

**Washington State Supreme Court  
Interpreter Commission**

**December 6, 2019**

**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**



## Interpreter Commission Quarterly Meeting

Friday, December 6, 2019

SeaTac AOC Office, Lower Level Conference, Room L-16

18000 International Blvd. SW

SeaTac, WA

8:45 am- 2 pm

Call-In Number: 1-877-820-7831; Passcode: 618272#

### AGENDA

• Call to Order	Justice Steven González	
<ul style="list-style-type: none"> <li>• Invited Guest Introductions               <ul style="list-style-type: none"> <li>▪ Deborah O'Willow, ODHH</li> <li>▪ Phil Neff, University of Washington Center on Human Rights</li> <li>▪ LaTricia Kinlow, Tukwila Municipal Court</li> </ul> </li> </ul>	Justice González	
<p><b>Chair's Report</b></p> <ul style="list-style-type: none"> <li>• <b>Approval of June 7, 2019 Minutes</b> Benchcard Revision Vote</li> <li>• Service Recognition Awards</li> <li>• New Member Introductions and Committee Assignments</li> <li>• New Supreme Court Justice Appointment</li> <li>• 2020 Commission Meetings Update               <ul style="list-style-type: none"> <li>• Spring Forum on Interpreter Education and Training</li> <li>• Commission Budget</li> </ul> </li> <li>• Reimbursement Program Expansion</li> <li>• Report: <i>ICE Actions in Washington Courts</i></li> <li>• Office of the Deaf and Hard of Hearing ASL Court Interpreter Program</li> <li>• Video Remote Interpreting Project</li> </ul>	<p>Justice González</p> <p>Justice González</p> <p>Justice González</p> <p>Justice González</p> <p>Justice González/AOC Staff</p> <p>Cynthia Delostrinos</p> <p>Phil Neff, University of WA</p> <p>Deborah O'Willow, ODHH</p> <p>LaTricia Kinlow Tukwila Municipal Court</p>	

<p><b>Working Meeting: Buffet Lunch Will Be Served at 12:00 noon</b></p>		
<p><b>Committee and Partner Reports</b></p> <ul style="list-style-type: none"> <li>• <u>Education Committee Meetings Report</u> <ul style="list-style-type: none"> <li>• 2020 Conference Proposals</li> <li>• Webinar Development</li> </ul> </li> <li>• <u>Issues Committee Meetings Report</u> <ul style="list-style-type: none"> <li>• Team Interpreting Rule</li> <li>• Non-Credentialed Interpreter Ad Hoc Committee Recommendation</li> <li>• Approval to Rescore Oral Exam</li> </ul> </li> <li>• <u>Disciplinary Committee Report</u> <ul style="list-style-type: none"> <li>• Disciplinary Hearing Update</li> </ul> </li> </ul>	<p style="text-align: right;"><b>Fona Sugg</b></p> <p style="text-align: right;"><b>Judge Andrea Beall</b></p> <p style="text-align: right;"><b>Judge Theresa Doyle</b></p>	
<p><b>Commission Staff Report</b></p> <ul style="list-style-type: none"> <li>• Commission Manager's Report</li> <li>• Commission Staff Update <ul style="list-style-type: none"> <li>• Law Student Liaison</li> <li>• Research on Legal Interpreting</li> </ul> </li> <li>• Interpreter Program Report</li> </ul>	<p style="text-align: right;"><b>AOC Staff</b></p>	
<ul style="list-style-type: none"> <li>• <b>Announcements</b> Reception for Chief Justice Fairhurst</li> </ul>	<p style="text-align: right;"><b>Justice González</b></p>	
<p><b>Next Commission Meeting</b></p>	<p style="text-align: right;"><b>February 14, 2020</b> <b>WA State Bar Association Office</b></p>	

# Meeting Minutes



**Interpreter Commission Meeting**  
**Friday, June 7, 2019**  
AOC SeaTac Office Building  
18000 International Blvd, Seattle, WA 98188  
1-877-820-7831; 618272#

**MEETING MINUTES**

**Members Present:**

Justice Steven González  
Judge Andrea Beall  
Judge Laura Bradley  
Luisa Gracia Camón  
Frankie Peters  
Sharon Harvey  
Donna Walker  
Emma Garkavi (phone)  
Diana Noman  
Kristi Cruz  
Fona Sugg  
Katrin Johnson  
Francis Adewale (phone)  
Elisa Young (phone)

**AOC Staff:**

Robert Lichtenberg  
James Wells  
Moriah Freed

**Guests:**

Florence Adeyemi  
Constance Van Winkle  
Pinar Mertan  
Javiera Wood  
Irene Anulacion  
Chris Kunej  
Nicole Walker  
Czar Peralta

**CALL TO ORDER AND INTRODUCTIONS**

Justice Gonzalez called the meeting to order at 8:45 am.

Justice González recognized a moment of silence to honor the passing of Judge Ron Mamiya, one of the earliest members of the Interpreter Commission.

**APPROVAL OF MARCH 29, 2019 MEETING MINUTES**

**Corrections were noted for the March minutes:**

- LAP Correction: On page 4, the second mention of "Luisa" should not be made, instead be "Kristi".
- Suggestion – Use full names, instead of just first names, for consistency. Judges have titles and some members feel like this creates an inconsistency.
- Correct that Fona Sugg was on the phone, not in person for the meeting.
- Disciplinary Committee – Grievance is that the interpreter allegedly lied to a court official about interpreting for a family member.

### Chair's Report

#### **Interpreter Funding Update - Mr. Lichtenberg and Mr. Wells**

- An additional \$2.1 million dollars has been allocated for the current biennium to the court interpreter reimbursement program as a result of the efforts of the Court Interpreter Funding Task Force. The AOC will take steps to:
  - o Re-open eligibility for funding.
  - o Assist courts applying to the program to update their LAPs according to criteria established by the Commission and provide technical assistance with data reporting.
  - o Review requirements for reimbursement – should the AOC cap at 50% of any hourly cost or revise the \$50 per hour reimbursable cap set in 2011?

**Member Discussion:** The Commission members discussed the following cost considerations as the amount currently capped is becoming a tension point for courts.

- o Fona Sugg stated that Chelan County pays between \$50 - \$60/hour and noted that her reimbursement contract award does not sufficiently reimburse her court for the cost of having a staff interpreter as stated in the contract language.
- o Katrin Johnson noted that when the \$50 rate was introduced, it was intended to raise the hourly rate which was then \$40 in most local courts and attract more people to the profession.
- o Frankie Peters stated that Thurston County District Court no longer caps interpreter hourly rates because it is hard to secure a certified interpreter at \$50/hour as for some languages the cost can be up to \$100/hour, with the average being roughly \$75/hour.
- o Chris Kunej from King County Superior Court stated that they pay \$55/hour for certified and registered interpreters, \$50 for non-credentialed interpreters.
- o Emma Garkavi – It is crucial to increase the rate. Other courts will follow and use this as a guide. There is a need to create a new threshold.
  - The AOC should set the rate higher because it is hard to change later.
  - \$60.50/hr at Seattle Municipal Court and other district courts in Puget Sound area.
- o Judge Bradley – Board of Industrial Insurance Appeals (BIIA) pays \$80/hr with a 2 hr minimum for certified interpreters.
  - Pay competition between executive and judicial branches influences court compensation.
  - Contracted with OFM – pay is not negotiated by BIIA.
- o Donna Walker – ASL interpreter charges are averaging about \$65/hr.
  - Often no minimum hours – not good about 2 hour minimum.
  - What courts think interpreters are making is not reality.
    - If an interpreter works through an agency, they do not take the entire hourly rate.
  - Some courts ask for the cheapest interpreter, not the best interpreter.

- Diana Noman – Usually just Spanish interpreters are hired for half days, which is why other languages have a 2 hour minimum; Interpreter usually receives much lower hourly rate paid by the court and sometimes only get half of the billed rate, depending on the referral agency.
- Kristi Cruz – Office of Deaf and Hard of Hearing (ODHH) has historically managed the ASL contracts. The contract expires July 1, 2019, after which a new contract for interpreters and providers is supposed to be offered through Department of Enterprise Services. ODHH will still maintain the list of ODHH-credentialed interpreters for courts to use.
- Language Access Plan Note
  - Bob is creating review criteria for 2020 Commission approval of reimbursement program court LAPs. It will be shared with the LAP criteria workgroup members.
  - The AOC will not be policing the procedures themselves. The procedures need to be made clear.
  - What kind of information would the Commission like to see reported by participating courts?
    - Emphasis for reimbursement will be on smaller and rural courts, so assistance for their LAPs will be offered so they can participate in the program.
  - Justice Gonzalez – Review will not go beyond statutory requirements.

**ACTION:** All commission members can give their input about changes to the reimbursement program by sending these suggestion to Bob Lichtenberg or James Wells. What changes or incentives to encourage courts to use the best interpreters available should be considered?

#### **Commission Vacancy - New Member Considerations**

- Pinar Mertan – Ms. Mertan briefly introduced herself to the Commission.
  - Prospective Ethnic Organizations Representative
  - Began interpreting 2 years ago - Turkish interpreter
  - Law degree from Turkey
- Naoko Inoue Shatz – could not be present.
  - Prospective Ethnic Organizations Representative
- Nominations for Frankie Peters, Francis Adewale, and Donna Walker to continue as members.
  - Nomination letters need to be sent
- Florence Adeyemi – Ms. Adeyemi briefly introduced herself to the Commission.
  - Prospective Ethnic Organizations or Public Representative
  - Interpreting since 1989 – AOC registered in Yoruba; speaks Pidgin English, Hausa
  - Works with community - active with African language groups in Washington
  - Worked with Martha Cohen at King County Superior Court

### Proposed Bench Card Revision-Spoken Language

- Emma Garkavi addressed the revised Spoken Language Bench Card using suggestions from the March 29<sup>th</sup> Commission meeting.
  - o The bench cards will be available online with access to additional resources once finalized.
  - o Will synchronize two cards: spoken language and deaf/hard of hearing.
- June Meeting Bench Card Feedback
  - o Justice Gonzalez suggested consistently using "AOG Credentialed" to clarify court credential is preferred versus other credentials for spoken languages.
  - o Kristi Cruz suggested making clear headers for spoken language versus sign language.
  - o Katrin Johnson – Edit flowchart to clarify certifying on the record for good cause.
    - Put a box in-between to ask about good cause.
    - Seconded by Kristi Cruz.
  - o Judge Beall – The word "mandatory" should be replaced with a word that means "urge or strongly suggest" unless something truly is mandated.
  - o Katrin Johnson – Hoping to have ASL benchcard draft approved before the Fall Conference
    - Justice Gonzalez– The "quick overview" section should be made more clear.
    - Judge Beall – Page 3 is the most helpful part for judges, the overview is unnecessary.
    - Donna Walker – with DHH / ASL interpreters, judges should ask the party if they have effective communication with the interpreter.
      - Most judges do not ask – often it is the first meeting between the party, interpreter and counsel.
      - Justice Gonzalez – Ask counsel "can you effectively communicate with your client [with this interpreter]?"
      - Diana Noman – This is also important with spoken language, i.e. different dialects of the same language.
        - o Asking country or location of origin could raise immigration issues, so it is best to simply ask if the client understands, needs rephrasing, etc.
  - o Put flowchart on outside of folded bench cards for both spoken language and ASL.
  - o **Motion:** Spoken language bench card is approved with discussed modifications for distribution. The sign language bench card will be continued to be worked on.

**ACTION:** Kristi Cruz and Katrin Johnson will draft a revised flowchart for page 2 of the new bench card to include a section about good cause.

### - Gender Bias Study Liaison, Gender and Justice Commission

- o Need a liaison from the Interpreter Commission.
- o Justice Gonzalez has been appointed to the Gender and Justice Commission by Chief Justice Fairhurst, and will also serve as the Gender Bias Study liaison.

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- **Chris Kunej** – Introduction, guest speaker
  - King County Superior Court – Successor to Martha Cohen.
  - About – from Croatia, lived in LA and Utah.
  - Certified Bosnian, Croatian, Serbian interpreter in different states, teacher at University.
    - Has knowledge of language access issues in different states.

### Committee Reports

#### **Education Committee Meetings Report – Katrin Johnson and Elisa Young**

- 2019 DMCMA Conference presentation
  - Emma Garkavi, Katrin Johnson, Trish Kinlow, and Bob Lichtenberg presented.
- Two national experts being brought in to Fall Judicial Conference to present on ASL interpreting.
- Judge Riquelme from Skagit County will shadow next presentation at Judicial College and join the 2021 Judicial College as faculty.
- Education workgroups:
  - Bench card work group – working on ASL bench card.
  - Web tutorial development work group identified top priority projects.
    - Quick learning on key issues – 5 minute video tutorials.
      - Trials, bench card, interpreter code of conduct, working with interpreters.
      - Will include additional learning links on website.
    - Working with AOC on webinar best practices.
- Outreach workgroup - Elisa Young
  - Elisa reviewed Outreach action work plan, goals, and deliverables from workgroup charter shared at last meeting.
    - Aligned goals from the charter:
      - Develop key outreach materials.
      - Increase trust in community, identify community partners.
      - Establish spoken foreign preservation partnerships.
      - Have interpreter included in outreach work:
        - Luisa Gracia Camón can provide a contact for NOTIS.
        - Florence Adeyemi – Expressed interested in being a community contact and partner, has connections.
    - Will create goal metrics to measure success. Have community members and leaders on the workgroup. Work with people already doing this work.
    - How to get info out? Make it most accessible? – Website info must be translated.
    - Language access – how to focus outreach on specific language communities.
    - Bob Lichtenberg – working with youth, colleges to encourage careers as interpreters.
      - Partnerships with colleges, universities

### Issues Committee Report- Judge Beall

- Clark County – Proposed court interpreter contracts
    - o Letter was sent expressing concerns of Commission, but a formal response has not been received from Clark County
  - Interpreter complaint regarding testing policies
    - o Judge Beall spoke to the interpreter regarding concerns written test is unfair –
      - Mentioned possibility of increasing training and mentoring opportunities in response.
  - Membership procedures –
    - o Membership terms proposal regarding subsection 2 “break-in-service” prior to reappointment to Commission:
      - *Discussion:* Should there be a provision of a waiting period?
        - Fona Sugg – not all agencies have a large applicant pool to draw from, not practical for all agencies.
        - Sharon Harvey – Staffs DMCJA, agrees that AOC has a similar issue – thinks 1 year is reasonable.
        - Francis Adewale – Encourage commission members to mentor new applicants, encourage interest in the Commission.
        - Frankie Peters – Pulling members away who have enthusiasm for the Commission because of membership procedures may not be best for the Commission.
        - Katrin Johnson – two types of member seats – can they be differentiated?
          - o Closed vs. open membership?
        - Diana Noman - (logistical clarification) eliminate confusion by clarifying numbers in parentheses.
      - Judge Beall – should break-in-service language be included? If included, should it be defined?
    - o **Motion:** Luisa Gracia Camón moved to have the break-in-service language to cover at least a year between appointments, Sharon Harvey seconded – Motion Passed 6-4.
    - o **Motion:** Judge Beall moved to approve membership with the additional in-service language – Approved:
      - Clarification point: If a member is appointed mid-term, they can serve up to two full additional terms after mid-term appointment.
- Ad Hoc Committee – Diana Noman
  - o Exploring how to deal with non-AOC credentialed interpreters and how to assist courts to provide best interpretation through non-credentialed persons.
  - o Working on a ‘Desk Card’ – to serve as a knowledge basis for contacting interpreters.
    - Not just for judges, but for staff responsible for hiring interpreters.

- Donna Walker – Issue regarding lack of ASL interpreters and no certification for ASL interpreters
  - o Contacted by ODHH to work on ideas proposal for AOC collaboration.
  - o No test for ASL interpreters in courts, creating a large shortage – something needs to be done:
    - No credentialing process.
    - Donna Walker would like the AOC to spearhead this.
  - o NCSC is having discussions about this issue and looking at available tests.
    - Changes would need to be made to the existing tests and requires funding.
  - o Concern over ODHH making decisions about which ASL interpreters are qualified to work in courts when there is no test or certification or criteria agreed upon by the Commission for ASL court interpreting:
    - Wants AOC or Commission involved in discussions with ODHH.
  - o A mentoring program similar to the one at Seattle Municipal Court may be useful for ASL interpreters

**ACTION:** Donna Walker will start a conversation between herself, AOC, and ODHH to discuss ASL interpreter credentialing and other issues. She will copy Justice Gonzalez and Luisa Gracia Camón on the communications.

**ACTION:** Add Donna Walker to the Ad Hoc Committee in regards to the Desk Card.

#### **Disciplinary Committee Report**

- Grievance investigation is moving to a formal hearing and likely will take place mid-October
  - Can't say more – Members could be involved if it goes to appeal.
  - o Justice Gonzalez reappointed Thea Jennings to continue on the Disciplinary Committee through to the formal hearing conclusion. Committee re-appointment approved by Commission without objection.

#### **Commission Staff Report**

- Bob Lichtenberg gave his report discussing LAP and reimbursement program earlier.
- Interpreter Program – James Wells
  - o Upcoming activities:
    - Court interpreter orientation – June 15<sup>th</sup> Shoreline, June 29<sup>th</sup> Spokane.
    - Possible November 2<sup>nd</sup> Class in Spokane to cover new Code of Ethics for Interpreters:
      - Two parts – one morning session, second afternoon topic concerning interpreters in Eastern Washington (ex. Team interpreting)
      - Justice Gonzalez – why is there a lack of team interpreting in Eastern WA? The members identified issues with resources, payment, availability, culture, education.

- Katrin Johnson – suggests pursuing court rule for trials.
  - Is the norm in other states, court rule is present.
  - Justice Gonzalez – survey other states, Pennsylvania
- Oral exams in October – one on each side of state.
- Ethics and Protocol Class at Seattle Municipal Court:
  - Francis Adewale was a guest – encourage interpreters to advocate for themselves
  - Office of Administrative Hearings Judge Joshua Sundt attended.
- Oral Exam – April
  - Shoreline, Spokane, Olympia.
- Move to transition the physical written exam to a computer based exam (end 2019/early 2020).
  - Will help with access to location participation and more flexible testing times.
- Budget – more money available for program growth due to the legislative appropriation.
  - Looking at expanding education/learning opportunities for interpreters.

**ACTION:** The Issues Committee will look into creating a court rule about team interpreting.

#### **Other Announcements**

- NOTIS preparing International Translation Day workshops for September 29 and 30.
- ATJ Conference will be in Spokane – Theme is “Amplifying the Power of Community”.
- WASCLA October 25 and 26 – Justice Gonzalez will present on a court interpreter panel.
- Next Interpreter Commission meeting will be on September 27 at the AOC SeaTac Office.

# Bench Card – Hearings with Sign Language Interpreters

## Quick Overview:

**Right to an Interpreter:** Federal and state law require courts to provide sign language interpreters to people who are Deaf, Deafblind, and hard of hearing (DHH) in a broad array of situations – parties, witnesses, courtroom observers, and jurors, among others. [Click here for more](#)

**Finding Interpreters:** In collaboration with the AOC, the DSHS Office of the Deaf and Hard of Hearing (ODHH) maintains a list of American Sign Language (ASL) and Certified Deaf Interpreters (CDIs) who are trained and tested for court proceedings. [Click here for more](#)

**Individual Language Needs:** Not all people who are DHH communicate in ASL. The court may need to take additional steps to provide the right communication match. [Click here for more](#)

## Common Requests:

### Team Interpreting

A team of interpreters may be necessary in trials, proceedings lasting longer than one hour, and in challenging linguistic situations. A team, which might include Certified Deaf Interpreters (CDI's), will ensure accuracy and provide effective communication.

### Certified Deaf Interpreters (CDI's)

An *intermediary interpreter* or Certified Deaf Interpreter (CDI) may be needed in addition to an ASL interpreter. A CDI is a professional interpreter who is Deaf, an expert in ASL linguistics, and a native user of ASL. These skills uniquely qualify them to meet the linguistic and cultural needs of a Deaf person. A CDI may be necessary if the Deaf participant is Deafblind, foreign born, has mental or cognitive difficulties, or communicates in a non-standardized sign language.

