This percentage is consistent with the court responses from the [Funding Court Interpreters Report](#) which reported that 59% of courts were unable to acquire timely interpreter services.

Interpreters were often not available because there was limited or no availability of local interpreters, it was a less common dialect or language, or it was an ex parte hearing. In most of the feedback received, interpreters are generally not provided at ex parte hearings. In the majority of situations where an interpreter was not available, the case was rescheduled or language line² was used. Respondents also reported that when interpreters were not available, in some situations clients waived the requirement for certified interpreters, clients understood enough English to proceed, bilingual advocates or attorneys were asked to translate (more likely to happen in ex parte hearings), or clients had to wait long periods until an interpreter could come to the court.

Interpreter Impacts

When asked how interpreter services impacted a client and their situation, advocates shared varying responses, both positive and negative.

Protection orders are high risk situations.

Advocates reported that when interpreter services were not provided or there is poor interpretation clients left without receiving help, orders and decisions were made without accurate or appropriate interpretation, and clients experienced emotional and financial impacts. In some communities, interpreters and clients know each other which created a conflict of interest and resulted in delays.

An advocate shared a time when a victim of domestic violence was at the first domestic violence protection order (DVPO) hearing. The victim told the advocate after the hearing that the interpreter didn't say the same thing as she did. *"It can already be intimidating, extremely stressful, and emotional for the victim to be at the court. If they feel the interpreter isn't saying the correct thing, they may not feel comfortable and safe speaking up."* The victim gave up and didn't go to court again to rectify the situation. She never received a protection order.

"In DVPO setting, both client and opposing party needed an interpreter, the court only provided one non-AOC certified interpreter for both parties. The interpreter refused to interpret for both parties, only interpreted for the opposing party (abuser). Client did not understand what had happened in the hearing." – Advocate

² Language line is a call-in interpreter service.

“A client signed final orders in a family law case under the pressure of the opposing party at an ex parte hearing when she did not speak English.” – Advocate

“I had a client in a situation where (the) interpreter seemed to minimize seriousness of (the) injury because they didn't accurately describe the sexual abuse caused.” – Advocate

“Another client brought their teenage child in to interpret because they could not speak or understand English.” – Advocate

Advocates also shared the advantages of having language access and quality interpreter services. When there is appropriate interpreter, individuals (both clients and witnesses) have the opportunity to understand and participate in proceedings, have their questions answered, and feel safer and comfortable presenting difficult information.

“In filing for a protection order, it would not have been possible to speak to the judge unless the interpreter was there.” – Advocate

“Often the interpreters will stick around after a hearing to make sure a client understands the orders that were signed, which is very helpful.” – Advocate

Lastly, advocates were asked to identify ways in which the courts can improve language access. The top response was that courts should ensure appropriate interpreters are available when needed. Some suggestions to accomplish this included hiring more bilingual staff, developing an easier process to obtain interpreters, posting how to get one at the front desk, adding a language box on forms, and providing in-person interpreters. Language line does not provide consistently accurate and effective interpretation. Providing interpreters at ex parte hearings would also ensure that information was provided, shared, and understood. Advocates also identified the need for translated forms and orders to ensure victims understand proceedings, the outcomes, and their rights.

Community-based advocates in sexual assault and domestic violence programs can certainly help individuals in these circumstances but should not be asked to interpret in proceedings. Advocates have privileged communication which is critical to the supportive relationship. They can help educate clients on the court process, encourage clients to speak up if they don't understand something, and advocate for an interpreter in court settings.

Conclusion

Language access continues to be a need in so many areas and is critical in court matters, especially in protection order hearings. The judicial branch prioritized the need for increased funding for court interpreters during the 2019–21 legislative session and was successful in receiving funds to expand the Reimbursement Program.

Attorney Feedback Sessions

AOC staff met with approximately 29 attorneys from across the state in small group discussions, in person meetings, and by telephone.

Attorneys were asked about their clients' court experiences when they used interpreter services, when they needed interpreters and did not get one, and what challenges and successes they experienced when requesting or using interpreter services.

In one of the small group discussions, an attorney asked if judicial officers know what to do if there is no interpreter present. *"This is a common thing that happens, especially with commissioners in dependency hearings and pro tem judges. They ask the party who needs an interpreter, 'it looks like you speak a little bit of English...' and the party is intimidated by the judge and just agrees to proceed, when they really should be provided with an interpreter. Or the judge relies on the state's social worker to interpret (who is an opposing party in the case). The court should be ensuring that the parent understands. Conversational English is not proficiency in English."* – Attorney

"The consequences of situations like these are such: the parent tries their best to communicate in English and things get lost in translation, things are said that are detrimental to the parents' case. Then if a parent says something and takes it back, it affects their credibility, even though the truth is that they didn't understand what was being said in the first place." – Attorney

The following are summarized responses to questions and quotes from attorneys.

Why use court-certified interpreters?

"When you have a good interpreter, it works fabulously." – Attorney

Attorneys shared that qualified interpreters led to more accurate information being shared, fewer delays, efficient court calendars, and fewer questions about the process. Experienced interpreters were also comfortable in legal proceedings, and were better able to recognize different dialects and ensured appropriate interpretation was used. Clients were more relaxed and more comfortable when someone knew their language and they were able to more easily communicate in the courtroom.

Attorneys reported that they had instances where a word did not match what was said and a good interpreter will know how to ask questions or figure out how to say that word in other ways. Additionally, interpreters may not know what the word means to be able to effectively substitute it because they have not had testing/training.

Attorneys that provided pro bono assistance through clinics or phone calls said that they provided clients with the form to request an interpreter in order to file a case with the court clerk's office. Individuals sometimes came back to the attorneys because they were not provided with an interpreter or unable to file their case/forms.

To help ensure interpreters at hearings, attorneys reported that some courts hired more bilingual staff, implemented a bilingual phone system, included an interpreter needed checkbox on forms, and asked individuals when they first came in if they needed an interpreter.

Experiences when a hearing/case proceeded with an unqualified interpreter or no interpreter

“The interpreter was paraphrasing, not actually interpreting word for word. The attorney asked ‘tell me what you just said’ because she noticed that the interpreter was talking a lot longer than she was. This leads to misinformation or not accurate information being conveyed.” – Attorney

Several attorneys reported hearings that were stopped when they did not have good interpreters, which led to delays. Non-credentialed interpreters don’t necessarily know court processes, ethics, and the interpreter code. One attorney said she has to educate interpreters if not certified or registered about the court process and the legal words often used.

In one county an attorney specifically requested that an interpreter not be used in a hearing because he did a bad job and was not state certified. In this instance, the interpreter appeared to demonstrate different cultural issues on the treatment of women. The interpreter was only there for the husband and didn’t want to interpret for both parties even though the judge wanted the interpreter to. The interpreter gave wrong information. The client walked away with the wrong information from the court. This was a protection order situation and there were very serious safety concerns.

“There was a case in a county that experienced a six month delay for a trial because they could not pin down interpreters.” – Attorney

“For deaf clients, ex parte court is a big issue. They are often not able to access language line at front desk or the courts require a case number to schedule an interpreter.” – Attorney

“One time a court needed a Japanese interpreter for a custody hearing. The mother was trying to get custody back and wanted to proceed even though the interpreter wasn’t there (she understood some English). The client was confused by the process. Ultimately, the judge stopped the process and delayed the hearing for another two weeks so that an interpreter could be located. It can be emotionally difficult for parents to wait for a case to be heard when there are child custody considerations.” – Attorney

One attorney reported instances where the interpreter was having a conversation with the client rather than interpreting what is being said. It can be frustrating when the interpreter is not doing a direct interpretation, giving legal advice, or summarizing the conversation.

Challenges/Barriers

Several attorneys reported that courts told them lack of funding is the reason why the courts cannot address certain needs of court users who have limited English proficiency. Attorneys also reported that their clients encountered staff who did not speak the language or use language line to communicate and were therefore unable to receive services. There were often delays in cases and continuances because of a small pool of interpreters. Several counties have told individuals who needed an American Sign Language (ASL) interpreter that “it would take months to get that.”

“There is good interpretation in the courtroom, but not necessarily outside the courtroom.” – Attorney

“Sometimes the challenge can be the scope of what the interpreter is doing, they may not interpret before or after court hearing. Attorneys therefore cannot effectively interpret with their client.” – Attorney

One attorney shared that courts expect simultaneous interpretation. If you do not have an interpreter that can do simultaneous interpretation then you need to present differently and take pauses after each sentence. For times when the judge and attorney found out during a hearing that the interpreter could not do simultaneous interpretation, they had to figure out what was and was not said.

There is also a lack of interpreters for rare and indigenous languages or times when it is not recognized what type of indigenous language an interpreter is needed for.