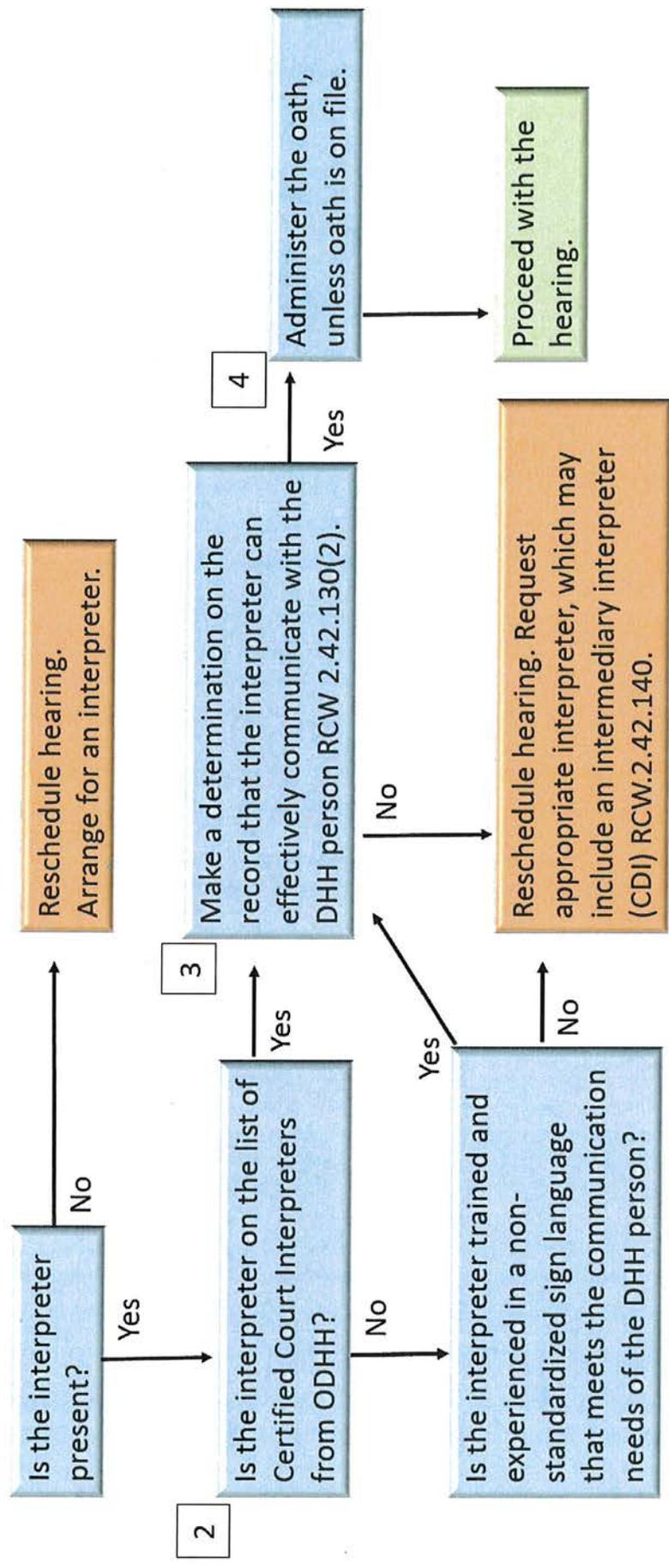
## Jury Members who are Deaf or Hard of Hearing

People who are DHH have an equal right and civic duty to serve on juries. A team of court interpreters should be sworn-in to interpret the proceedings and deliberations. These interpreters are impartial court officers who do not participate in nor influence the deliberations. The court should instruct the interpreters and the jury regarding the interpreter's role.

**Sample Oath for Interpreting Jury Deliberations:** *Do you swear that you will not participate in the deliberations, you will keep all communications in the jury room confidential, and you will not speak directly to any juror or allow a juror to speak to you but will, instead, provide communication access with fellow jurors so that the deaf juror can faithfully discharge his or her duties as a juror?*

# Quick Guide for Hearings with Sign Language Interpreters

**1 Right to an Interpreter:** State and federal laws require courts to appoint sign language interpreters in a broad range of situations.



## 1 Right to an Interpreter

Deaf, Deafblind, and hard of hearing (DHH) individuals have the right to free interpreter services in many situations, including:

- as a party or witness in a criminal or civil proceeding – [RCW 2.42.120\(1\)](#)
- as a parent, guardian, or custodian of a juvenile – [RCW 2.42.120\(2\)](#)
- during communication with indigent defense counsel in case preparation – [RCW 2.42.120\(6\)](#)
- as a juror, observer, attorney – [ADA/WLAD](#)
- during interactions with programs outside of a legal proceeding, such as court-ordered programs, law enforcement interactions, and interactions at the jail – [ADA/WLAD](#)

## 2 Interpreter Qualifications

[RCW 2.42.130](#) requires courts to appoint sign language interpreters and intermediary<sup>1</sup> interpreters from a list of court certified interpreters maintained by the DSHS Office of the Deaf and Hard of Hearing (ODHH).

<sup>1</sup>[RCW 2.42.110](#) refers to *intermediary interpreters*, who are commonly identified as Certified Deaf Interpreters (CDIs) or Deaf Interpreters (DIs). Intermediary interpreters are Deaf, experts in sign language linguistics and

Courts must also accommodate the linguistic needs of people who use non-standardized interpreting modes such as tactile ASL, cued speech, lip-reading translation, or signed exact English. Some may require accommodations such as real time transcription.

[ADA/WLAD](#). The ODH [Regional Service Centers](#) provide additional assistance in locating interpreters and answering questions about communications accommodations. For more details, see [Ensuring Equal Access for People with Disabilities](#).

## 3 Can the Interpreter Effectively Communicate?

[RCW 2.42.130\(2\)](#) requires an individualized inquiry that the DHH person is able to understand an interpreter. If an interpreter is unable to provide accurate, impartial, and effective communication, the court must appoint another qualified interpreter or an intermediary interpreter ([RCW 2.42.140](#)).

## 4 Swear In the Interpreter

*Do you swear (affirm) that you will make a true interpretation to the best of your skill and judgment?*

ASL, and provide a communication bridge when the DHH person is not fluent in ASL. [Click here to read more](#)

# Best Practices

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## Use Direct Speech

Direct speech helps ensure a clear record of who said what. If a Deaf, Deafblind or hard of hearing (DHH) participant states, "I saw my aunt," the interpreter will state "I saw my aunt," not, "He says he saw his aunt."

Referring to themselves, interpreters use the third person. For example, "The interpreter cannot hear counsel."

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## Speak Slow and Steady

Everyone should speak one at a time, deliberately and clearly. Judges can set the pace by doing so themselves and monitoring the speakers throughout the proceeding.

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## The Importance of Pauses

Interpreters need speakers to pause between questions and answers. Participants should wait for each question to be fully interpreted before starting their answers.

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## Interpreter Placement

Due to the visual nature of sign language, interpreters typically stand or sit near the person who is speaking, in front of and in direct sightline of the DHH participant. As a result the DHH person is able to see both the interpreter and the speaker.

Placement for CDI and tactile interpreters will vary.

Provide chairs for interpreters to sit, and a small table for notes and water.

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## Documents and Exhibits for Interpreters

In advance of the hearing, court personnel and attorneys should provide interpreters with relevant written materials such as complaints, affidavits of probable cause, written motions, etc. These help interpreters familiarize themselves with the factual and legal issues, specialized terminology, and names. In addition, all documents read aloud in court should be provided to interpreters in advance.

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## Special Considerations for Trials:

- If DHH witness testimony is expected, provide interpreters a **microphone**.
- **Videotape** DHH witness testimony to preserve the original statements.
- If there are opposing DHH parties or DHH audience members, provide a **screen or divider** to prohibit others from viewing privileged communications at counsel table.
- Carefully pause in between **jury instructions** until the interpreter finishes. Provide a copy to the interpreter in advance.

For additional information, resources, and technical assistance, contact the AOC Court Interpreter Program:

[www.courts.wa.gov/interpreters](http://www.courts.wa.gov/interpreters)

[Interpreters@courts.wa.gov](mailto:Interpreters@courts.wa.gov)

360-705-5279

## Bench Card

### Courtroom Interpreting (Spoken Languages)

#### Limited English Proficient (LEP)

LEP individuals are those who cannot adequately understand or effectively communicate in English because it is not their native language.

#### Appointment of interpreter

##### A. Good Cause

(1) RCW 2.43.030 requires courts to appoint an [AOC court certified](#) interpreter unless "good cause" is found and noted on the record\*:

(a) given the totality of the circumstances, including the nature of the proceedings and potential penalty, a certified interpreter is not reasonably available; or

(b) the AOC list does not include an interpreter in the needed language.

##### B. Qualifying and swearing in interpreters

(2) If good cause is found for using a non-certified interpreter, the court must then appoint and qualify on the record one who

(a) can interpret accurately;

(b) can communicate effectively with the court and the LEP individual; and

(c) has read, understands, and will abide by the Code of Professional Responsibility for Judiciary Interpreters established by court rules.

ER 604 and RCW 2.43.050 require an interpreter to be qualified as an expert and placed under oath.

Interpreters credentialed by AOC (certified or registered) are already qualified and permanently sworn. They need only state their names and credentials on the record.

Interpreters not credentialed by AOC must first be qualified by the court and then sworn in on the record.

##### C. Remote Interpreting

For brief non-evidentiary hearings courts may schedule interpreters to work by video or telephone. GR 11.3

##### D. Interpreter on standby

For LEP individuals with a marginal need for interpretation, the court should have a standby interpreter who is available to step in and interpret when needed. This avoids costly delay if the need for an interpreter arises mid-proceeding.

#### Three interpreting modes

- **Simultaneous**  
Used for courtroom proceedings to allow LEP individuals to follow in their own language everything that is stated in English.
- **Consecutive**  
Used for question and answer sessions with LEP individuals.
- **Sight translation**  
Used to verbally render written documents from one language to another.

\*See [State v. Aljaffar](#)



1

Is interpreter needed?

Colloquy with Limited English Proficient (LEP) individual on the record:

*You have the right to a court-appointed interpreter free of charge. Do you need an interpreter?*

YES: Order an interpreter

NO: Proceed. If still concerned, inquire further:

*The court is still concerned that you may need an interpreter, so I will inquire.*

*First, it is important that you do NOT talk on the record about this case or any legal case, including immigration. I am ONLY asking you about your need for an interpreter. Do you understand?*

- *How did you learn English?*
- *How do you use English in your everyday life?*
- *Are you certain you can fully understand and express yourself in court?*

If the LEP individual has difficulty answering these questions, order an interpreter.

If the court cannot understand the LEP individual's spoken English, order an interpreter.

If in doubt, the court should order a standby interpreter. A standby interpreter can help to avoid costly delay if the need for an interpreter arises mid-proceeding.

If the court is confident moving forward without an interpreter, advise the LEP individual:

*If at any point you feel that an interpreter would be helpful, even on a standby basis, remember you may always request one. Do you understand?*

2

Qualify non-credentialed interpreter

Non-credentialed interpreters (not certified or registered) must be qualified by the court. Sample qualification questions for interpreters who are not AOC certified or registered:

- *What language will you be interpreting?*
- *Please summarize your qualifications as an interpreter.*
- *What is your experience interpreting in court?*
- *Do you believe you can communicate effectively for the court and the LEP individual?*
- *Do you have any interest in the outcome of this matter?*
- *Have you read the Code of Professional Responsibility for Judiciary Interpreters? GR 11.2*
- *Do you promise to abide by this Code, interpreting accurately, honestly, impartially and maintaining confidentiality?*
- *Will you be interpreting simultaneously or consecutively?*

*I find you qualified/I do not find you qualified to interpret for this proceeding.*

3

Swear in non-credentialed interpreter

*Do you swear (affirm) that you will make a true interpretation to the best of your skill and judgment?*

## Best Practices

### Direct speech

If an LEP witness states "I saw my aunt," the interpreter will state "I saw my aunt," not "He says he saw his aunt."

Witnesses should be questioned using direct speech. For example, "State your name," not "Ask her to state her name."

Referring to themselves, interpreters use the third person. For example, "The interpreter cannot hear counsel."

### Slow and steady

Everyone should speak one at a time, deliberately and clearly. Judges can set the pace by doing so themselves and monitoring the speakers throughout the proceeding.

### Pauses

Interpreters need speakers to pause between questions and answers. Witnesses should wait for each question to be fully interpreted before starting their answers.

### Logistics

The interpreter must be provided with a chair and a desk.

Interpreting equipment is critical for trials and other lengthy proceedings. It allows interpreters to work in simultaneous mode, to move freely around the courtroom to better hear and see, as well as to interpret for multiple LEP individuals at the same time.

### Team interpreting

Trials and proceedings over 2 hours require a team of two interpreters. This ensures a higher level of accuracy and eliminates the need for frequent breaks. On rare occasions, when only one interpreter is working, the court needs to recess for 10 minutes after every 20 minutes.

### Documents

Court personnel and attorneys must provide interpreters with relevant materials, such as complaints, affidavits of probable cause, witness lists, trial briefs, etc. These are necessary for interpreters to familiarize themselves with the factual and legal issues of the case, specialized terminology and proper names. In addition, all documents read aloud in court should be provided to interpreters.

### Jury instructions

Reading aloud is much faster than normal speech. The judge should read slowly and deliberately, pausing after each jury instruction until interpreters finish their rendition. This will ensure accuracy and comprehension. Alternatively, the court can allow the interpreter to sight translate jury instructions in advance of the court's reading, for example, during a jury break. The judge can then state on the record that the full set of instructions has already been interpreted to the defendant.

### Exhibits in languages other than English

Interpreters should not be asked to extemporaneously render audio, video or written exhibits into English on the record. Attorneys are obligated to arrange for certified transcription and translation of such exhibits ahead of time.

For additional information, please contact  
AOC Court Interpreter Program:  
[interpreters@courts.wa.gov](mailto:interpreters@courts.wa.gov)  
[www.courts.wa.gov/interpreters](http://www.courts.wa.gov/interpreters)

# **Chair's Report**

The Supreme Court  
State of Washington

MARY E. FAIRHURST  
CHIEF JUSTICE  
TEMPLE OF JUSTICE  
POST OFFICE BOX 40929  
OLYMPIA, WASHINGTON  
98504-0929



(360) 357-2053  
E-MAIL MARY.FAIRHURST@COURTS.WA.GOV

August 1, 2019

Mr. Francis Adewale  
Spokane City Office of the Public Defender  
824 N. Monroe  
Spokane, WA 98223

Re: Reappointment to Interpreter Commission

Dear Mr. Adewale:

The Office of Public Defense has nominated you for reappointment as the public defender representative on the Interpreter Commission. The Interpreter Commission supports this nomination, and the Supreme Court's Administrative Committee has confirmed your reappointment. Your new term starts October 1, 2019 and expires September 30, 2022.

On behalf of the justices of the Supreme Court, I wish to thank you for your continued willingness to serve on the Interpreter Commission. I am confident that this important Commission will continue to benefit from the expertise and experience you have to offer.

Very truly yours,

MARY E. FAIRHURST  
Chief Justice

cc: Justice Steven González, Chair Interpreter Commission  
Joanne Moore, Director Office of Public Defense  
Dawn Marie Rubio, AOC Administrator  
Cynthia Delostrinos, AOC Supreme Court  
Commissions Coordinator  
Robert Lichtenberg, AOC

The Supreme Court  
State of Washington

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August 1, 2019

Ms. Luisa Gracia Camon  
9074 161st Ct. NE  
Redmond, WA 98052

Re: Reappointment to Interpreter Commission

Dear Ms. Camon:

The Interpreter Commission has nominated you for reappointment as a court interpreter representative on the Interpreter Commission. The Supreme Court's Administrative Committee has confirmed your reappointment. Your new term starts October 1, 2019 and expires September 30, 2022.

On behalf of the justices of the Supreme Court, I wish to thank you for your continued willingness to serve on the Interpreter Commission. I am confident that this important Commission will continue to benefit from the expertise and experience you have to offer.

Very truly yours,

*Mary E Fairhurst*  
MARY E. FAIRHURST  
Chief Justice

cc: Justice Steven González, Chair Interpreter Commission  
Dawn Marie Rubio, AOC Administrator  
Cynthia Delostrinos, AOC Supreme Court  
Commissions Coordinator  
Robert Lichtenberg, AOC

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August 1, 2019

Ms. Katrin Johnson  
Washington State Office of Public Defense  
PO Box 40957  
Olympia, WA 98504-0957

Re: Reappointment to Interpreter Commission

Dear Ms. Johnson:

The Interpreter Commission has nominated you for reappointment as a public member representative on the Interpreter Commission. The Supreme Court's Administrative Committee has confirmed your reappointment. Your new term starts October 1, 2019 and expires September 30, 2022.

On behalf of the justices of the Supreme Court, I wish to thank you for your continued willingness to serve on the Interpreter Commission. I am confident that this important Commission will continue to benefit from the expertise and experience you have to offer.

Very truly yours,

A handwritten signature in cursive script that reads "Mary E. Fairhurst".

MARY E. FAIRHURST  
Chief Justice

cc: Justice Steven González, Chair Interpreter Commission  
Dawn Marie Rubio, AOC Administrator  
Cynthia Delostrinos, AOC Supreme Court  
Commissions Coordinator  
Robert Lichtenberg, AOC

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State of Washington

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August 1, 2019

Mr. Frankie Peters  
Thurston County District Court  
1408 Arab Drive SE  
Tumwater, WA 98501

Re: Reappointment to Interpreter Commission

Dear Mr. Peters:

The District and Municipal Court Managers Association (DMCMA) has nominated you for reappointment as the DMCMA representative on the Interpreter Commission. The Interpreter Commission supports the nomination, and the Supreme Court's Administrative Committee has now confirmed your reappointment. Your new term starts October 1, 2019 and expires September 30, 2022.

On behalf of the justices of the Supreme Court, I wish to thank you for your continued willingness to serve on the Interpreter Commission. I am confident that this important Commission will continue to benefit from the expertise and experience you have to offer.

Very truly yours,

MARY E. FAIRHURST  
Chief Justice

cc: Justice Steven González, Chair Interpreter Commission  
Margaret Yetter, DMCMA President  
Dawn Marie Rubio, AOC Administrator  
Cynthia Delostrinos, AOC Supreme Court  
Commissions Coordinator  
Robert Lichtenberg, AOC

The Supreme Court  
State of Washington

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September 17, 2019

Ms. Naoko Inoue Shatz  
Shatz Law Group  
1001 Fourth Ave., Ste. 4400  
Seattle, WA 98154

Re: Appointment to Interpreter Commission

Dear Ms. Shatz:

The Interpreter Commission has nominated you for appointment as the Ethnic Organizations Representative on the Interpreter Commission. The Supreme Court's Administrative Committee has confirmed your appointment. Your term starts October 1, 2019 and expires September 30, 2022.

On behalf of the justices of the Supreme Court, I wish to thank you for your willingness to serve on the Interpreter Commission. I am confident that this important Commission will benefit from the expertise and experience you have to offer.

Very truly yours,

MARY E. FAIRHURST  
Chief Justice

cc: Justice Steven González, Chair Interpreter Commission  
Dawn Marie Rubio, AOC Administrator  
Cynthia Delostrinos, AOC Supreme Court  
Commissions Coordinator  
Robert Lichtenberg, AOC

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State of Washington

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September 17, 2019

Ms. Florence O. Adeyemi  
12345 Lake City Way NE, #265  
Seattle, WA 98125

Re: Appointment to Interpreter Commission

Dear Ms. Adeyemi:

The Interpreter Commission has nominated you for appointment as a Public Member Representative on the Interpreter Commission. The Supreme Court's Administrative Committee has confirmed your appointment. Your term starts October 1, 2019 and expires September 30, 2022.

On behalf of the justices of the Supreme Court, I wish to thank you for your willingness to serve on the Interpreter Commission. I am confident that this important Commission will benefit from the expertise and experience you have to offer.

Very truly yours,

A handwritten signature in cursive script that reads "Mary E. Fairhurst".

MARY E. FAIRHURST  
Chief Justice

cc: Justice Steven González, Chair Interpreter Commission  
Dawn Marie Rubio, AOC Administrator  
Cynthia Delostrinos, AOC Supreme Court  
Commissions Coordinator  
Robert Lichtenberg, AOC

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September 17, 2019

Ms. Donna S. Walker  
10801 N. Middleton Dr.  
Spokane, WA 99218

Re: Reappointment to Interpreter Commission

Dear Ms. Walker:

At the recommendation of the Washington State Registry of Interpreters for the Deaf, the Interpreter Commission has nominated you for reappointment as the American Sign Language Interpreter on the Interpreter Commission. The Supreme Court's Administrative Committee has confirmed your appointment. Your term starts October 1, 2019 and expires September 30, 2022.

On behalf of the justices of the Supreme Court, I wish to thank you for your continued willingness to serve on the Interpreter Commission. I am confident that this important Commission will continue to benefit from the expertise and experience you have to offer.

Very truly yours,

A handwritten signature in cursive script that reads "Mary E. Fairhurst".

MARY E. FAIRHURST  
Chief Justice

cc: Justice Steven González, Chair Interpreter Commission  
Caroline Allen, WSRID President  
Dawn Marie Rubio, AOC Administrator  
Cynthia Delostrinos, AOC Supreme Court  
Commissions Coordinator  
Robert Lichtenberg, AOC

# COURT INTERPRETER COMMISSION

<p><b>Justice Steven C. González, Chair</b> Washington Supreme Court</p> <p><i>Appointed by Chief Justice</i></p>	<p><b>Sharon Harvey</b> Administrative Office of the Courts</p> <p><i>Administrative Office of the Courts Term expires 9-30-21</i></p>
<p><b>Naoko Inoue Shatz</b></p> <p><i>Ethnic Organizations Representative Term expires 9-30-22</i></p>	<p><b>Florence Adeyemi</b></p> <p><i>Public Member Term expires 9-30-22</i></p>
<p><b>Luisa Gracia Camon</b></p> <p><i>Interpreter Representative Term expires 9-30-22</i></p>	<p><b>Diana Noman</b></p> <p><i>Interpreter Representative Term expires 9-30-21</i></p>
<p><b>Donna Walker</b></p> <p><i>American Sign Language Interpreter Representative Term Expires 9-30-22</i></p>	<p><b>Kristy Cruz</b> Northwest Justice Project</p> <p><i>Attorney Representative Term expires 9-30-21</i></p>
<p><b>Judge Andrea Beall</b> Puyallup Municipal Court</p> <p><i>District and Municipal Court Representative Term expires 9-30-20</i></p>	<p><b>Judge Theresa Doyle</b> King County Superior Court</p> <p><i>Superior Court Representative Term expires 9-30-20</i></p>
<p><b>Fona Sugg</b> Chelan County Superior Court</p> <p><i>Court Administrator Representative Term expires 9-30-21</i></p>	<p><b>Frankie Peters</b> Thurston County District Court District/Municipal Court Administrator Representative Term Expires 9-30-22</p>
<p><b>Katrin Johnson</b> WA State Office of Public Defense</p> <p><i>Public Member Representative Term Expires 9-30-22</i></p>	<p><b>Francis Adewale</b> Spokane City Ofc of the Public Defender</p> <p><i>Public Defender Representative Term Expires 9-30-22</i></p>
<p><b>Elisa O. Young</b> Office of Minority and Women's Business Enterprises</p> <p><i>Community Organization Representative Term Expires 9-30-2020</i></p>	<p><b>Staff</b></p> <p><b>Robert Lichtenberg</b>, Program Coordinator/Commission Liaison <a href="mailto:robert.lichtenberg@courts.wa.gov">robert.lichtenberg@courts.wa.gov</a></p> <p><b>James Wells</b>, Interpreter Program Support <a href="mailto:james.wells@courts.wa.gov">james.wells@courts.wa.gov</a></p>



WASHINGTON  
COURTS

## INTERPRETER COMMISSION 2020 MEETING DATES

EVENT	DATE	LOCATION
Interpreter Commission Meeting	February 14, 2020 8:45 am-11:45 am	Seattle at WSBA office (Room TBD)
Interpreter Commission Meeting (and Public Forum- <i>discussion</i> )	June 5, 2020 TBD	TBD
Interpreter Commission Meeting	September 25, 2020 8:45 am-11:45 am	AOC SeaTac, Lower Level Conference Room L-16
Interpreter Commission Meeting	December 18, 2020 8:45 am-11:45 am	AOC Facility, SeaTac

**FY 2020 Washington State Interpreter Commission Budget Plan  
(September 2019)**

Focus Areas & Mission	Projects	Activity Timeframe	Activities	AOC Staff	Commission Assigned Role	Projected Budget
<b>Judicial &amp; Court Staff Education</b>	2019 Fall Judicial Conference  Judicial College	January 2019 for September 2019 training.  August 2019 for January 2020 training	<ul style="list-style-type: none"> <li>Review training plan and training curriculum with committee chairs</li> <li>Identify faculty for educational sessions</li> <li>Work with faculty to develop and distribute curriculum</li> <li>Prepare materials for education sessions to complement curriculum or training goals</li> <li>Logistics: Location arrangements, faculty contracts &amp; travel; presentation materials and distribution</li> </ul>	RWL CD JW MF	Education Committee	Judicial College Est: \$1,000,  Fall Conf.: \$2,500 for faculty costs and lodging for AOC staff
	Spring 2020 Conferences (tentative)	August 2019 for April/May 2020 conference.				\$2,000 (Est.) (SCJA only)
	Court Interpreter Coordinator Training	October 2019 for April 2019 training				Court staff meetings and trainings \$,4000 (Est.)
	Reimbursement program meetings with current (2019) new courts (2020)	TBD (November 2019 and May 2020)				
<b>Interpreter Commission Meetings</b>	Four Commission meetings per fiscal year	Quarterly basis: September, December,	<ul style="list-style-type: none"> <li>Logistics: Location arrangements, member travel and per diem; presentation materials and distribution</li> </ul>	AOC staff	Commission members	\$1200-\$1700 per meeting, depending on location; Total: \$5800

**FY 2020 Washington State Interpreter Commission Budget Plan  
(September 2019)**

<p><b>Commission Mission Support Activities</b> <i>To support Commission-related objectives and obligations, justice-related rules and processes, and to develop action plans that will enhance the ability of court communities to preserve the access to justice for Title IV and ADA-covered individuals and programs</i></p>	<p><b>Disciplinary Proceedings</b></p> <ul style="list-style-type: none"> <li>• Onboarding of new courts in reimbursement program with meetings off-site</li> <li>• LAP consultation for courts as may be needed</li> <li>• Conference Sponsorships</li> </ul>	<p>February, and May October 2019</p>	<p>Ongoing</p> <p>International Translation Day and WASCLA</p>	<ul style="list-style-type: none"> <li>• Identify implementation issues</li> <li>• Work with courts to complete their application to join the program, especially LAP and data issues.</li> <li>• Support cross-collaboration between justice partners</li> </ul>	<p>Project Manager and RWL</p>	<p>Possible chargeback to AGO office. \$2,000</p>
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**FY 2020 Washington State Interpreter Commission Budget Plan  
(September 2019)**

<p><b>Underserved Language Services and Community Outreach</b></p> <p><i>To facilitate communication between the three Supreme Court Commissions and the public, with the involvement of the legal and court communities of Washington State, regarding interaction with and participation in the justice system by foreign language speaking minorities or persons with disabilities.</i></p>	<ul style="list-style-type: none"> <li>• Outreach</li> </ul>	<p align="center">TBD</p>	<ul style="list-style-type: none"> <li>• Identify underserved or high-needs areas that have training barriers or lack of awareness of language access services</li> <li>• Work with stakeholder groups to facilitate and implement outreach events.</li> <li>• Prepare materials for identified training goals</li> <li>• Logistics: Location arrangements, faculty contracts &amp; travel; presentation materials and distribution</li> </ul>	<p align="center">RWL CD</p>	<p align="center">Outreach Subcommittee</p>	<p>TBD- This may be part of a Commission meeting in Spring 2020 where recruitment of Spanish language speakers in Eastern WA is done in partnership with local post-secondary colleges.</p>
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**FY 2020 Washington State Interpreter Commission Budget Plan  
(September 2019)**

<p><b>RESEARCH</b></p> <p><i>To design, fund, and conduct research projects relating to language access problems experienced by non-English speaking groups in the Washington state justice in order to improve the delivery of interpreting services needed by the courts.</i></p>	<ul style="list-style-type: none"> <li>• Provide data support for courts estimating their funding needs</li> <li>• Charges for research document materials</li> </ul>	<p>Not Identified</p>	<ul style="list-style-type: none"> <li>• Consult with DSHS and other state agencies to get data</li> <li>• Conduct data analysis</li> <li>• Conduct gap analysis</li> <li>• Recommend plan of action</li> <li>• Academic journal research on interpreting issues; cost of publication downloads</li> </ul>	<p>AOC Management and IT staff</p> <p>Law Library staff</p>	<p>TBD</p>
<p><b>Program Incidentals</b></p>	<ul style="list-style-type: none"> <li>• Translation for court signage</li> <li>• Mail</li> <li>• Copies/Printing</li> <li>• Telephone</li> <li>• Misc. Travel</li> </ul>			<p>RWL</p> <p>AOC Staff</p>	<p>\$3000</p>

**FY 2020 Washington State Interpreter Commission Budget Plan  
(September 2019)**

<b>Interpreter Commission Budget Allocation:</b>	<b>\$20,500</b>
<b>Estimated Budget Expenses</b>	<b>\$20,300</b>
<b>Estimated Budget Variance</b>	<b>\$ +200.00</b>

CONFIDENTIAL

# INTERPRETER REIMBURSEMENT PROGRAM EXPANSION TIMELINE

## IMPLEMENTATION PLAN BY FISCAL YEAR

### PHASE I: PLANNING AND PREPARATION FOR ONBOARDING NEW COURTS

AUGUST 2019 — MAY 2020

#### HIRING STAFF AND CONTRACTORS

- Project Coordinator (Court Program Specialist)
- Web Developer (Integrator)

#### DEVELOP COURT REIMBURSEMENT PROGRAM APPLICATION PROCESS

- Determination of reimbursement formula for courts and redistribution scheme
- Process for selecting courts that apply to receive funding
- Set timeline for courts to apply and be selected for contracting
- Language Access Plan approval process by the Interpreter Commission

#### FEEDBACK FROM COURTS

- Hold forum with courts in the Reimbursement Program to allow for feedback of process and proposed changes to Program before onboarding new courts

### PHASE II: ONBOARDING NEW COURTS

MAY 2020 — DECEMBER 2020

#### DISTRIBUTE APPLICATION FORM

- Distribute application form for existing and new courts to join Interpreter Reimbursement Program

#### SELECTION OF COURTS

- Review applications and secure Interpreter Commission approval of courts' Language Access Plans
- Notify courts who are selected for Program

#### ROLL OUT NEW ONLINE REPORTING APPLICATION FOR REIMBURSEMENT PROGRAM

- Build new online reporting application for Reimbursement Program
- Conduct application testing

#### PROVIDE TECHNICAL ASSISTANCE TO COURTS

- Help with using the application to enter data for reporting
- Language Access Plan development assistance
- Help with interpreter resources

# INTERPRETER REIMBURSEMENT PROGRAM EXPANSION TIMELINE

## IMPLEMENTATION PLAN BY FISCAL YEAR

### PHASE III: MONITOR, EVALUATE, AND IMPROVE ONBOARDING PROCESS

DECEMBER 2020 — MAY 2021

#### REVIEW DATA

- Review reimbursement data from courts to ensure accuracy of reporting application

#### FEEDBACK FROM COURTS

- Hold forum for feedback process, reporting application, and technical assistance and support

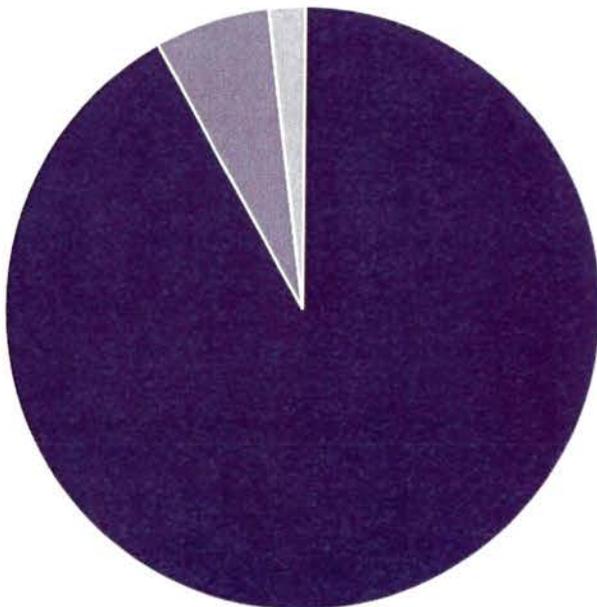
### PHASE IV: CONTINUE TO ONBOARD ADDITIONAL NEW COURTS

MAY 2021 — ONWARD

#### CONTINUE TO ENGAGE IN PROCESS (PHASE II—PHASE IV)

- Add more courts to the Reimbursement Program until all courts have a chance to participate in the Interpreter Reimbursement Program

## FUNDING BREAKDOWN 2019-2023



### 4 YEAR FUNDING PERCENTAGE BREAKDOWN

- Court Reimbursement — 92%
- Reimbursement Program Staffing — 6%
- Interpreter Program Updates — 2%

	REIMBURSEMENT	STAFFING	UPDATES
YEAR 1	\$0	\$169,523	\$48,000
YEAR 2	\$1,755,000	\$123,924	\$41,000
YEAR 3	\$2,664,000	\$123,924	\$41,000
YEAR 4	\$3,571,500	\$123,924	\$41,000

TOTAL OVER 4 YEARS = \$8,702,795

Calculations for Reimbursement for FY 20

	A	B	C	D	E	F	G	H
	Court Name	Reimbursable Costs FY18	Reimbursable Costs FY19	Average of Reimb Costs 18 and FY19	Percent of each of Court's Avg from Total of Avg Amounts	Contract Amount FY19	Contract Amount FY20	Change in Contract from FY 19 to 20
1								
2	Benton County District	\$29,436	\$35,689	\$32,562.40	3.04%	\$ 15,499.99	\$18,541.88	\$3,041.90
3	Benton County Superior	\$40,232	\$44,016	\$42,124.02	3.93%	\$ 22,439.00	\$23,986.52	\$1,547.52
4	Benton/Franklin Counties Juvenile	\$18,524	\$22,313	\$20,418.29	1.90%	\$ 10,347.33	\$11,626.71	\$1,279.38
5	Bremerton Municipal	\$5,971	\$5,824	\$5,897.50	0.55%	\$ 2,856.62	\$3,358.19	\$501.58
6	Chelan County Superior	\$14,951	\$29,903	\$22,427.26	2.09%	\$ 9,020.80	\$12,770.67	\$3,749.87
7	Clark County District	\$113,365	\$104,752	\$109,058.44	10.17%	\$ 66,435.70	\$62,100.75	-\$4,334.95
8	Des Moines Municipal	\$11,092	\$21,597	\$16,344.63	1.52%	\$ 5,447.27	\$9,307.06	\$3,859.79
9	Douglas County District	\$6,575	\$9,051	\$7,812.91	0.73%	\$ 4,808.86	\$4,448.88	-\$359.98
10	Douglas County Superior	\$3,438	\$8,841	\$6,139.47	0.57%	\$ 2,192.59	\$3,495.98	\$1,303.38
11	Everett Municipal	\$10,255	\$7,784	\$9,019.72	0.84%	\$ 6,055.12	\$5,136.06	-\$919.06
12	Federal Way Municipal	\$26,127	\$26,118	\$26,122.88	2.44%	\$ 15,094.53	\$14,875.05	-\$219.48
13	Franklin County District	\$33,450	\$33,203	\$33,326.68	3.11%	\$ 16,093.45	\$18,977.09	\$2,883.64
14	Franklin County Superior	\$63,848	\$45,946	\$54,896.67	5.12%	\$ 30,559.25	\$31,259.61	\$700.36
15	Kent Municipal	\$47,040	\$40,150	\$43,594.77	4.07%	\$ 20,588.84	\$24,824.01	\$4,235.17
16	Kitsap County District	\$13,710	\$12,940	\$13,325.00	1.24%	\$ 6,515.38	\$7,587.61	\$1,072.22
17	Kitsap County Superior	\$16,628	\$13,276	\$14,952.00	1.39%	\$ 11,520.67	\$8,514.06	-\$3,006.61
18	Lynnwood Municipal	\$9,718	\$9,600	\$9,658.96	0.90%	\$ 4,662.03	\$5,500.07	\$848.04
19	Mount Vernon Municipal	\$8,494	\$6,688	\$7,590.63	0.71%	\$ 4,808.96	\$4,322.30	-\$486.66
20	Okanogan County Superior	\$4,760	\$4,977	\$4,868.04	0.45%	\$ 3,244.83	\$2,771.99	-\$472.84
21	Pacific Municipal	\$5,084	\$3,124	\$4,104.01	0.38%	\$ 2,914.40	\$2,336.93	-\$577.47
22	Pasco Municipal	\$23,012	\$26,563	\$24,787.63	2.31%	\$ 13,216.34	\$14,114.73	\$898.38
23	Pierce County Sup/Dist	\$127,920	\$124,833	\$126,376.45	11.79%	\$ 80,518.27	\$71,962.08	-\$8,556.20
24	Port Orchard Municipal	\$1,097	\$1,091	\$1,093.95	0.10%	\$ 593.78	\$622.92	\$29.14
25	Poulsbo Municipal	\$391	\$539	\$464.98	0.04%	\$ 276.34	\$264.77	-\$11.56
26	Renton Municipal	\$27,758	\$25,217	\$26,487.74	2.47%	\$ 13,222.07	\$15,082.81	\$1,860.74
27	Seatac Municipal	\$6,708	\$4,234	\$5,470.91	0.51%	\$ 3,914.08	\$3,115.28	-\$798.80
28	Seattle Municipal	\$143,421	\$141,841	\$142,630.72	13.30%	\$ 92,140.15	\$81,217.68	-\$10,922.47
29	Skagit County District	\$17,838	\$10,538	\$14,187.50	1.32%	\$ 8,259.23	\$8,078.74	-\$180.50
30	Skagit County Superior	\$18,436	\$20,869	\$19,652.48	1.83%	\$ 9,274.79	\$11,190.64	\$1,915.85

Calculations for Reimbursement for FY 20

	A	B	C	D	E	F	G	H
	Court Name	Reimbursable Costs FY18	Reimbursable Costs FY19	Average of Reimb Costs 18 and FY19	Percent of each of Court's Avg from Total of Avg Amounts	Contract Amount FY19	Contract Amount FY20	Change in Contract from FY 19 to 20
1								
31	Snohomish County District	\$110,367	\$92,189	\$101,277.90	9.45%	\$ 55,936.66	\$57,670.30	\$1,733.64
32	Snohomish County Superior	\$73,758	\$78,270	\$76,014.09	7.09%	\$ 42,524.55	\$43,284.42	\$759.87
33	Tukwila Municipal	\$10,420	\$10,269	\$10,344.50	0.96%	\$ 6,569.31	\$5,890.43	-\$678.88
34	Yakima County Superior	\$37,033	\$41,172	\$39,102.16	3.65%	\$ 22,961.05	\$22,265.80	-\$695.25
35								
36	<b>Totals</b>	<b>\$1,080,856</b>	<b>\$1,063,414</b>	<b>\$1,072,135.22</b>		<b>\$610,502.00</b>	<b>\$610,502.00</b>	

**Court Interpreter Reimbursement Allocation Formula**

The FY reimbursable amount is the amount that the courts are eligible to be reimbursed because the court has used an AOC credentialed interpreter for the provision of telephonic or in-person language services and for any associated mileage charges as allowed by the interagency agreement language.

Once the eligible reimbursable amount is identified through a confirmation review of annually reported cost data submitted by the contracting court/jurisdiction for the previous two years and for all the other courts in the program, the following approach is taken:

**Step 1 (using Yakima Superior as an example):**

FY 18 Reimbursable Costs = \$37,033 (Column B)

FY 19 Reimbursable Costs = \$41,172 (Column C)

Average FY18 & FY19 Reimbursable Costs = \$39,102.16 (Column D: (FY18 + FY19)/2)

Total of the two year-average of reimbursable costs reported by all participants = \$1,072,135 (total of Column D)

**Step 2**

Percentage = \$39,103 / \$1,072,135 = 3.65% (Column E)

FY 20 Total Interpreter Reimbursement Funding = \$610,502

**Step 3**

Yakima Superior Reimbursement Allocation for FY 2020= \$610,502 \* .065= \$22,265.80 (Column G)

**Key**

Gray Column shows contract amounts for previous years.