“Family members make bad interpreters, small competency issues can be missed. (Not to mention all the other issues, conflict of interest, not neutral, etc.)” – Attorney

“Sometimes the interpreter has to interpret for both sides and witnesses. This can be an ethical issue. Some counties will only assign one interpreter for three clients (on) one case. For domestic violence cases, one interpreter for the victim and all family members can be a challenge.” – Attorney

“Literacy may also be a challenge. One court has a big sign pointing to languages which assumes the individual is literate.” – Attorney

Several attorneys shared challenges with language line. *“There is often sound quality and technical issues. Telephonic interpreters are usually non-credentialed interpreters. It can be difficult to have a conversation ahead of time with the client. When interpreters are not in the courtroom, it is hard to see what the context is and adequately interpret the feeling of the client.”*

Attorneys also reported not always getting confirmation that an interpreter is secured and that sometimes the interpreter shows up late or not at all. The hearing may be delayed which can cause emotional and financial impacts.

Needs

Attorneys shared what would be helpful for increased language access in the courts. They would like increased access to interpreters and more interpreters in the court. Attorneys would like courts to provide meaningful time among attorney, client, and interpreter before a hearing. Clients (represented or not) should be able to request an interpreter without it having to be attached to a court case. More forms in Spanish would also help more access services.

Attorneys shared that there is a need for more judicial and front line staff education. There should be training for judges and front line staff on working with pro se clients who are limited English proficient or deaf, or hard of hearing and on qualifying non-certified interpreters on record. There should also be more training around ethics for all interpreters, regardless of whether they are credentialed or not, if they are working in the courts.

Interpreters are the only way that people can fairly access services. Individuals need interpreters to fairly access protection and to uphold their legal rights. We need more funding to have more local interpreters to address a growing population.

Court Interpreter Reimbursement Program's Court Administrators and Judges

We asked judicial officers and court administrators who have worked in the courts prior to implementation of the Court Interpreter Reimbursement Program to speak to the before and after impacts of the program on overall interpreter services, the court users, and court practices. Some of those interviewed began work at the court after implementation of the Reimbursement Program.

Can you describe how the reimbursement program has changed court interpreter services in comparison to what interpreter services were like prior to the program implementation?

"It helped to raise interpreter rates, which allowed our court to bring credentialed interpreters. Since 2008, we work almost exclusively with certified interpreters." – Court

"We work with other area courts in joint projects, including joint LAP (language access plan) and interpreter payment policy, coordination of mitigation calendars, etc. Our office is active in providing information to many other WA courts regarding interpreters in rare languages, etc. We share best practices with other courts and other organizations." – Court

"We schedule hearings with interpreters on the same day. It helps to achieve substantial savings, to provide better service, and to allow interpreters to work for 2–3 hours in one court, thus limiting their need to constantly drive, park, rush to the next appointment." – Court

"Court provides interpreter services for all case types for all court hearings/trials and/or court mandated programs. The Reimbursement Program has assisted with the cost impact to our budget." – Court

Prior to the Reimbursement Program some courts reported that they didn't know who to contact for qualified interpreters or that they used non-credentialed interpreters. Some courts hired contracted or staff interpreters, which helps with scheduling and develops a relationship with the interpreter, which in turns increases confidence in the interpreting and experience in the courts.

Additionally, courts are experiencing requests for more languages than in the past. The Program has helped identify interpreters, certified and trained more interpreters, and created a network between courts to more easily share resources.

"Before we received the interpreter grant funding we had two staff interpreters but little to no money for contract interpreters. That meant if either or both interpreters were sick or on vacation, we were forced to contract with an interpreter that was not in the budget, or continue cases. With the advent of the Interpreter Grant, we were finally able to budget contract interpreters when we either had a staff interpreter out on leave or the need was greater than two staff interpreters could handle. Our general budgets have been cut several times over the last 10 years so we have no extra money in the budget if we were to overspend our interpreter or jury budgets. We are constantly worried about that and often overwork our staff interpreters because we have either used all of the interpreter grant or we are close to using it all. We actually need a full-time contracted interpreter to cover all of our needs on a daily basis. As it is

now, the judges are forced to wait for one of our staff interpreters to finish in another courtroom. Extremely inefficient but there is no alternative when the money runs out.” – Court

“We are able to provide interpreters for whatever is needed – off site, jails, defense meetings, parenting classes, etc.” - Court

Can you please share a specific story or example of how interpreter services has impacted court users as a result of the reimbursement program?