Blue Column shows the contract amounts for the upcoming year.

Green Cells show an increase from the previous year.

Red Cells show a decrease from the

# Justice Compromised: Immigration Arrests at Washington State Courthouses



OCTOBER 16, 2019

In recent months, media reports,<sup>[1]</sup> immigrant rights organizations,<sup>[2]</sup> and federal immigration officials<sup>[3]</sup> have noted the increased use of courthouses as a site for civil immigration enforcement in Washington state. This is part of a nationwide trend: as advocates have documented in Colorado, New Mexico, New York, Massachusetts, and Pennsylvania, immigrants are increasingly being arrested by Immigrant and Customs Enforcement (ICE) and Customs and Border Protection (CBP) officers inside courthouses, in surrounding areas, and while driving away from courthouses. Once apprehended by ICE or CBP in these circumstances, they face immigration detention (for weeks, months, and, in some cases years) and deportation proceedings.

This practice raises concerns about access to justice: if risk of apprehension by immigration authorities makes immigrants afraid to go to court, this could impede their ability to engage in legal proceedings by serving as witnesses, plaintiffs, or defendants; it could discourage them from paying fines, seeking a protection order, or accessing other necessary court services such as obtaining a marriage license. Around the country, rights advocates,<sup>[4]</sup> justice professionals<sup>[5]</sup>—including chief justices of state Supreme Courts<sup>[6]</sup>—and bipartisan bodies<sup>[7]</sup> have asked Congress and the Department of Homeland Security (DHS) to designate courthouses as “sensitive locations,” like schools or hospitals, where the agency refrains from enforcement activities.

Thus far, the Department of Homeland Security has declined such requests. Indeed, it appears that Immigration and Customs Enforcement (ICE), at least, is doubling down: in January 2018, ICE issued its first policy directive codifying its procedures on courthouse arrests, as well as a related web FAQ. It is unclear whether Customs and Border Protection (CBP) operates with similar guidelines; both agencies are part of DHS and conduct courthouse arrests in Washington state, but only ICE has publicly addressed the practice. In other states—though notably, not in Washington—it appears that courthouse arrests are mostly conducted by ICE rather than CBP, so most of the national attention around this issue has focused on ICE alone.

In this policy memo, and in public statements, ICE recognizes that courthouse arrests are on the rise and acknowledges that they generate particular concerns. But the agency offers two claims as justifications for the practice:

- First, it alleges that courthouse arrests have become necessary since local jurisdictions' growing reluctance to accept ICE detainees,<sup>[8]</sup> has made arresting immigrants in jails more difficult. Because those entering courthouses are typically checked for weapons, the agency argues, apprehending immigrants in courthouse settings is safer than detaining them in other locations.<sup>[9]</sup> The memo and FAQ also emphasize that many targets of such arrests constitute a public safety threat, describing them as “criminals and fugitives” and their apprehension in areas screened for weapons as necessary steps to protect the public.
- Expressing its intention to “avoid alarming the public,” ICE asserts in its memo that courthouse arrests are operations against “specific, targeted aliens,” and do not aim to arrest family members or friends accompanying them except “under special circumstances.” Federal agents “will make every effort to limit their time at courthouses,” the policy insists, and the arrests themselves “should, to the extent practicable, take place in non-public areas of the courthouse, be conducted in collaboration with court security staff, and utilize the court building’s non-public entrances and exits.”<sup>[10]</sup>

However, reports from other states suggest that there may be reasons to question the accuracy of these characterizations. Data collected by the Immigrant Defense Project in New York, for example, found that 28% of those arrested in New York had no criminal history and that of those facing criminal charges, 80% were appearing for violations and misdemeanors.<sup>[11]</sup> What’s more, media reports have highlighted courthouse arrests of crime victims and others appearing in court in an attempt to protect *against* violence—including apprehensions of those in court to seek protection orders against abusers.<sup>[12]</sup>

In an attempt to document what is happening in Washington State, and to explore its human rights consequences, in 2019 the University of Washington Center for Human Rights began a study of the immigration arrests at courthouses in our state. This project is currently in its early stages; the present report should be understood as a preliminary presentation of findings, to be further updated as additional data becomes available. As explained below, our research draws data from a range of sources, including public records requests at the local and federal level; conversations, where possible, with federal immigration officers; media coverage; and reports by eyewitnesses, community members, and legal advocates about arrests involving specific individuals known to them. Where possible, we corroborate data through multiple sources. We also incorporate insights from academic studies involving fear and its impact on access to justice, particularly among immigrant populations, and surveys conducted by advocacy organizations working to end domestic violence in Washington.

This report is divided into four sections. We explore the extent of courthouse arrests in our state; the specific circumstances of the arrests, where known; the human rights concerns surfaced by this practice in our communities; and ways in which local officials, including prosecutors and law enforcement, have collaborated with ICE and CBP to facilitate arrests at courthouses.

## I. Extent of ICE/CBP enforcement at/near courthouses

In order to assess the impact of these arrests on human rights, it is important, first, to understand whether they are isolated or systematic practices: are they happening across the state? Are they occasional or frequent occurrences? Whom do they target, and how?

Yet answering these questions poses a significant challenge, first and foremost because the only entity that possesses comprehensive records of all such arrests—the Department of Homeland Security—refuses to share them. ICE claims that it does not track how many arrests occur at courthouses.<sup>[13]</sup> Though the agency's policy stipulates that all such operations should be documented using a Field Operations Worksheet which specifically notes the operation as targeting a courthouse,<sup>[14]</sup> the agency has told UWCHR researchers that these documents are not compiled or tracked in any way that would permit the release of aggregate data about courthouse arrests under FOIA. Similarly, while agency records such as I-213s<sup>[15]</sup> state the location at which each individual arrest is made, to date the agency has maintained that the location of arrests are exempt from disclosure under FOIA Exemption (b)(7)(E), which allows the withholding of information compiled for law enforcement purposes that would disclose the "techniques and procedures" or "guidelines" for "law enforcement investigations or prosecutions."<sup>[16]</sup> The UWCHR is currently engaged in litigation against DHS precisely for access to these forms of documentation.

While we continue to contest these dubious interpretations of the agency's responsibilities under FOIA, we have launched an effort in the interim to gather as much information as possible from other sources to shed light on the extent of courthouse arrests in our state. To date, we have collected data from multiple sources: ICE and CBP records, obtained through FOIA,<sup>[17]</sup> records from county governments in Washington state, released under the Washington Public Records Act, federal court records,<sup>[18]</sup> obtained through PACER; reports shared with advocates and community organizations;<sup>[19]</sup> and media coverage.<sup>[20]</sup> Some of the reports received are more comprehensive than others. Court documents, for example, present sworn testimony about the apprehension of specific individuals in ways that permit secondary corroboration, whereas eyewitness accounts are sometimes limited to a description of an event involving unnamed individuals, and can be more difficult to verify. In this report, we note the source of all data, so that its reliability can be evaluated by readers.

To date, we have documented 51 reported arrests at courthouses since 2016, occurring in 16 counties across the state; 24 in Western WA, and 27 in Eastern WA. (For a table listing these cases, see Appendix I to this report.) This undoubtedly captures only a fraction of overall arrests. However, **the dispersion of documented arrests across the state suggests that the practice is widespread**, a characterization also upheld in public statements by ICE authorities in Washington.<sup>[21]</sup> At the same time, reports suggest that courthouse arrests may be concentrated in certain jurisdictions, especially Grant County, which accounts for almost a quarter of reported courthouse arrests since 2016. The next most frequent locations are Adams, King, and Clark counties.

## II. Specific circumstances of arrests

As ICE's own statements on this practice note, the concerns around courthouse arrests stem not only from the fact that they are happening, but from the specific manner in which they occur. As a result, we sought to examine who is being targeted, and how and where they are being identified and apprehended. Here, too, obtaining across-the-board data is impossible without access to DHS records, yet our research permits a glimpse into the overall phenomenon through the individual cases we have been able to document thus far.

Most eyewitness reports describe the presence of individuals in plainclothes later identified as immigration enforcement observing hearings in the courtroom and/or surveilling court attendees in waiting areas. To carry out the arrest, multiple agents, typically in plainclothes, surround the targeted person, arresting them quickly and placing them in a vehicle which is usually described as unmarked. A minority of accounts mention the use of force by arresting agents. Due to the use of plainclothes and unmarked vehicles, it is often difficult for eyewitnesses to know whether ICE or CBP is the agency performing the arrest. In multiple cases reported by lawyers and advocates, the arresting agents reportedly refused to give their names or show warrants, even when asked by the arrestee's attorney. In some cases, agents briefly flashed agency badges.

Some eyewitness accounts describe chaotic, confusing scenes. For example, the partner of a man arrested by ICE on June 20 outside the Thurston County Superior Courthouse described troubling use of force by immigration enforcement agents in a statement provided by her lawyer to The Olympian's Sara Gentzler: "After the hearing, (name redacted) and I were walking just outside of the courthouse back to the car when he was attacked and taken away right in front of me by men in everyday clothes...I was scared. (Name redacted) had had a concussion a few months earlier, and one of the men hit him hard in the back of the head."

Similarly, in an account shared with UWCHR researchers by a legal advocate, a witness described seeing multiple attempted arrests on September 26, 2019 at Grant County Courthouse in Ephrata, Washington. He reported that he entered the main entrance of the courthouse at approximately 9:55 a.m, noticing a light tan Tahoe was parked on the side of the court house with a man waiting in the driver's seat. As he approached the front main entrance, he saw a young Latinx man in handcuffs being forcefully and quickly escorted, almost dragged, to the light tan Tahoe by a man in plainclothes who put him in the back seat of the vehicle. When he emerged from the courthouse later, the same ICE officer he had seen earlier was now chasing another young Latinx man around the grounds of the courthouse, with the Tahoe speeding around the corner toward them. At least one person, the client of the legal advocate who shared this account, was arrested by immigration authorities at the courthouse on that day.

As this account suggests, while some arrests take place in courthouses themselves, others occur in parking lots or surrounding areas, or even while the targeted person is driving away from the courthouse. Indeed, while ICE's policy statements refer only to "arrests *in* courthouses" or "*at* courthouses," this is far too limited a framing to capture the phenomenon itself or the concerns it generates: while arrests of those driving away from courthouses do not take place on courthouse property, they are inextricably linked to the court because the person's appearance in court is key to their identification and subsequent apprehension. That identification can involve agents matching the person to photographs they bring with them, or their witnessing the target identifying themselves in proceedings before the court, as appears to be the case in the below excerpt from an individual's I-213, which, with permission, her attorney shared with UWCHR researchers.

Figure 1: I-213 form documenting arrest by CBP at Othello District Court

**ENCOUNTER/ARREST:**  
 During the commission of their duties, agents from the United States Border Patrol, Spokane Border Patrol Station learned that [REDACTED] would be appearing before the Othello District Court in criminal proceedings.

[REDACTED] was positively identified in court. [REDACTED] was encountered by Border Patrol Agent Nunez, who upon the encounter identified himself as a United States Border Patrol Agent (BPA). BPA Nunez asked [REDACTED] as to her citizenship. [REDACTED] stated that she was born in [REDACTED] Mexico. [REDACTED] was asked if she had immigration documents to visit, work or reside in the United States. [REDACTED] stated she did not have any immigration documents at all. [REDACTED] freely admitted to having entered into the United States illegally in 1993 near San Ysidro, California. BPA Nunez arrested [REDACTED] for being illegally in the United States and transported her to the Spokane Border Patrol Station for further interview and processing.

**IDENTIFICATION:**  
 [REDACTED]'s biographical information, fingerprints, and photo were submitted into the E3/IDENT/IAPIS databases. Fingerprint analysis revealed no prior immigration history.

Signature: JOSE NUNEZ	Title: Border Patrol Agent
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4 of 5 Pages

Form I-213 (Continuation Page) (Rev. 08/01/07)

Consistent with ICE's stated policy, most courthouse arrests do appear to be of specifically targeted individuals; we have received no information about "collateral arrests" of family or friends who were also present at the time. (On the other hand, the below narrative from an I-44 form released to UWCHR by CBP under FOIA suggests that agents may sometimes visit courthouses opportunistically, to observe proceedings without advance planning.)<sup>[22]</sup>

Figure 2: DHS I-44 form documenting courthouse surveillance and arrest by CBP, January 18, 2017

U.S. Department of Homeland Security		Continuation Page for Form I 44	
Alien's Name (b) (6), (b) (7)(C)	File Number (b) (7)(E)	Date 01/18/2017	
Event No: (b) (7)(E)			
ASSISTING ASSETS: ----- None			
Narrative Title: Report of Apprehension or Seizure			
On Wednesday, January 11, 2017, Detective (b) (6), (b) (7)(C) and I (b) (7)(E) (b) (7)(E) WA (b) (7)(E) (b) (7)(E) (b) (7)(E) We were attempting to locate and arrest an adult male by the name of (b) (6), (b) (7)(C) (b) (7)(E) (b) (7)(E) we know (b) (6), (b) (7)(C), s a (b) (7)(E) (b) (6), (b) (7)(C) also had (b) (6), (b) (7)(C) Detective (b) (6), (b) (7)(C) and I were unable to locate and arrest (b) (6), (b) (7)(C) We decided to drive to the (b) (7)(E) County Courthouse to sit through court proceedings for some of our older cases. As we were driving north on (b) (6), (b) (7)(C) a black Mitsubishi passenger car (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) passed us in the southbound lane. I was able to get a good look at the driver (b) (6), (b) (7)(C) assenger. The driver of the vehicle was (b) (6), (b) (7)(C) and the passenger was (b) (6), (b) (7)(C) Detective (b) (6), (b) (7)(C) contacted (b) (7)(E) and verified that (b) (6), (b) (7)(C) had two confirmed (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)			

While the arrests in question do appear targeted, the individuals they seek do not always fit DHS' characterizations that they constitute public safety threats. Many arrestees were attending proceedings relating to traffic matters, such as charges of operating a vehicle without a license or trip permit violations. Even among those facing more serious charges, two arrests in Clark County and one in Grant were of individuals with no prior convictions attending a pre-trial hearing, and thus entitled under the U.S. Constitution to a presumption of innocence.

Many individuals had U.S. citizen children or spouses, some of whom accompanied them to court and witnessed their arrest. In at least one case, the person arrested was raising her children as a single parent following the prior deportation of a spouse. For example, a caller to the Washington Immigrant Solidarity Network's hotline reported that a woman was arrested on October 17, 2018 after attending court in Othello, Adams County, as a result of a traffic accident. She was the primary caretaker of her five children, ranging in age from 10 months to ten years of age; the children's father had been deported to Mexico a year before.

### III. Human rights concerns

Many justice practitioners object to federal immigration agents conducting civil enforcement activities in courthouses on the grounds that such practices produce a "chilling effect" that discourages immigrant communities from accessing justice. There are some particular rights concerns that emerge as a result of courthouse enforcement, and some empirical evidence—from Washington state as well as nationally—that suggests these concerns may be well-founded.

## Access to justice and due process

Where individuals fear apprehension in court on immigration charges, they may be deterred from participating in the legal process, even to defend their own rights in cases where they are accused of crimes. This presents a threat to due process rights, which under the U.S. Constitution should apply to all people, regardless of nationality.

The aforementioned cases of individuals detained at pre-trial hearings paint this dilemma in particularly stark relief. These people appeared in court in an attempt to defend themselves against charges brought against them, but were arrested by ICE/CBP before they were able to do so. Immigration detention often interrupts access to defense attorneys and may block defendants' ability to appear in subsequent proceedings to defend themselves.

Fearing such consequences, those vulnerable to deportation may choose not to appear in court at all, even where this creates cascading adverse consequences for them. Indeed, courthouse enforcement can contribute to the further criminalization of immigrants by creating a disincentive for them to comply with legal requirements that they appear in court to pay fines or resolve other matters. In some cases, these initial requirements stem from very minor violations, but immigrants' reticence to appear in court can trigger far more serious consequences.<sup>[23]</sup>

For example, *Juan Rodriguez*<sup>[24]</sup> was convicted of unlawful entry in Arizona in 2013, but subsequently returned to the U.S.. He was pulled over in Vancouver, Washington, in February 2017 because he was driving with a temporary trip permit displayed upside-down in the window of a recently-purchased vehicle, and charged with Trip Permit Violation<sup>[25]</sup> in Clark County District Court. Federal court documents show that ICE agents observed him at the Clark County Courthouse on his scheduled hearing date, but he then left the court before the hearing began, likely upon noticing their presence. The Clark County Sheriff subsequently issued a warrant for Failure to Appear, and he was arrested and booked into jail. He was released, sentenced in Clark County District Court to two days of partial confinement at the Mabry Work Program, administered by the district court; on his final day of service, Mabry officials notified ICE, who arrived to apprehend him. With only two misdemeanor convictions—for unlawful entry and Trip Permit violation—he was federally prosecuted for illegal reentry and sentenced to serve two months and one week in federal prison prior to his deportation.

## Unequal protection

Numerous national studies have denounced the degree to which the perceived collaboration in immigration enforcement by government agencies charged with upholding public safety has led to greater vulnerability in immigrant communities. For example, researchers in other states have found a growing reluctance to call for emergency assistance,<sup>[26]</sup> to seek legal relief,<sup>[27]</sup> and to bring charges against abusers.<sup>[28]</sup>

Particular concerns arise around gender-based violence, since many such crimes are systematically underreported by victims, even without the particular vulnerabilities of undocumented people. Advocates and law enforcement have noted a decline in reports of sexual assault and domestic violence among Latinx populations nationwide following the 2016 presidential election, including downturns as sharp as 40% in Houston and 10-25% in Los Angeles, as reported by local police departments.<sup>[29]</sup>

In May 2019, a coalition of national organizations working to end domestic violence, sexual assault and human trafficking conducted a survey of advocates and attorneys to gauge the impact of heightened immigration enforcement on their clients. Some sixty percent reported that survivors of domestic violence and sexual assault were increasingly contacting them with concerns about their legal status; three out of every four advocates surveyed reported that “immigrant survivors have concerns about going to court”, and 52% said that their clients had dropped civil or criminal cases because of fear of immigration consequences. While these findings are national in scope, Washington was among the states surveyed, and local findings conform to the trends identified nationally.

In a July 2019 survey of approximately 100 domestic violence legal advocates in Washington state conducted by the Washington State Coalition Against Domestic Violence (WSCADV),<sup>[30]</sup> 97% of advocates reported that the immigrant survivors they work with are fearful of contacting police to report domestic violence, with most reporting that their clients “worry ICE/immigration will get involved” or that they could risk losing their children, their abusive partner, or other family members to deportation as a result of contacting the police. Additionally, 78% of advocates reported to WSCADV that immigrant survivors have concerns about seeking civil protection orders due to the possible presence of immigration authorities at the court. 83% of advocates reported that immigrant survivors they worked with had dropped civil or criminal cases related to abuse due to fear; the most common reason cited for this fear (73%) was concern about alerting immigration authorities.

Similarly, in a national survey of judges, which included Washington state, a majority (54%) of participants in 2017 reported that cases in their court were interrupted because immigrant victims were afraid to come to court—up from 45% in 2016. And nationwide, the study found that the vast majority (88-94%) of judges reported concerns about the impact of immigration enforcement on access to justice for immigrant victims and witnesses.<sup>[31]</sup>

If anything, this suggests that courthouse arrests may have a negative impact on public safety—and not only for immigrants. While fear of deportation is concentrated among immigrant communities, when survivors of crime are afraid to report incidents or press charges against their abusers, the effects radiate outwards and affect all Washingtonians. Further, public safety also relies on the integrity and credibility of the justice system as a forum to prosecute and defend against alleged criminal offenses. Everyone’s safety depends upon ensuring equal protection to all those who suffer violence.

## IV. Collaboration by local officials

It is legally challenging for state and local authorities to prevent federal law enforcement agencies from operating in public places, including courthouses. However, they can more readily curtail the extent to which state or local institutions collaborate in immigration enforcement involving the courts. Concerned by the aforementioned indications that courthouse arrests imperil access to justice, a number of states have undertaken efforts to do this.

Different states have adopted different approaches. For example, in October 2018, California’s Attorney General, responding to a mandate from the California State Legislature, developed guidelines for state superior courts with the goal of limiting involvement in immigration enforcement. In New York, the Office of Court Administration issued a court rule in April 2019 that prohibits ICE from arresting immigrants inside courthouses without a judicial warrant or order, and the New York’s state legislature considered the Protect our Courts Act,

developed by the Immigrant Defense Project as model legislation to regulate enforcement activity at courthouses. In May 2019, New Jersey's Chief Justice issued a directive restricting collection of data regarding immigration status by courts, and setting standards for court employees, including court security, regarding interactions with immigration agents. And most notably, in Massachusetts a group of prosecutors and public defenders sued the federal government over courthouse arrests, resulting in a June 2019 preliminary injunction blocking civil immigration arrests of people going to, attending, or leaving Massachusetts state courthouses.

In Washington, too, state and local authorities have made numerous efforts to ensure the rights of immigrant communities, even in cases where federal agencies may violate them. Numerous jurisdictions have adopted practices to limit collaboration with federal immigration enforcement. In 2019, the Washington state legislature passed the Keep Washington Working Act (SB 5497) to extend some of these protections statewide. In light of this, we took a closer look at three counties where advocates expressed particular concern regarding courthouse arrests—Adams, Clark, and Grant—to gauge the extent of local collaboration with immigration enforcement involving courthouses, and the likelihood that Keep Washington Working will address the problem.

We found evidence of varying degrees of assistance provided by local authorities in courthouse immigration arrests by ICE/CBP. In some counties—Clark, for example—court dockets are publicly accessible online, enabling their use for immigration enforcement without direct contact with local government employees. In others, we found evidence of more active collaboration, including: formal agreements to share court dockets; sharing of information about defendants, including court dates, at the request of immigration officers; and proactive flagging of specific defendants for review by immigration enforcement.

## Agreements to share court dockets for day-to-day review

In Grant County, formal agreements appear to exist between county officials and CBP, whereby the former share court dockets with immigration authorities to facilitate courthouse arrests. Grant County court dockets include information such as defendants' full names and dates of birth, their charges, the name of their lawyer, their language interpretation needs (if any), and the time, location, and nature of their hearing.

This agreement appeared to result from a January 24, 2018 meeting between Grant County Prosecutor Garth Dano and Supervisory Border Patrol Agent Thomas D. Watts, of the Spokane Sector Prosecutions Unit. Following the meeting, Dano wrote to Watts, "Tom, it was great meeting you and the fellas today. [...] Look forward to your help here in Grant county," to which Watts replied, "It was great meeting you today as well. I look forward to working together in a mutually beneficial relationship." (See Appendix II, Record 1 below.)

In an exchange of emails following this meeting, Watts sent Grant County employees the email addresses of several CBP officers who he says "will be heavily involved in the day to day docket review." (See Appendix II, Record 2 below.) Indeed, records released to UWCHR show that employees of the Grant County Prosecuting Attorney's office began to forward calendars for upcoming dockets at the Moses Lake and Ephrata courthouses to the CBP agents the next day, January 25, 2018.<sup>[32]</sup>

In subsequent weeks, CBP agent Watts sent updates regarding courthouse arrests to employees of the Grant County Prosecuting Attorney's office; for example, on February 14, 2018, Watts wrote to Deputy Prosecuting Attorney Chad A. Jenks, "Just wanted you to know we have picked up three already this week. This program is a

success, I feel. In addition, we've developed several targets off criminal aliens that have skipped their court dates. We'll get them as well. :)" When Jenks copied his supervisor Garth Dano on his response to Watts, Dano replied, "Great news Tom -garth." Later, on February 23, 2018, Watts replied to an emailed court docket with another update: "By the way, we picked up three more yesterday morning. It's been fun. :)" (see Appendix II, Records 3-4 and Record 5, below).

Similarly, a few weeks later Agent Watts reported back to the Grant County Prosecutors' office to celebrate the arrests of four individuals with long rap sheets, noting "Thank you again for your cooperation and know that without your help, these subjects would still be in Grant County committing criminal acts." (See Appendix II, Record 6 below.)

These practices are not limited to Grant County, however. In Adams County, correspondence obtained through public records requests suggests that the Adams County Prosecuting Attorney's office also routinely sent court dockets to a list of CBP officers (see Appendix II, Record 7 below).<sup>[33]</sup>

## Sharing information about specific individuals

The Grant County Sheriff's Office and the Grant County Prosecuting Attorney's office also sent emails directly to ICE Deportation Officer (DO) Jaimie Waite regarding specific individuals' court dates, including details about their cases (see Appendix II, Record 8 and Record 9 below). In some cases, this information was shared following specific requests by DO Waite, or in regards to defendants whose immigration status was a relevant factor in their prosecution, such as "Alien in Possession of a Firearm" cases. But in others, employees of the Grant County Prosecutor's office proactively reached out to DO Waite to send him information about defendants, including where the defendant's immigration status was not pertinent to the charges in question. Given that all of the defendants whose information was shared with DO Waite have Latinx surnames, and that some were U.S. citizens with Latinx surnames (see Appendix II, Record 10), these communications raise concerns about possible ethnic profiling.

Confirming whether this information-sharing led to actual arrests is impossible without accessing ICE/CBP's own records. In at least one case, an individual whose court date was proactively shared with DO Waite by a Grant County Prosecutor's office employee in December 2017 was shortly thereafter booked into Yakima County jail as an immigration detainee under the jail's intergovernmental service agreement with ICE. But Yakima County Jail records do not specify the location of his arrest; if he were arrested at a Grant County courthouse, only ICE records would contain this information. UWCHR is currently in litigation with ICE for access to such records.

In at least one case—the aforementioned one of Juan Rodríguez, federal court records show that officials from Mabry Work Crew, a court-operated work program in Clark County, notified ICE that Mr. Rodríguez was completing his scheduled service, and they showed up and arrested him in the lobby of the Mabry facility.

In recognition of the detrimental consequences of the active involvement of local law enforcement in federal immigration enforcement, the legislature included significant prohibitions on such collaboration in the Keep Washington Working Act. While numerous Washington counties had already adopted many of these prohibitions, for others, implementation of this new law will necessitate significant changes to policy and internal culture. The

new law became effective on May 21, 2019 and requires the Attorney General to publish model policies to implement its provisions within 12 months. Local law enforcement agencies will be required to adopt these policies or provide the Attorney General with their alternative policies for complying with the law.

Yet initial monitoring and enforcement of this new law is likely to be a challenge. Community members, advocacy organizations and state and local governments are already engaged in promoting interim policies for local law enforcement agencies to implement Keep Washington Working's provisions. Once the Attorney General's policies are released, jurisdictions that fail to implement effective policies and who continue to collaborate with ICE and CBP's immigration enforcement actions will face an increased risk of legal action and liability.

Keep Washington Working does not expressly limit collaboration between prosecutors and immigration authorities<sup>[34]</sup> of the sort happening in Grant County, although such collaboration does undermine the intent of the legislature and the Governor in making the Keep Washington Working Act the law in Washington State, and it can be argued that the law's provisions implicitly include prosecutorial conduct. As such, the law's passage may have a limited impact on curtailing current practices in this regard. Whether it will be an effective tool to limit prosecutor engagement with ICE and CBP, or whether other means will be necessary to do so, remains an open question.

Additionally, ICE's stated policy of "coordinating with courthouse security" and conducting civil immigration arrests in non-public areas of courthouses raises questions about the extent to which the federal immigration enforcement is commandeering resources provided through local government in apparent contravention of Washington's new law. Again, documenting such practices is difficult, since only ICE/CBP have access to records of these arrests. But some measures can be taken to, at minimum, instruct security officers on the appropriate boundaries of their interaction with federal agents. UWCHR's preliminary research has found that contracts for courthouse security do not currently offer any guidelines for how to interact with immigration enforcement.<sup>[35]</sup> Officials in Thurston County have reportedly drafted interim policy guidelines for such circumstances following a June 20, 2019 arrest which was witnessed by courthouse security officers.

Lastly, in many cases the collaboration of local government with immigration enforcement is passive rather than active. Digital tools made available by many local governments may facilitate ICE/CBP's identification of apprehension opportunities in courthouses. These include the online posting of daily court dockets, such as in the case of Clark County Superior Court and Clark County District Court; public jail rosters; and the sharing of information to federal databases which can be accessed for civil immigration enforcement.<sup>[36]</sup> The availability of these digital tools is uneven across the state; in light of the deleterious effects of courthouse arrests, guidelines for their appropriate use could be helpful.

## Conclusion

Our research shows that ICE's justification of courthouse arrests do not hold up to scrutiny based on what we know about the practice in Washington state.

First of all, as noted above, ICE claims that courthouse arrests are necessary public safety measures, both because the arrests target individuals who represent a threat to public security, and because now that fewer jails are collaborating with ICE detainers, courthouses present a weapons-free zone where arrests can be conducted

more safely than at large in the community. Our research shows this reasoning is flawed on both counts. Many of the individuals apprehended at courthouses in Washington state had no prior criminal convictions, and/or were appearing in court on nonviolent charges, including, frequently, traffic offenses; their designation as public safety risks is questionable. Furthermore, many of these individuals were apprehended outside the courthouse itself, where their access to weapons would not be restricted anyway. And lastly, the counties where courthouse arrests are reportedly most frequent are precisely those where current local authorities collaborate *most* with federal immigration enforcement.<sup>[37]</sup> Far from being a response to the limitations imposed by so-called “sanctuary” provisions, and a necessary means to protect officers and the public from dangerous individuals, courthouse arrests appear to be taking place because they are convenient for ICE and CBP: when it’s publicly known where and when immigrants attending to matters of justice will appear, apprehending them in those places is easy and efficient.

Second, ICE acknowledges that courthouse arrests can generate alarm; its policy memo suggests that agents should refrain from conducting courthouse arrests in public view, and presumably, the use of plainclothes agents and unmarked vehicles is intended to render these operations less visible. But far from increasing safety, secret-police-like practices raise a host of deeply troubling issues and render us all more vulnerable. If anything, secrecy surrounding courthouse arrests may augment their corrosive impact on immigrants’ trust in the judicial system.

ICE’s assertion that concealing itself—the agency calls it “operating discreetly”—will avoid sowing fear is fundamentally wrongheaded. As the aforementioned studies show, alarm is already widespread among the immigrant community, for whom widely-reported courthouse arrests generate waves of fear registered throughout the nation. What’s more, recent arrests in Washington state—such as the June 20, 2019 incident in which plainclothes agents wrestled a man to the ground outside a courthouse in Thurston County, described by Judge Buckley described as “having all the lookings of a kidnapping”—call into question what exactly ICE means by “discreet”.

Lastly, by making accountability near impossible, secrecy facilitates abuse. In several of the accounts we reviewed, indications of potential misconduct arise, including ICE/CBP officers reportedly refusing to identify themselves; declining to present warrants; and eavesdropping on conversations between attorneys and their clients to discern a target’s place of birth. ICE and CBP’s failures to respond to lawfully submitted requests for documentation about known arrests show that this aversion to transparency is not the result of misdeeds by individual agents who defy scrutiny, but characteristic of the institution as a whole.

In this climate, it is not entirely surprising that accessing the courts has become an increasingly tenuous proposition among immigrant communities in our state. Community advocates and lawyers report that immigrants increasingly avoid going to court, frequently compromising their own safety, as well as their ability to participate in their own defense against criminal charges, in order to avoid the possibility of deportation. This undermines the fundamental mission of Washington Courts, which is to ensure access to justice for all. It also threatens trust in other public institutions essential to the rule of law, undermining the security of all Washington residents.

# Appendix I: Reports of courthouse arrests by ICE/CBP in Washington state

Case #	Date <sup>[38]</sup>	City	County	Source <sup>[39]</sup>
Adams 1	7/13/2018	Othello	Adams County	WAISN
Adams 2	10/17/2018	Othello	Adams County	WAISN
Adams 3	11/10/2018	Othello	Adams County	WAISN
Adams 4	1/22/2019	<i>Not specified</i>	Adams County	WAISN
Adams 5	2/6/2019	<i>Not specified</i>	Adams County	WAISN
Adams 6	2/6/2019	Othello	Adams County	WAISN
Adams 7	2/24/2019	Ritzville	Adams County	WAISN
Adams 8	10/9/2019	Othello	Adams County	WAISN
Adams 9	10/9/2019	Othello	Adams County	WAISN
Benton 1	4/29/2019	Kennewick	Benton County	WAISN
Clark 1	4/27/2017	Vancouver	Clark County	WDA, Media (Columbian)
Clark 2	10/1/2017	<i>Not specified</i>	Clark County	WDA
Clark 3	1/24/2018	Vancouver	Clark County	NWIRP
Clark 4	5/8/2018	Vancouver	Clark County	Court records
Clark 5	1/7/2019	Vancouver	Clark County	Public records
Clark 6	<i>Not specified</i>	<i>Not specified</i>	Clark County	WDA
Cowlitz 1	3/1/2019	Kelso	Cowlitz County	WDA
Franklin 1	3/11/2019	Pasco	Franklin County	WAISN
Franklin 2	4/1/2019	<i>Not specified</i>	Franklin County	WAISN
Grant 1	2/6/2018	<i>Not specified</i>	Grant County	WDA
Grant 2	2/22/2018	<i>Not specified</i>	Grant County	WDA
Grant 3	3/1/2018	Moses Lake	Grant County	WDA
Grant 4	3/27/2018	<i>Not specified</i>	Grant County	WDA

Grant 5	<i>Early 2019</i>	Ephrata	Grant County	NWIRP, Media (Crosscut)
Grant 6	3/18/2019	Ephrata	Grant County	WDA, Media (Crosscut)
Grant 7	7/11/2019	Ephrata	Grant County	NWIRP
Grant 8	8/19/2019	Moses Lake	Grant County	WAISN
Grant 9	8/19/2019	Ephrata	Grant County	WAISN
Grant 10	8/20/2019	Ephrata	Grant County	WAISN
Grant 11	8/22/2019	Ephrata	Grant County	WAISN
Grant 12	9/26/2019	Ephrata	Grant County	Attorney report to UWCHR
King 1	5/5/2017	Kent	King County	Court records
King 2	8/2/2017	Seattle	King County	WDA
King 3	10/20/2017	Federal Way	King County	Court records
King 4	10/23/2017	Auburn	King County	WDA
King 5	10/30/2017	Bellevue	King County	Court records
King 6	12/31/2018	Seattle	King County	Court records, media reports (Patch)
Kitsap 1	10/19/2016	Bremerton	Kitsap County	Court records
Kitsap 2	11/16/2016	Bremerton	Kitsap County	Court records
Mason 1	3/16/2016	Shelton	Mason County	Court records
Mason 2	3/22/2018	Shelton	Mason County	Court records
Okanogan 1	10/12/2018	Okanogan	Okanogan County	WAISN
Pacific 1	3/4/2019	South Bend	Pacific County	ACLU
Pierce 1	1/12/2018	<i>Not specified</i>	Pierce County	WDA
Pierce 2	1/19/2018	Tacoma	Pierce County	Court records
Pierce 3	1/31/2018	<i>Not specified</i>	Pierce County	WDA
Skagit 1	9/13/2018	Mount Vernon	Skagit County	WAISN
Skagit 2	1/7/2019	Mount Vernon	Skagit County	WAISN
Spokane 1	10/15/2018	Spokane	Spokane County	WDA

Thurston 1	6/20/2019	Olympia	Thurston County	Public records, media (Olympian)
Yakima 1	4/1/2018	Yakima	Yakima County	WDA

## Appendix II: Selected public records detailing local collaboration with ICE/CBP courthouse arrests

**Record 1: Email correspondence between Garth Dano (Grant County Prosecuting Attorney) and Thomas D. Watts (CBP), January 24, 2018**

**From:** WATTS, THOMAS D [mailto:thomas.watts@cbp.dhs.gov]  
**Sent:** Wednesday, January 24, 2018 4:28 PM  
**To:** Garth Dano  
**Cc:** Kevin J. McCrae; Kaye Burns; Chad A. Jenks; Alan White  
**Subject:** RE: (No Subject)

It was great meeting you today as well. I look forward to working together in a mutually beneficial relationship.

You can reach out to me directly or to

[thomas.watts@cbp.dhs.gov](mailto:thomas.watts@cbp.dhs.gov)

[thomas.watts@cbp.dhs.gov](mailto:thomas.watts@cbp.dhs.gov)

if I can't provide immediate assistance.

Thanks again, Tom

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**From:** Garth Dano  
**Sent:** Wednesday, January 24, 2018 4:09:23 PM  
**To:** WATTS, THOMAS D  
**Cc:** Kevin J. McCrae; Kaye Burns; Chad A. Jenks; Alan White  
**Subject:**

Tom, it was great meeting you and the fellas today. Could you all send me your phone and email info please. Look forward to your help here in Grant county

**Record 2: Email correspondence between Kaye Burns (Grant County Prosecuting Attorney's Office) and Thomas D. Watts (CBP), January 24, 2018**

**From:** WATTS, THOMAS D <[REDACTED]@cbp.dhs.gov>  
**Sent:** Wednesday, January 24, 2018 4:48 PM  
**To:** Kaye Burns; Garth Dano  
**Cc:** Kevin J. McCrae; Chad A. Jenks; Alan White; ABBINK, BRIAN W; WEBB, MARC D  
**Subject:** RE: (No Subject)

My apologies. You can use either email address for me. They both get to me. :)

As far as who to add to the distribution list, I would choose different names other than Agents Garcia and Clift. Please use the following addresses:

[REDACTED]@cbp.dhs.gov

[REDACTED]@cbp.dhs.gov

[REDACTED]@cbp.dhs.gov

They will be heavily involved in the day to day docket review.

Thanks,  
Tom

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**From:** Kaye Burns  
**Sent:** Wednesday, January 24, 2018 4:37:52 PM  
**To:** WATTS, THOMAS D; Garth Dano  
**Cc:** Kevin J. McCrae; Chad A. Jenks; Alan White  
**Subject:** RE: (No Subject)

Mr. Watts – I noticed your e-mail address is different than the one I was provided ([REDACTED]@dhs.gov). Could you please verify it for me so that I can forward our daily list to you? Also, do you wish the list to also be sent to the other two individuals you mentioned? Thank you.

***Kaye Burns***  
 Administrative Assistant  
 Grant County Prosecutor's Office  
 PO Box 37  
 Ephrata WA 98823  
 (509) [REDACTED]  
 (509) [REDACTED]  
 e-mail – [REDACTED]@grantcountywa.gov

**Records 3-4: Email correspondence between Thomas D. Watts (CBP), Garth Dano (Grant County Prosecuting Attorney), and Chad A. Jenks (Grant County Deputy Prosecuting Attorney), February 14, 2018**

**From:** WATTS, THOMAS D <[REDACTED]@cbp.dhs.gov>  
**Sent:** Wednesday, February 14, 2018 2:29 PM  
**To:** Chad A. Jenks  
**Subject:** RE: 2.20 ML and 301 Calendars

Just wanted you to know we have picked up three already this week. This program is a success, I feel. In addition, we've developed several targets off criminal aliens that have skipped their court dates. We'll get them as well. ☺

Thanks again,  
Tom

**From:** Garth Dano <[REDACTED]@grantcountywa.gov>  
**Sent:** Wednesday, February 14, 2018 4:13 PM  
**To:** Chad A. Jenks; WATTS, THOMAS D  
**Subject:** RE: 2.20 ML and 301 Calendars

Great news Tom -garth

**From:** Chad A. Jenks  
**Sent:** Wednesday, February 14, 2018 2:31 PM  
**To:** WATTS, THOMAS D  
**Cc:** Garth Dano  
**Subject:** RE: 2.20 ML and 301 Calendars

Thanks Tom. Glad to hear that the laws are being enforced.