The Reimbursement Program allowed one court to hire an in-house certified Spanish court interpreter who worked on a number of projects in addition to interpreting in court, especially filling the last-minute requests. They developed and implemented the first Washington State mentoring program for novice interpreters and implemented a program in the probation department whereby Spanish speaking defendants have the same opportunity to check in with their probation officer via phone. This option provided equal access to defendants with limited English proficiency by eliminating the need for them to drive to the city, park, and come to court just to check in with probation.

One court shared a story about a domestic violence situation involving an individual who spoke Mandarin Chinese. The woman was so scared and spoke in a language that no one understood. They used Language Line first and then flew in an interpreter for the bench trial. The *“interpreter helped settle her down. In person was more beneficial than [the] telephone. Cases need to be continued when [you] can’t find someone credentialed.”*

“I do not have a ‘specific’ story to share; however, with the utilization by the court appointed attorneys of the certified interpreter at the jail, more time can be spent with the client at the jail regarding case details as opposed to talking with the defendant on the day of court.” – Court

“I do not remember the exact stories but there have been multiple times when we have had to continue court cases because we did not have sufficient certified interpreters due to vacation, illness, or just too many cases that need interpretation at the same time. The number of times this happens has dropped drastically since the Reimbursement Program started because we can contract interpreters to fill in the gaps.” – Court

Can you please share a specific story or example of how interpreter services have impacted overall courthouse operations and proceedings as a result of the reimbursement program?

One of the courts shared that their interpreter office offers to review and rewrite some of the forms in simple English prior to translating them into other languages for other court departments. Thus, English speaking court visitors benefit from better written and easier to understand forms and instruction, which may lead to better compliance.

Several courts shared that court users are being provided with the interpreter services needed, however, the courts are in need of funding for staff to locate, schedule, organize, pay, and compile data for interpreter need/use. Locating and scheduling of interpreters takes an incredible amount of time.

As one court shared, *“The Reimbursement Program makes it easier for all parties to finds folks if need be. (It) runs smoother and (takes) less staff time to make lots of phone calls.”*

One court reported that they don't normally exceed their budget because of the reimbursement, unless there is a big trial. Then they may have to fly people in and provide daily costs.

Another court shared that they are more efficient and maximize their calendars since participating in the Reimbursement Program. Several courts shared that more interpreters are needed to respond to the increase in the number of languages requiring interpretation.

“Before the grant, there were constant delays in multiple courtrooms while judges waited for a free interpreter. The grant has helped reduce those waits for the times when we know ahead of time that we need to add a contract interpreter to the schedule. We still have delays on days when an unexpected interpreter issue arises, but it is better than before. If we could have a regular contracted interpreter here at least five to six hours a day, it would significantly increase efficiencies in our courtrooms.” – Court

“It has helped to have more certified and registered interpreters. Since I have no way of personally knowing whether an interpretation is accurate or not, I am more comfortable that accuracy is being achieved when a registered or certified interpreter is used.” – Court

Needs

Judges and administrators agree that more funding is needed for interpreter services in Washington State.

Specifically funding is needed to:

- Increase the pool of interpreters.
- Increase interpreters pay and increase the rate in which the reimbursement program will reimburse for services (the current rate is up to \$25 per hour).
- Hire additional staff interpreters.
- Extraordinary situations such as long trials or interpreters for rare languages.

Court Users

One court surveyed twelve court users who spoke different languages. Following are summarized responses and several direct quotes.

Was the interpreter helpful today? Why?

Court users unanimously shared that interpreters were helpful in order to understand the court proceedings, have clarity in the information presented, better understand the audience and ask questions, and better express themselves.

“Yes very much! Interpret English into Samoan enables me to understand what is being done to me.” – Court User

“They are very important because it is the only way that I can express myself.” – Court User

“Yes, because if there had not been an interpreter I would not have understood anything about my case.” – Court User

What is the most important thing about having an interpreter in the court?

Court users shared that interpreters helped them understand terminology and proceedings that they were unable to do on their own and court outcomes and gave them more confidence and security in the court process.

“I can better understand court requirements and what the judgment will be if I complete all my programs.” – Court User

“That everything was explained in my own language and that attention paid to every word so that I would understand everything well.” – Court User

How was your court experience?

Most of the court users responded that their court experience was very good or excellent, that the outcomes were just and fair, and that they were at ease having an interpreter present.

“I feared court but with an interpreter I felt better and not as scared, thank you.” – Court User

“I think it was a just punishment.” – Court User