Chad A. Jenks  
Deputy Prosecuting Attorney  
District/Juvenile Division Supervisor  
Grant County Prosecuting Attorney's Office  
PO Box 37  
Ephrata, WA 98823  
Phone:  
Fax:  
[\[REDACTED\]@grantcountywa.gov](mailto:[REDACTED]@grantcountywa.gov)



**Record 5: Email correspondence between Thomas D. Watts (CBP) and Chad A. Jenks (Grant County Deputy Prosecuting Attorney), February 23, 2018**

**From:** WATTS, THOMAS D <[redacted]@cbp.dhs.gov>  
**Sent:** Friday, February 23, 2018 10:03 AM  
**To:** Chad A. Jenks  
**Subject:** RE: Calendar for 3.01.2018 RM 301

No problem. By the way, we picked up three more yesterday morning. It's been fun. ☺

**From:** Chad A. Jenks [mailto:[redacted]@grantcountywa.gov]  
**Sent:** Friday, February 23, 2018 9:52 AM  
**To:** ABBINK, BRIAN W <[redacted]@cbp.dhs.gov>; WEBB, MARC D <[redacted]@cbp.dhs.gov>; WATTS, THOMAS D <[redacted]@cbp.dhs.gov>  
**Subject:** FW: Calendar for 3.01.2018 RM 301

Sorry, was gone the last few days on vacation. Sending you some dockets.

Chad A. Jenks  
 Deputy Prosecuting Attorney  
 District/Juvenile Division Supervisor  
 Grant County Prosecuting Attorney's Office  
 PO Box 37  
 Ephrata, WA 98823  
 Phone: 509  
 Fax: 509.  
 [redacted]@grantcountywa.gov



## Record 6: Email from Thomas D. Watts (CBP) to Chad A. Jenks and Kevin J. McCrae (Grant County Deputy Prosecuting Attorneys), March 14, 2018

**From:** WATTS, THOMAS D [mailto:[redacted]@cbp.dhs.gov]  
**Sent:** Wednesday, March 14, 2018 10:38 AM  
**To:** Kevin J. McCrae <[redacted]@grantcountywa.gov>; Chad A. Jenks <[redacted]@grantcountywa.gov>  
**Cc:** GARCIA, BOBBY <[redacted]@CBP.DHS.GOV>; CLIFT, SHANNON R <[redacted]@CBP.DHS.GOV>  
**Subject:** Arrests in Ephrata and Mattawa yesterday

Good morning,

Yesterday we were able to arrest four subjects in Grant County (not in the courthouse but in the community areas nearby). All four were felony violators with extensive negative law enforcement history and were the subjects of criminal investigations. The four individuals had a combined 38 arrests between them. These crimes range from felony cocaine distribution to possession of an assault weapon to vehicle theft.

Thus far two of them have been approved for federal prosecution by the United States Attorney's Office. All four are citizens of Mexico and have been previously deported from the United States.

Thank you again for your cooperation and know that without your help, these subjects would still be in Grant County committing criminal acts.

Tom Watts  
 Supervisory Border Patrol Agent  
 United States Border Patrol – Spokane Sector

**Record 7: Email from Louis V. Koler (CBP) to Helen Kenyon (Adams County Prosecuting Attorney's Office),  
April 10, 2019**

**From:** KOLER, LOUIS V <[REDACTED]@cbp.dhs.gov>  
**Sent:** Wednesday, April 10, 2019 12:01 PM  
**To:** Helen Kenyon <[REDACTED]@co.adams.wa.us>  
**Subject:** Contacts

Helen,

These are the current email addresses that we would like the dockets sent to. There will be a name change or two every 3-6 months as Agents switch responsibilities.  
Thank you, we appreciate your assistance.

- [REDACTED]@cbp.dhs.gov
- [REDACTED]@CBP.DHS.GOV
- [REDACTED]@cbp.dhs.gov
- [REDACTED]@cbp.dhs.gov
- [REDACTED]@CBP.DHS.GOV
- [REDACTED]@CBP.DHS.GOV

Louis Koler

U.S. Border Patrol Agent

Spokane Border Patrol Station  
10710 Newport Hwy, Spokane, WA 99218  
(509) [REDACTED]

**Record 8: Email from Janet Millard (Grant County Prosecuting Attorney's Office) in reply to Jaimie A. Waite (Deportation Officer, ICE), June 18, 2018**

**From:** Janet Millard <[REDACTED]@grantcountywa.gov>  
**Sent:** Monday, June 18, 2018 4:22 PM  
**To:** Waite, Jaimie A  
**Subject:** RE: [REDACTED]

Arraignment 7/2/18

**From:** Waite, Jaimie A [mailto:[REDACTED]@ice.dhs.gov]  
**Sent:** Monday, June 18, 2018 2:13 PM  
**To:** Janet Millard <[REDACTED]@grantcountywa.gov>  
**Subject:** [REDACTED]

Can you tell me this fellows case number and next court date?

Thanks.

(FBI# [REDACTED] / A# [REDACTED]).

Jaimie Waite  
 Deportation Officer  
 301 Yakima Street – G28  
 Wenatchee, WA 98801

Cell 509-[REDACTED]  
 Fax 509-[REDACTED]

### Record 9: Email from Sgt. Greg Knutson (Grant County Sheriff's Office) to Jaimie A. Waite (Deportation Officer, ICE), October 11, 2017

**From:** Greg Knutson <[REDACTED]@grantcountywa.gov>  
**Sent:** Wednesday, October 11, 2017 5:37 PM  
**To:** Waite, Jaimie A  
**Subject:** have one

Yo Homie, call me tomorrow morning at 2487. Just booked a guy with a prior deportation for assault 4 dv. Should go to court around 1030. Using an alias of [REDACTED], DOB: [REDACTED]

FBI # [REDACTED], SID # [REDACTED]  
 Sgt. Greg Knutson, J9  
 Grant County Sheriff's Office  
 Gang Unit/Firearms Instr.  
 P.O. Box 37  
 Ephrata, Wa 98823  
 (509) [REDACTED]  
 [REDACTED]@grantcountywa.gov

### Record 10: Email from Jaimie A. Waite (Deportation Officer, ICE) in reply to inquiry from Alan White (Grant County Chief Deputy Prosecutor), September 11, 2018

**From:** Waite, Jaimie A <[REDACTED]@ice.dhs.gov>  
**Sent:** Tuesday, September 11, 2018 3:25 PM  
**To:** Alan White  
**Subject:** RE: [REDACTED]

He is a US Citizen. I don't pick on US Citizens.

Thank you.

**From:** Alan White [mailto:[REDACTED]@grantcountywa.gov]  
**Sent:** Tuesday, September 11, 2018 2:03 PM  
**To:** Waite, Jaimie A <[REDACTED]@ice.dhs.gov>  
**Subject:** [REDACTED]

Are you working on this gentleman?  
Would your agency be following this case?  
DOB [REDACTED]  
Has no FBI number, but a SSN.  
He appeared to be employed, we do not have any prior record or DOL records on him

Alan White  
Chief Deputy Prosecutor  
Grant County Prosecutor Office  
P.O. Box 37  
Ephrata, WA 98823  
509-[REDACTED]

## Notes

[1] See for example articles by Lilly Fowler, More immigrants report arrests at WA courthouses, despite outcry, Crosscut, (April 9, 2019); Sydney Brownstone, Vancouver Immigrant Claims ICE Arrested Him After Eavesdropping on Him and His Lawyer, The Stranger (Apr 4, 2018); and Natasha Chen, More ICE agents seen waiting around local courthouses to intercept people, KIRO 7 (March 23, 2017).

[2] See for example a community alert issued via social media on August 22, 2019 by the Washington Immigrant Solidarity Network regarding ICE activity at the Grant County Courthouse in Ephrata, WA; and a press release issued by Northwest Immigrant Rights Project regarding a January 2018 arrest at a courthouse in Vancouver, WA.

[3] See for example a May 2019 interview with ICE Seattle acting field director Bryan Wilcox by conservative talk radio and podcast host Lars Larson.

[4] See for example the American Civil Liberties Union's 2018 report *Freezing Out Justice*.

[5] In June 2017, the Washington State Bar Association Board of Governors expressed concern about courthouse arrests by immigration enforcement agents, and urged DHS Secretary John Kelly to add courthouses to ICE's sensitive locations list. In August 2017, the American Bar Association House of Delegates urged Congress to do the same.

[6] Washington's own Supreme Court Justice Mary Fairhurst, in a March 2017 letter to the Department of Homeland Security, asked that ICE and CBP cease this practice. Justice Fairhurst's letter reads, in part, "When people are afraid to access our courts, it undermines our fundamental mission. ...These developments risk making our communities less safe."

[7] See this statement by the U.S. Commission on Civil Rights, a bipartisan independent agency.

[8] Detainers are documents which ask jails to hold inmates in custody beyond the time they would normally serve in order to hand them directly to ICE. This practice was found to be a violation of the Fourth Amendment to the U.S. Constitution by a federal magistrate judge in the 2014 *Miranda-Olivares v. Clackamas County* decision. Several courts have found that holding people on the basis of detainers is illegal and makes the locality subject to liability. See, for example, this recent decision by the Second Circuit Court of Appeals, which could result in liability for New York City and the federal government related to the use of detainers.

[9] See ICE's FAQ on Sensitive Locations and Courthouse Arrests: "Courthouse arrests are often necessitated by the unwillingness of jurisdictions to cooperate with ICE in the transfer of custody of aliens from their prisons and jails...Individuals entering courthouses are typically screened by law enforcement personnel to search for weapons and other contraband. Accordingly, civil immigration enforcement actions taken inside courthouses can reduce safety risks to the public, targeted alien(s), and ICE officers and agents."

[10] Although we are unaware of any official CBP policy directive on courthouse arrests, in a conversation with a UWCHR researcher, a CBP agent in Washington state echoed similar explanations for courthouse arrests (the safety advantage of doing an arrest in a weapons-free zone and the desire to avoid spreading fear as when undertaking arrests in the community).

[11] Immigrant Defense Project, "The Courthouse Trap: How ICE Operations Impacted New York's Courts in 2018", January 2019.

[12] For example, ICE apprehended a victim of human trafficking in a Human Trafficking Intervention Court in New York; a Michigan father attending family court to seek custody of his kids to protect them from their mother's abusive partner; an El Paso, TX woman seeking a protective order against an abusive ex-husband; and a woman and her son in Charlotte, GA following a hearing related to a domestic violence charge.

[13] See Nicholas Pugilese, "New rules seek to limit ICE arrests in N.J. courthouses", Why.org.

[14] See the January 10, 2018 policy memo, which reads, in part, "ICE officers and agents will document the physical address of planned civil immigration enforcement actions in accordance with standard procedures for completing operational plans, noting that the target address is a courthouse... ICE maintains records generated pursuant to this policy, specifically the Field Operations Worksheets (FOW) and Enforcement Operation Plan (EOP)."

[15] I-213 Record of Deportable/Inadmissible Alien forms are used by DHS to establish an individual as eligible for removal. Information included on the form includes "the respondent's biographic information; date, place, time, and manner of entry to the United States; immigration record and any history of apprehension and detention by

immigration authorities; criminal record, if any; family data; any health or humanitarian aspects; and disposition (whether or not an NTA [Notice to Appear] is to be issued)." For more information, see Collopy, Crow, and Sharpless, "Challenges and Strategies Beyond Relief", 2014.

[16] In response, for example, to our appeal of this practice by CBP, the agency argued that "The withheld location information would reveal significant station-level operational details related to the law enforcement guidelines, techniques and procedures that are used when handling threats at U.S. borders, specifically the determination of strategies to combat against the entry of undocumented aliens and contraband into the country. These law enforcement guidelines, techniques and procedures have been withheld in order to protect CBP's methods in evaluating and processing potential threats at the United States' borders. Disclosure of the alien interdiction locations at or near each station, coupled with information already available to the public, including the location of each station and the specific focus and operations of each station, would give undocumented aliens the ability to circumvent and exploit less resilient stations."

[17] Under FOIA, the UWCHR has requested various sets of records that, if released, could reveal when and where ICE and CBP apprehend people at courthouses. CBP has released some apprehension records, but the locations are redacted, rendering the documents useless for answering questions about courthouse arrests specifically. ICE has declined to release any records that specify arrest locations. As of this writing, we are in discussions with both agencies for access to a representative sample of I-213s (the forms the agencies fill out upon apprehending an immigrant); these would include location information, but their usefulness for this study is limited given that, due to sampling, they might or might not contain records of courthouse arrests in particular. We have also sought records of Field Operations Worksheets—documents used to secure supervisor authorization for a given enforcement operation—for a number of known courthouse arrests, and records of correspondence between ICE's Regional Director and subordinates, to shed light on the circumstances in which such operations are planned and authorized within the agency. All of these requests are pending.

[18] UWCHR researchers read and coded PACER records for 548 cases in which an individual was federally prosecuted for immigration violations in the state of Washington from January 2016 – July 2019; this involved 209 prosecutions for illegal reentry (1326) in the Western Washington district and 391 in Eastern Washington; and 20 prosecutions for illegal entry (1325) in the Eastern Washington district. Case files for prosecutions in Western Washington include a sworn statement detailing the manner in which the defendant was apprehended; in 10 cases, all of them in the Western Washington district, this narrative specified a detention at or near a courthouse. As sworn legal declarations, these are highly reliable data sources, yet they only represent a minority of all courthouse arrests, because not all of those arrested at a courthouse are subsequently federally prosecuted, and even in cases where they are federally prosecuted, many prosecution records, especially those from the Eastern district, do not specify the location of arrest.

[19] Concerned about this practice, a number of human rights organizations began compiling data reported to them about courthouse arrests; the Washington Defender Association and the Washington Immigrant Solidarity Network shared internal records with us that included first-person accounts by those who witnessed courthouse arrests as well as secondhand reports by family members or attorneys of those detained. The arrests documented by these organizations likely represent only a small portion of those taking place: many arrests are not witnessed, in part because agents wear plainclothes and drive unmarked vehicles, and of those that are, it is impossible to know how many witnesses have connections to these organizations and choose to report what

they saw. These accounts vary in detail and are not always possible to corroborate using secondary sources. We have also corresponded with lawyers from the Northwest Immigrant Rights Project and other organizations about select cases involving their clients.

<sup>[20]</sup> Journalists from Crosscut, the Olympian, the Columbian, and other local media have reported on courthouse arrests. Where possible, we have sought to confirm the accuracy of these accounts through other sources.

<sup>[21]</sup> See for example a May 2019 interview with ICE Seattle acting field director Bryan Wilcox by conservative talk radio and podcast host Lars Larson.

<sup>[22]</sup> It may be relevant to note that this document is from CBP, rather than ICE, and the agency may not have had then (or have now) a policy requiring advance planning of courthouse operations as described in ICE's 2018 directive; it is unknown whether CBP issues its officers any policy guidelines regarding courthouse arrests.

<sup>[23]</sup> For example, failure to appear for court risks an additional criminal charge (and possible conviction) under RCW 9A.76.170's Bail Jumping statute. In turn, such a conviction is most often classified as an "aggravated felony" under immigration law, almost always resulting in permanent banishment from the U.S. See 8 USC 1101(a)(43)(Q) and (T).

<sup>[24]</sup> To protect this individual's privacy, we refer to him here by a pseudonym.

<sup>[25]</sup> RCW 46.16A.320.6

<sup>[26]</sup> See Tom K. Wong, Karina Shklyan, Anna Isorena, and Stephanie Peng, "The Impact of Interior Immigration Enforcement on the Day-to-Day Behaviors of Undocumented Immigrants", April 3, 2019, U.S. Immigration Policy Center. Wong et al surveyed a sample of undocumented immigrants and found that respondents were less likely to report crimes they witnessed or were a victim of to police when told that local law enforcement are working with ICE for federal immigration enforcement.

<sup>[27]</sup> See Catalina Amuedo-Dorantes and Esther Arenas-Arroyo, "Immigration Enforcement, Police Trust, and Domestic Violence", March 16, 2019. Amuedo-Dorantes and Arenas-Arroyo find that increased immigration enforcement reduces rates of self-petitions for legal status by domestic violence survivors under the Violence Against Women Act.

<sup>[28]</sup> In a 2019 survey conducted by a coalition of seven national organizations, of more than 500 advocates and attorneys working with immigrant survivors of domestic violence and sexual assault, three out of four service providers reported that immigrant survivors had concerns about going to court. See a press release and key findings from the survey.

<sup>[29]</sup> See Jennifer Medina, "Too Scared to Report Sexual Abuse. The Fear: Deportation", New York Times, April 30, 2017.

<sup>[30]</sup> A copy of this survey, which has not been made public, was shared with UWCHR by WSCADV.

<sup>[31]</sup> See ACLU, "Freezing Out Justice: How immigration arrests at courthouses are undermining the justice system", 2018.

[32] We note that the earliest reported courthouse arrests by ICE/CBP in Grant County included in the Appendix to this report occurred in February 2018.

[33] A public records request for email correspondence between employees of the Adams County Sheriff's Office and ICE/CBP officials from November 1, 2017 to April 29, 2019, submitted by UWCHR in April 2019, remains pending as of the date of this preliminary report.

[34] In Massachusetts, prosecutors and public defenders joined together to contest ICE's arrest of immigrants in courthouses, but in Washington, at least some prosecutors have been directly supportive of such practices.

[35] See for example Grant County's security service agreement with a private security contractor.

[36] For this reason, some other jurisdictions like King County Sheriff's Office have decided to suspend information-sharing with federal databases.

[37] We refer here to practices like complying with ICE/CBP detainer requests, allowing ICE/CBP agents to interview inmates in local jails without a lawyer present, and notifying ICE/CBP of the date and time an inmate will be released. All of these forms of collaboration are prohibited under Keep Washington Working, and will therefore cease as the law is implemented.

[38] In some cases, the date included here is the date that the incident was reported, not the date of the arrest itself. In addition to the likelihood of other, unreported cases, it is possible that some cases represented here may be duplicated.

[39] Cases sourced to the Washington Immigrant Solidarity Network (WAISN) include incidents reported via the network's rapid response hotline as well as arrests witnessed by WAISN volunteers; cases sourced to the Washington Defenders Association (WDA) were reported in response to a survey of public defenders and other attorneys who witnessed or received reports of courthouse arrests of their clients or other individuals; cases sourced to Northwest Immigrant Rights Project (NWIRP) and the ACLU of Washington include individuals represented by these organizations.

TOPICS //

access to justice	Adams County	Border Patrol	CBP	Clark County	courthouse arrests	
Customs and Border Protection	DHS	due process	Grant County	Human Rights At Home	ICE	Immigration
Immigration and Customs Enforcement	King County					

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UNIVERSITY *of* WASHINGTON

# ICE/Border Patrol Arrests at WA State Courthouses



**CENTER FOR HUMAN RIGHTS**  
HENRY M. JACKSON SCHOOL OF INTERNATIONAL STUDIES



**UW** UNIVERSITY *of* WASHINGTON



## **UW Center for Human Rights**

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- > “The University of Washington Center for Human Rights (UWCHR) was established by an initiative of the Washington state legislature in 2009... The UWCHR is committed to interdisciplinary excellence in the education of undergraduate and graduate students in the field of human rights; promoting human rights as a core area of faculty and graduate research; and engaging productively with local, regional, national, and international organizations and policymakers to advance respect for human rights.”

# **W**



## **Justice Compromised: Immigration Arrests at WA State Courthouses**

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- > **More than 51 reported arrests at or near courthouses since 2016**
- > **16 counties across WA:**
  - **Most frequent reports: Grant, Adams, King, Clark**

# **W**



## **Human Rights Concerns**

- > **Access to justice and due process**
  - Right to defend against charges
  - Access to other courthouse services
  - Cascading impacts on immigration cases
- > **Equal protection**
  - Chilling effects for communities, victims, witnesses

# **TW**



## **Local Collaboration**

- > **Clark and Grant Co. Sheriff employees, Grant Co. Prosecutors sharing info on defendants with ICE.**
- > **Grant and Adams Co. Prosecutors regularly sharing court calendars with Border Patrol.**

# **TW**



## **Are ICE/CBP Targeting Interpreted Dockets?**

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- > No direct evidence, but interpretation information included in dockets shared with Border Patrol by Grant and Adams County Prosecutors.
- > Majority of defendants whose info was shared with ICE in Grant Co. had Hispanic/Latinx surnames, including LPRs, USCs.

**TW**

Email correspondence between Garth Dano  
(Grant County Prosecuting Attorney) and  
Thomas D. Watts (CBP), January 24, 2018

**From:** WATTS, THOMAS D [mailto: [REDACTED]@cbp.dhs.gov]  
**Sent:** Wednesday, January 24, 2018 4:28 PM  
**To:** Garth Dano  
**Cc:** Kevin J. McCrae; Kaye Burns; Chad A. Jenks; Alan White  
**Subject:** RE: (No Subject)

It was great meeting you today as well. I look forward to working together in a mutually beneficial relationship.

You can reach out to me directly or to

[REDACTED]@cbp.dhs.gov

[REDACTED]@cbp.dhs.gov

if I can't provide immediate assistance.

Thanks again, Tom

---

**From:** Garth Dano  
**Sent:** Wednesday, January 24, 2018 4:09:23 PM  
**To:** WATTS, THOMAS D  
**Cc:** Kevin J. McCrae; Kaye Burns; Chad A. Jenks; Alan White  
**Subject:**

Tom, it was great meeting you and the fellas today. Could you all send me your phone and email info please. Look forward to your help here in Grant county

Email between Kaye Burns (Grant County  
Prosecuting Attorney's Office) and Thomas  
D. Watts (CBP), January 24, 2018

**From:** WATTS, THOMAS D <@cbp.dhs.gov>  
**Sent:** Wednesday, January 24, 2018 4:48 PM  
**To:** Kaye Burns; Garth Dano  
**Cc:** Kevin J. McCrae; Chad A. Jenks; Alan White; ABBINK, BRIAN W; WEBB, MARC D  
**Subject:** RE: (No Subject)

My apologies. You can use either email address for me. They both get to me. :)

As far as who to add to the distribution list, I would choose different names other than Agents Garcia and Clift. Please use the following addresses:

@cbp.dhs.gov

@cbp.dhs.gov

@cbp.dhs.gov

They will be heavily involved in the day to day docket review.

Thanks,  
Tom

**From:** Kaye Burns  
**Sent:** Wednesday, January 24, 2018 4:37:52 PM  
**To:** WATTS, THOMAS D; Garth Dano  
**Cc:** Kevin J. McCrae; Chad A. Jenks; Alan White  
**Subject:** RE: (No Subject)

Mr. Watts – I noticed your e-mail address is different than the one I was provided ( @dhs.gov). Could you please verify it for me so that I can forward our daily list to you? Also, do you wish the list to also be sent to the other two individuals you mentioned? Thank you.

**Kaye Burns**

Administrative Assistant  
Grant County Prosecutor's Office  
PO Box 37  
Ephrata WA 98823  
(509) \_\_\_\_\_  
(509) \_\_\_\_\_  
e-mail – @grantcountywa.gov

Grant County District Court Calendar sent to  
Border Patrol by Grant County Prosecuting  
Attorney's office, May 21, 2018, indicating  
interpretation for proceedings

DL7020PK ARM 05/14/2018 04:04 PM GRANT COUNTY DISTRICT COURT PAGE: 1  
COURT CALENDAR

Monday May 21, 2018 9:00 AM

BEFORE JUDGE: BRIAN D. BARLOW ROOM: EPHRAATA 202

1. MITIGATION HEARING 820364711 GCS IT  
PLA: COUNTY OF GRANT DEF: ANGUIANO GOMEZ, GUSTAVO  
OFF: BUSHY, ALEX DOB: 06/02/1994

FL RENEW EXPIRED REG > 2 MTHS DV: N 04/11/2018

2. MITIGATION HEARING 820347894 QED IT  
PLA: COUNTY OF GRANT DEF: AYALA AYALA, MARTA ALEJANDRA  
OFF: RICHARDS, COLTON INT: Spanish  
DOB: 04/30/1998

NO VALID OPER LICENSE WITH VALID ID DV: N 03/20/2018  
CHILD UNDER 13-BACK SEAT REQUIRED DV: N 03/20/2018  
OP MOT VEH W/OUT INSURANCE DV: N 03/20/2018

3. MITIGATION HEARING 721173045 GCS IT 17GS13244  
PLA: COUNTY OF GRANT DEF: DELANGE, WAYNE CLARENCE  
OFF: HARRIS, R DOB: 11/04/1992

OP MOT VEH W/OUT INSURANCE DV: N 11/03/2017  
HEADLAMPS ON MOTOR VEHICLE DV: N 11/03/2017

4. MITIGATION HEARING I00085701 MLP IT  
PLA: COUNTY OF GRANT DEF: DELGADO-MACIEL, LESLIE  
OFF: PAUL, CHARLES H DOB: 03/15/2002

OP MOT VEH W/OUT INSURANCE DV: N 12/27/2017  
VIO OF INSTRUCTION PERMIT DV: N 12/27/2017

5. MITIGATION HEARING 820120450 MLP IT 17ML00148  
PLA: COUNTY OF GRANT DEF: DOWNS, LOIS BEE DANIELLE  
OFF: DODSON, JACK DOB: 10/16/1966

OP MOT VEH W/OUT INSURANCE DV: N 01/04/2018  
FOLLOWING TOO CLOSE DV: N 01/04/2018  
OPER VEH W/O CRNT/PRSR REG & PLATE DV: N 01/04/2018  
NO DRIVER'S LICENSE ON PERSON DV: N 01/04/2018



Email from Border Patrol officer Jesse J.  
Babay to Grant County Prosecutor's Office,  
April 17, 2018

---

**From:** BABAY, JESSE J <JESSE.J.BABAY@CBP.DHS.GOV>  
**Sent:** Tuesday, April 17, 2018 8:43 AM  
**To:** Kaye Burns  
**Subject:** RE: Grant County Prosecutor's Office

The most beneficial are the Court Docket lists. These lists are normally sent to our Analyst team.....Cismowski and Arnzen. I am part of the enforcement team, so ultimately the data and records checks reach my desk and I take action as necessary. There seems to have been a lull in the court dockets coming in to our office in General. We have no docket data past April 12<sup>th</sup>. Adding my name/address to the dissemination list would help me tremendously. The In Custody list is valuable as well, but not quite the priority as the Court Docket list.

W/R,

Jess

E-mails from Thomas D. Watts (CBP) to  
Chad A. Jenks and Kevin J. McCrae (Grant  
County Deputy Prosecuting Attorneys),  
February/March, 2018

**From:** WATTS, THOMAS D [mailto:tom.watts@cbp.dhs.gov]  
**Sent:** Wednesday, March 14, 2018 10:38 AM  
**To:** Kevin J. McCrae <kevin.mccrae@grantcountywa.gov>; Chad A. Jenks <chad.jenks@cbp.dhs.gov>;  
**Cc:** GARCIA, BOBBY <bobby.garcia@cbp.dhs.gov>; CLIFT, SHANNON R <shannon.clift@cbp.dhs.gov>;  
**Subject:** Arrests in Ephrata and Mattawa yesterday

Good morning,

Yesterday we were able to arrest four subjects in Grant County (not in the courthouse but in the community areas nearby). All four were felony violators with extensive negative law enforcement history and were the subjects of criminal investigations. The four individuals had a combined 38 arrests between them. These crimes range from felony cocaine distribution to possession of an assault weapon to vehicle theft.

Thus far two of them have been approved for federal prosecution by the United States Attorney's Office. All four are citizens of Mexico and have been previously deported from the United States.

Thank you again for your cooperation and know that without your help, these subjects would still be in Grant County committing criminal acts.

Tom Watts  
Supervisory Border Patrol Agent  
United States Border Patrol – Spokane Sector

**From:** WATTS, THOMAS D <tom.watts@cbp.dhs.gov>  
**Sent:** Friday, February 23, 2018 10:03 AM  
**To:** Chad A. Jenks  
**Subject:** RE: Calendar for 3.01.2018 RM 301

No problem. By the way, we picked up three more yesterday morning. It's been fun. ☺

**From:** Chad A. Jenks [mailto:chad.jenks@grantcountywa.gov]  
**Sent:** Friday, February 23, 2018 9:52 AM  
**To:** ABBINK, BRIAN W <brian.abbink@cbp.dhs.gov>; WEBB, MARC D <marc.d.webb@cbp.dhs.gov>; WATTS, THOMAS D <tom.watts@cbp.dhs.gov>  
**Subject:** FW: Calendar for 3.01.2018 RM 301

Sorry, was gone the last few days on vacation. Sending you some dockets.

Chad A. Jenks  
Deputy Prosecuting Attorney  
District/Juvenile Division Supervisor  
Grant County Prosecuting Attorney's Office  
PO Box 37  
Ephrata, WA 98833  
Phone: 509.883.5009  
Fax: 509.883.5009  
@grantcountywa.gov



Exchange between Garth Dano (Grant  
County Prosecutor) and Thomas D. Watts  
(Border Patrol), May 8, 2018

**From:** WATTS, THOMAS D <THOMAS.D.WATTS@cbp.dhs.gov>  
**Sent:** Tuesday, May 8, 2018 12:11 PM  
**To:** Garth Dano  
**Subject:** RE: Meeting possible tomorrow?

We got one in Moses, so two more dirt bags off the streets today. I guess we didn't win the war on immigration today, but we did our part.

---

**From:** Garth Dano  
**Sent:** Tuesday, May 08, 2018 11:06:16 AM  
**To:** WATTS, THOMAS D  
**Cc:** Chad A. Jenks; Janet Millard; Alan White; Harrington, Joseph H. (USAWAE)  
**Subject:** RE: Meeting possible tomorrow?

How'd it go in Moses? Any catch and release desperado's apprehended??

---

**From:** WATTS, THOMAS D [mailto:THOMAS.D.WATTS@cbp.dhs.gov]  
**Sent:** Tuesday, May 8, 2018 10:54 AM  
**To:** Garth Dano <gdano@grantcountywa.gov>  
**Cc:** Chad A. Jenks <cjenks@grantcountywa.gov>; Janet Millard <jmillard@grantcountywa.gov>; Alan White <awhite@grantcountywa.gov>; Harrington, Joseph H. (USAWAE) <Joseph.Harrington@usdoj.gov>  
**Subject:** RE: Meeting possible tomorrow?

Thank you, sir! We appreciate your assistance in helping us remove these criminal aliens. I wish everyone shared your enthusiasm and sense of justice.

We look forward to working with you.

Tom

---

**From:** Garth Dano  
**Sent:** Tuesday, May 08, 2018 10:44:38 AM  
**To:** WATTS, THOMAS D  
**Cc:** Chad A. Jenks; Janet Millard; Alan White; Harrington, Joseph H. (USAWAE)  
**Subject:** RE: Meeting possible tomorrow?

Tom, Great job today!!! Thank you for all you and your crew are doing! On behalf of all right and honest people left in our society - Thank you !!... Sorry for holding you guys up this morning with my diatribe. Couldn't help myself. Semper Fi-  
Garth

Email from Louis V. Koler (CBP) to Helen  
Kenyon (Adams County Prosecuting  
Attorney's Office), April 10, 2019

From: KOLER, LOUIS V <[REDACTED]@cbp.dhs.gov>  
Sent: Wednesday, April 10, 2019 12:01 PM  
To: Helen Kenyon <[REDACTED]@co.adams.wa.us>  
Subject: Contacts

Helen,

These are the current email addresses that we would like the dockets sent to. There will be a name change or two every  
3-6 months as Agents switch responsibilities.  
Thank you, we appreciate your assistance.

[REDACTED]@cbp.dhs.gov  
[REDACTED]@CBP.DHS.GOV  
[REDACTED]@cbp.dhs.gov  
[REDACTED]@cbp.dhs.gov  
[REDACTED]@CBP.DHS.GOV  
[REDACTED]@CBP.DHS.GOV

Louis Koler

U.S. Border Patrol Agent

Spokane Border Patrol Station  
10710 Newport Hwy, Spokane, WA 99218  
(509) [REDACTED]

Email from Sgt. Greg Knutson (Grant  
County Sheriff's Office) to Jaimie A. Waite  
(Deportation Officer, ICE), October 11, 2017

**From:** Greg Knutson <@grantcountywa.gov>  
**Sent:** Wednesday, October 11, 2017 5:37 PM  
**To:** Waite, Jaimie A  
**Subject:** have one

Yo Homie, call me tomorrow morning at 2487. Just booked a guy with a prior deportation for assault 4 dv. Should go to court around 1030. Using an alias of . DOB: FBI # , SID # Sgt. Greg Knutson, J9 Grant County Sheriff's Office Gang Unit/Firearms Instr. P.O. Box 37 Ephrata, Wa 98823 (509) @grantcountywa.gov

Email from Jaimie A. Waite (Deportation Officer, ICE) in reply to inquiry from Alan White (Grant County Chief Deputy Prosecutor), September 11, 2018

**From:** Waite, Jaimie A <@ice.dhs.gov>  
**Sent:** Tuesday, September 11, 2018 3:25 PM  
**To:** Alan White  
**Subject:** RE: [REDACTED]

He is a US Citizen. I don't pick on US Citizens.  
Thank you.

**From:** Alan White [mailto:@grantcountywa.gov]  
**Sent:** Tuesday, September 11, 2018 2:03 PM  
**To:** Waite, Jaimie A <@ice.dhs.gov>  
**Subject:** [REDACTED]

Are you working on this gentleman?  
Would your agency be following this case?  
DOB [REDACTED]  
Has no FBI number, but a SSN.  
He appeared to be employed, we do not have any prior record or DOL records on him

Alan White  
Chief Deputy Prosecutor  
Grant County Prosecutor Office  
P.O. Box 37  
Ephrata, WA 98823  
509-[REDACTED]



## **Questions to Guide Ongoing Research**

- > **How to document arrests at interpreted dockets?**
- > **Concerns or best practices regarding public court dockets?**

# **W**



## **Next Steps**

- > **Monitoring implementation of Keep Washington Working Act.**
- > **Ongoing research on immigration enforcement, detention, and deportation.**

Contact us: [uwchr@uw.edu](mailto:uwchr@uw.edu)

Phil Neff - [philneff@uw.edu](mailto:philneff@uw.edu)

Angelina Godoy - [agodoy@uw.edu](mailto:agodoy@uw.edu)

# **W**

## **Chapter 2.42. Interpreters for Persons who are Deaf and Hearing Impaired**

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**2.42.010. Legislative declaration – Intent.** It is hereby declared to be the policy of this state to secure the constitutional rights of deaf persons and of other persons who, because of impairment of hearing or speech, are unable to readily understand or communicate the spoken English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the appointment of such interpreters.

**2.42.050. Oath.** Every qualified interpreter appointed under this chapter in a judicial or administrative proceeding shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or other agency conducting the proceedings, to the best of the interpreter's skill and judgment.

**2.42.110. Definitions.** As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

- (1) "Impaired person" means a person who, because of a hearing or speech impairment, cannot readily understand or communicate in spoken language; and includes persons who are deaf, deaf and blind, speech impaired, or hard of hearing.
- (2) "Qualified interpreter" means a visual language interpreter who is certified by the state or is certified by the registry of interpreters for the deaf to hold the comprehensive skills certificate or both certificates of interpretation and transliteration, or an interpreter who can readily translate statements of speech impaired persons into spoken language.
- (3) "Intermediary interpreter" means a hearing impaired interpreter who holds a reverse skills certificate by the state or is certified by the registry of interpreters for the deaf with a reverse skills certificate, who meets the requirements of RCW 2.42.130, and who is able to assist in providing an accurate interpretation between spoken and sign language or between variants of sign language by acting as an intermediary between a hearing impaired person and a qualified hearing interpreter.
- (4) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision.

**2.42.120. Appointment, pay.** (1) If a hearing impaired person is a party or witness at any stage of a judicial or quasi-judicial proceeding in the state or in a political subdivision, including but not limited to civil and criminal court proceedings, grand jury

proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a hearing impaired person may be subject to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

(2) If the parent, guardian, or custodian of a juvenile brought before a court is hearing impaired, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

(3) If a hearing impaired person participates in a program or activity ordered by a court as part of the sentence or order of disposition, required as part of a diversion agreement or deferred prosecution program, or required as a condition of probation or parole, the appointing authority shall appoint and pay for a qualified interpreter to interpret exchange of information during the program or activity.

(4) If a law enforcement agency conducts a criminal investigation involving the interviewing of a hearing impaired person, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. Whenever a law enforcement agency conducts a criminal investigation involving the interviewing of a minor child whose parent, guardian, or custodian is hearing impaired, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(5) If a hearing impaired person is arrested for an alleged violation of a criminal law the arresting officer or the officer's supervisor shall, at the earliest possible time, procure and arrange payment for a qualified interpreter for any notification of rights, warning, interrogation, or taking of a statement. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(6) Where it is the policy and practice of a court of this state or of a political subdivision to appoint and pay counsel for persons who are indigent, the appointing authority shall appoint and pay for a qualified interpreter for hearing impaired persons to facilitate communication with counsel in all phases of the preparation and presentation of the case.

(7) Subject to the availability of funds specifically appropriated therefor, the administrative office of the courts shall reimburse the appointing authority for up to one-half of the payment to the interpreter where a qualified interpreter is appointed for a hearing impaired person by a judicial officer in a proceeding before a court under subsection (1), (2), or (3) of this section in compliance with the provisions of RCW 2.42.130 and 2.42.170.

**2.42.130. Source of interpreters, qualifications.** (1) If a qualified interpreter for a hearing impaired person is required, the appointing authority shall request a qualified interpreter and/or an intermediary interpreter through the department of social and health services, office of deaf services, or through any community center for hearing impaired persons which operates an interpreter referral service. The office of deaf services and these community centers shall maintain an up-to-date list or lists of interpreters that are certified by the state and/or by the registry of interpreters for the deaf.

(2) The appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the hearing impaired person, that the interpreter is able in that particular proceeding, program, or activity to interpret accurately all communication to and from the hearing impaired person. If at any time during the proceeding, program, or activity, in the opinion of the hearing impaired person or a qualified observer, the interpreter does not provide accurate, impartial, and effective communication with the hearing impaired person the appointing authority shall appoint another qualified interpreter. No otherwise qualified interpreter who is a relative of any participant in the proceeding may be appointed.

**2.42.140. Intermediary interpreter, when.** If the communication mode or language of the hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the appointing authority who shall appoint and pay an intermediary interpreter to assist the qualified interpreter.

**2.42.150. Waiver of right to interpreter.** (1) The right to a qualified interpreter may not be waived except when:

(a) A hearing impaired person requests a waiver through the use of a qualified interpreter;

(b) The counsel, if any, of the hearing impaired person consents; and

(c) The appointing authority determines that the waiver has been made knowingly, voluntarily, and intelligently.

(2) Waiver of a qualified interpreter shall not preclude the hearing impaired person from claiming his or her right to a qualified interpreter at a later time during the proceeding, program, or activity.

**2.42.160. Privileged communication.** (1) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any communication the interpreter interprets under circumstances where the communication is privileged by law.

(2) A qualified and/or intermediary interpreter shall not, without the written consent of

the parties to the communication, be examined as to any information the interpreter obtains while interpreting pertaining to any proceeding then pending.

**2.42.170. Fee.** A qualified and/or intermediary interpreter appointed under this chapter is entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The fee for services for interpreters for hearing impaired persons shall be in accordance with standards established by the department of social and health services, office of deaf services.

**2.42.180. Visual recording of testimony.** At the request of any party to the proceeding or on the appointing authority's initiative, the appointing authority may order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use in verification of the official transcript of the proceeding.

In any judicial proceeding involving a capital offense, the appointing authority shall order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use in verification of the official transcript of the proceeding.

## **Washington State Administrative Code Provisions for ASL Interpreter Credentialing**

### **WAC 388-818-500**

#### **How do I qualify to be on the list of sign language interpreters who work in Washington courts?**

To be on the ODHH list of certified court interpreters, sign language and intermediary interpreters must register with and meet qualification standards established and administered by ODHH. There are two categories of interpreters, and different requirements for each category. [Statutory Authority: Chapter 2.42 RCW, RCW 2.42.130, and 2.42.170. WSR 15-01-075, § 388-818-500, filed 12/12/14, effective 1/12/15.]

### **WAC 388-818-510**

#### **What authority does ODHH have to establish these standards?**

Washington courts under RCW 2.42.130 may hire sign language interpreters identified by ODHH to be qualified for working in the courts. Those interpreters who meet these standards will be on a list maintained by ODHH.

[Statutory Authority: Chapter 2.42 RCW, RCW 2.42.130, and 2.42.170. WSR 15-01-075, § 388-818-510, filed 12/12/14, effective 1/12/15.]

### **WAC 388-818-520**

#### **What are the different categories of court interpreters?**

There are two categories of court interpreters:

- (1) Certified court sign language interpreters; and
- (2) Certified court intermediary interpreters.

[Statutory Authority: Chapter 2.42 RCW, RCW 2.42.130, and 2.42.170. WSR 15-01-075, § 388-818-520, filed 12/12/14, effective 1/12/15.]

### **WAC 388-818-530**

#### **What are the requirements for certified court sign language interpreters?**

Certified court sign language interpreters are presumed to be the most qualified to interpret in court hearings because of their training, skills, and experience. To qualify as a certified court sign language interpreter, you must complete the following requirements:

- (1) The applicant must hold a current certification, either:
  - (a) Specialist certificate: Legal (SC: L) from the Registry of interpreters for the deaf; or
  - (b) Registry of interpreters for the deaf (RID) certification and having passed the SC: L written test.
- (2) You must undergo a DSHS criminal background check conducted by DSHS back check central unit using DSHS form 09-653 background authorization.
- (3) You must complete the Washington courts training provided by the AOC.

## **WAC 388-818-570**

### **What is included in the Washington courts training?**

Washington courts training includes information specific to the Washington court system, including, but not limited to: understanding the Washington court system, roles of various court levels, Washington legal terminology and procedure, and courtroom protocol and procedure. Washington courts training is required for all sign language and intermediary interpreters to become certified court interpreters.

[Statutory Authority: Chapter 2.42 RCW, RCW 2.42.130, and 2.42.170. WSR 15-01-075, § 388-818-570, filed 12/12/14, effective 1/12/15.]

## **WAC 388-818-580**

### **How do I find out when and where training is available?**

You can contact AOC for a schedule of training opportunities available.

[Statutory Authority: Chapter 2.42 RCW, RCW 2.42.130, and 2.42.170. WSR 15-01-075, § 388-818-580, filed 12/12/14, effective 1/12/15.]

## **WAC 388-818-590**

### **How do I add my name to the court interpreter list?**

First, send a completed DSHS Form 17-155 sign language interpreter registration to ODHH, including all required attachments. To request the form, contact ODHH.

If you fulfill all prerequisites, ODHH will contact you about the next dates available for Washington courts training. After you have satisfied all requirements, your name will be added to the court interpreter list.

[Statutory Authority: Chapter 2.42 RCW, RCW 2.42.130, and 2.42.170. WSR 15-01-075, § 388-818-590, filed 12/12/14, effective 1/12/15.]

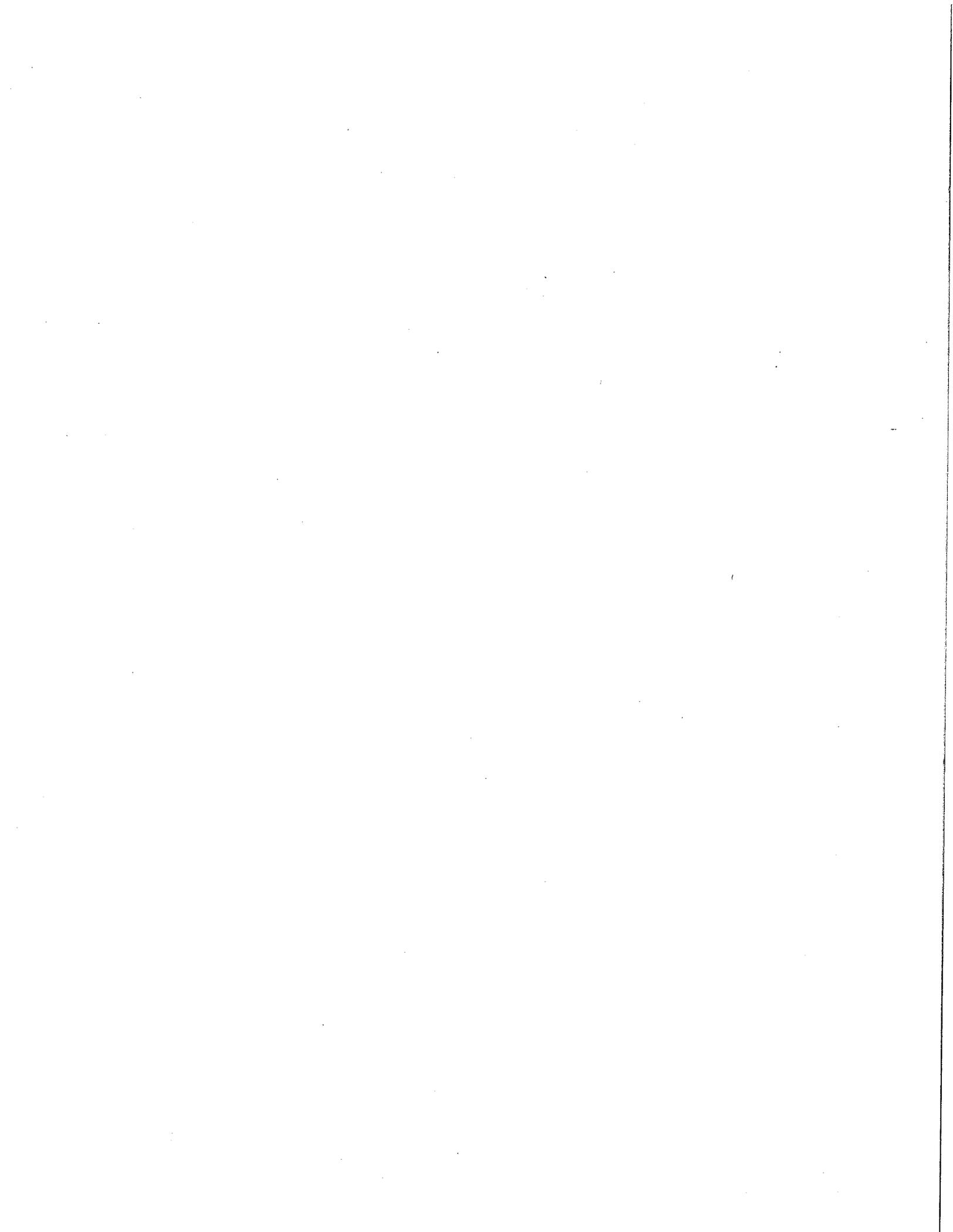
## **WAC 388-818-600**

### **What sign language interpreters can be hired to work in Washington courts?**

To be given preference to work in Washington courts, interpreters must be certified court interpreters. In each case or hearing, courts are encouraged to make every effort possible to hire certified court interpreters and determine whether an intermediary interpreter is necessary.

Courts are strongly encouraged to secure services of a team of interpreters, one sign language interpreter accompanied by an intermediary interpreter in all communication encounters. The certified court interpreters may only be released pursuant to RCW 2.42.150.

[Statutory Authority: Chapter 2.42 RCW, RCW 2.42.130, and 2.42.170. WSR 15-01-075, § 388-818-600, filed 12/12/14, effective 1/12/15.]



# Committee Reports



**61<sup>st</sup> Annual Judicial Conference  
Session Evaluation  
Signed Language Interpreters in Washington: Preventing  
Illusory Justice for Deaf Parties  
Monday, September 23, 2019**

Please check the appropriate box to indicate your evaluation of this session.

	YES	NO
1. I gained important information.	22	1
2. The session was well organized/coordinated.	21	1
3. Made clear connection to the workplace.	22	1
4. The presentation kept my interest throughout.	21	1

**What aspect of the session did you find most valuable and why?**

- Including interpreter in discussion.
- Good information.
- The difference between American Sign Language Interpreter and CDI and the CDI's ability to adapt to the person. And culturally deaf vs. Late in deaf
- Bench cards are great.
- Surprisingly (and appreciated) new and valuable information.
- Very useful and thought provoking presentation to educate on this important topic.
- Something I didn't have much previous knowledge about.
- Learning about CDI and various ways to do it.
- Practical tips/bench card.

Please rate the faculty on a scale of 5 to 1 (5 = excellent; 4 = Good; 3 = Average; 2 = Below Average; 1 = Poor)

	Significant & Current Knowledge of Subject Matter	Engaged Audience	Overall Effectiveness	Average Score
Judge Ida Chen	4.78	4.50	4.56	4.61
Mr. Robert Lichtenberg	4.91	4.56	4.61	4.69
Ms. Carla Mathers	4.91	4.56	4.61	4.69

**Comments about the faculty:**

- Very informative.
- Well done.
- Always great to see Robert's presentation.
- Very high level presenters. I am jealous – if we had such professionals available for our courts.
- Excellent.
- All were excellent.
- They were great.
- Liked Panel composition and knowledge expertise that each panelist brought to the session.
- The idea that those who are born deaf do not have access to incidental learning in English.



**Interpreter Commission – Education Committee**  
**Thursday, June 27, 2019**  
Teleconference Meeting  
12:00 PM – 1:00 PM  
Call-in number: **877-820-7831**  
Passcode: **618272#**

**MEETING MINUTES**

**Members Present:**

Katrin Johnson  
Francis Adewale  
Kristi Cruz  
Maria Luisa Gracia Camon  
Frankie Peters  
Elisa Young  
Sharon Harvey

**AOC Staff:**

Bob Lichtenberg  
Moriah Freed

- May 2019 meeting minutes were approved without modification

**SCJA CONFERENCE PROPOSALS – “Nuts and Bolts” Sessions**

- Ideas Proposed – many could be combined
  - o Court Interpreters 101
  - o Team interpreting
  - o Interpreters as part of a “tool kit”
  - o Access to courts, diverse communities, language access
  - o LAP bench cards
  - o Trials with interpreters
- Ideas need to be submitted ahead of time for consideration (check deadlines)
  - o Different session length options
  - o Check with Minority and Justice Commission regarding proposals – Could we dovetail any ideas?
- One approach: Identify current gaps in knowledge. Make the scope narrower and the session more interactive.
  - o Small groups to discuss hypotheticals and materials (depending on number of attendees)

**ACTION:** Luisa, Francis, Kristi, Sharon and Bob will work on SCJA session proposals, due mid-September.

## **DMCMA CONFERENCE**

- Official noted mid-July , due August
- Interpreter Commission presented a month ago, already planning for next year
- Next session will focus on resource development, what's and how's
  - o Next steps moving forward
  - o Interpreter reimbursement program update
  - o Compile lists for proposals of resources and products available
  - o Compile a list of webinars that are complete and in development
- Goal to showcase products and tools for courts in person
  - o Good opportunity for feedback on what they need, and better to show the resources in person than over email

**ACTION:** Katrin and Frankie, as well as Fona, Francis, and Luisa in a smaller capacity, will work on compiling resource lists and develop session proposals for the DMCMA Conference.

## **WEBINAR WORKGROUP**

- Webinars are in process and moving forward
- Maria was very helpful and showed options and technology possibilities

## **BENCH CARDS**

- Comments are being collected until July 12<sup>th</sup>, and will review comments on July 15<sup>th</sup>
- A final proof will be sent before the next meeting.

## **OUTREACH COMMITTEE**

- Bob is currently working with Cynthia Delostrinos on a one pager
- Luisa has found 4 people to help with outreach.

## **NEXT MEETING**

- The next meeting will be the week of August 12<sup>th</sup> or 19<sup>th</sup>. Bob will send a doodle poll with date proposals.



**Interpreter Commission – Education Committee**  
**Wednesday, August 28, 2019**  
Teleconference Meeting  
12:00 PM – 1:00 PM  
Call-in number: **877-820-7831**  
Passcode: **618272#**

## **MEETING MINUTES**

### **Members Present:**

Katrin Johnson  
Francis Adewale  
Maria Luisa Gracia Camon  
Frankie Peters  
Fona Sugg

### **AOC Staff:**

Bob Lichtenberg  
James Wells

- June 2019 meeting minutes were approved with modification.

### **SCJA CONFERENCE PROPOSAL**

- Luisa and Francis have the start a proposal that include an overview of modes of interpreting, interpreter working conditions, role of the court interpreter, and ways a judge can facilitate proceedings involving interpreters. Other topics that could be added would be the new bench cards.
- The superior court administrator's conference is collocated with the judges' conference. A joint proposal could be submitted to reach both audiences.

### **DMCMA CONFERENCE**

- Frankie will help recruiting a presenter.
- It was suggested that someone who was involved in the creation of the court interpreter desk card be included.

### **COUNTY CLERKS CONFERENCE**

- A previous conference included a presentation about court interpreters.
- County clerks may be a good audience for webinars since webinars would be available to clerk's staff as well.

### **FALL CONFERENCE**

- Judge Ida Chen and Carla Mathers will be presenters.
- Part of the presentation will be about the questions judges ask when qualifying an interpreter on the record.
- This session will be a choice session.

- ASL bench card will be printed for the session. AOC staff will look into possible ways to produce the card in a booklet format.

#### **NEXT MEETING**

- The next meeting date will be decided by Doodle Poll.

#### **ACTION ITEMS**

- AOC Staff: Share the previous Fall Conference proposal from the Interpreter 2.0 Session.
- Francis and Luisa: Have a draft proposal ready by September 6 and circulate with the Committee for input.

# DMCMA Education Committee Session Proposal Form

*DMCMA Annual Conference*

*May 17-20, 2020*

**PROPOSAL DEADLINE: August 31, 2019 to [pam.dittman@courts.wa.gov](mailto:pam.dittman@courts.wa.gov)**

*Complete as best as possible.*

<b>PROPOSED SESSION TITLE</b> Resources for Language Access: Bench Cards, Webinars, and Money		
<b>PROPOSED BY</b> Supreme Court Interpreter Commission	<b>TARGET AUDIENCE:</b>	
<b>CONTACT NAME</b> Robert Lichtenberg	<input checked="" type="checkbox"/> Experienced Managers	
<b>CONTACT PHONE</b> 360-350-5373	<input checked="" type="checkbox"/> New Managers	
<b>CONTACT EMAIL</b> Robert.Lichtenberg@courts.wa.gov		
<b>SPONSORED BY</b> Interpreter Commission		
<b>PROPOSED DURATION:</b> <i>(Includes breaks)</i>		
<input checked="" type="checkbox"/> 90 Minutes	<input type="checkbox"/> 120 minutes	<input type="checkbox"/> 180 minutes
<input type="checkbox"/> Other:		
<b>Topic Area: THEME is {XXXX}</b>		
<p style="text-align: center;"><b>CORE COMPETENCIES</b> <i>(check those that apply)</i></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Caseflow Management</li> <li><input checked="" type="checkbox"/> Emergent Contemporary Court Issues</li> <li><input type="checkbox"/> Information Technology Management</li> <li><input checked="" type="checkbox"/> Innovative Projects or Programs</li> <li><input type="checkbox"/> Legislation / DOL</li> <li><input checked="" type="checkbox"/> Operations Management</li> <li><input checked="" type="checkbox"/> Public Trust &amp; Confidence</li> <li><input type="checkbox"/> Succession Planning</li> </ul>	<p style="text-align: center;"><b>2020 FOCUS AREAS</b> <i>(check those that apply or indicate another topic)</i></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Education (Practical applications)</li> <li><input type="checkbox"/> Leadership</li> <li><input checked="" type="checkbox"/> Purposes and Responsibilities of Courts</li> <li><input type="checkbox"/> Strategic Planning</li> <li><input checked="" type="checkbox"/> Budgets &amp; Fiscal Management</li> <li><input checked="" type="checkbox"/> Public Relations</li> <li><input type="checkbox"/> Other</li> <li><input type="checkbox"/> Other</li> </ul>	
<b>REQUIRED COMPONENTS</b>		
<i>The session should address the following essential areas of information. Please describe how the session will focus, in whole or in part, on these components.</i>		
<p style="text-align: center;"><b>Substantive Knowledge</b></p> <ul style="list-style-type: none"> <li>• Legal requirements for interpreted proceedings</li> <li>• Practical tips for finding, hiring, and working with court interpreters</li> </ul>	<p style="text-align: center;"><b>Administrative/Procedural</b></p> <ul style="list-style-type: none"> <li>• Accessing state funds for interpreter costs</li> <li>• Training new &amp; existing staff on court interpreter coordination</li> </ul>	<p style="text-align: center;"><b>Skills, Attitudes &amp; Beliefs</b></p> <ul style="list-style-type: none"> <li>• Equal access to court services for persons with limited English proficiency</li> </ul>
<b>RECOMMENDED FACULTY</b> <i>(add lines as necessary)</i>		

**Proposals due by August 31, 2019 to [pam.dittman@courts.wa.gov](mailto:pam.dittman@courts.wa.gov)**

# DMCMA Education Committee Session Proposal Form

DMCMA Annual Conference

May 17-20, 2020

**PROPOSAL DEADLINE: August 31, 2019 to [pam.dittman@courts.wa.gov](mailto:pam.dittman@courts.wa.gov)**

Name	Contact Info (email, phone number, etc.)
Robert Lichtenberg	Robert.Lichtenberg@courts.wa.gov
Court Administrator TBD	
Possible Judge as Presenter	
Possible Court Interpreter Presenter	

**SESSION DESCRIPTION:** Describe the purpose of the session and key issues to be presented. Explain what Court Administrators/Managers will learn in the session and how the information will apply to their work in the courts. *(This information may be modified for use in the registration and program flyer as your session description.)*

*Celebrating Our Past and Embracing Our Future*, the theme of the 2020 DMCMA conference, is the perfect backdrop for this presentation sponsored by the Interpreter Commission. We are showcasing the many tools and resources that we recently developed to better assist staff in all corners of the state with providing quality language access in their courts. Participants will be acquainted with a number of tools developed to assist judges, court managers, and court staff to include: 1) The recently developed Interpreter Coordinator Desk Card, designed around the specific needs of court management and staff, 2) The new ASL Interpreter Bench Card, which is modelled on the Spoken Language judicial bench cards; 3) the newest version of the Spoken Language Bench Card, 4) insight to the development of online webinars about court interpreting, designed for judges and court staff, and 5) the other interpreter-related resources available on Inside Courts. In addition, there will be breakout sessions that will allow for open discussion with participants and commission members to brainstorm and identify the resource needs of the courts in providing the best access to interpreter services for your court.

This session will also include the latest updates on the statewide expansion and roll-out of the court interpreter reimbursement program following the 2019 legislative appropriation.

**LEARNING OBJECTIVES:** Describe what participants will be able to do or say as a result of this session.

- Provide education materials and resources to employees who are responsible for coordinating interpreter services.
- Share bench cards and webinars designed for court staff and judicial officers to assist them in properly staffing and managing interpreted hearings.
- Identify resources available on Inside Courts for easy access to information and guidance relating to challenging language access situations.

**Proposals due by August 31, 2019 to [pam.dittman@courts.wa.gov](mailto:pam.dittman@courts.wa.gov)**

# DMCMA Education Committee Session Proposal Form

DMCMA Annual Conference

May 17-20, 2020

**PROPOSAL DEADLINE: August 31, 2019 to [pam.dittman@courts.wa.gov](mailto:pam.dittman@courts.wa.gov)**

- Describe the requirements for successful participation in the state court interpreter reimbursement program, which will reduce local costs for language access services.

**FUNDAMENTALS COVERED:** Describe the best practices or “nuts and bolts” that will be addressed during the session.

Courts are responsible under state and federal law to provide quality language access services, which can often be a challenging task. This session is designed to provide participants with instructional hands-on resources to assist them in providing language access services, and for training new staff for this role. The new Deskcard will provide decision-making steps using a flow-chart approach and the presentation will link those decision steps to best practices in scheduling and utilizing the skills of appropriately qualified individuals for court interpreting assignments.

In addition, a short overview of the court interpreter reimbursement funding program and Language Access Plan review process will be given so that courts interested in participating in the expanded program for the FY 2020 contracts or for future contracts can adequately prepare to enter into the program.

**PARTICIPANT RESOURCES:** Describe the resources faculty will recommend participants reference when handling the key issues described in this session (*e.g., checklists, websites, organizations, agencies, etc.*).

- New Interpreter Coordinator Desk Card for court staff responsible for coordinating interpreter services.
- Updated Court Interpreter (Spoken Language) Bench Card.
- New Court Interpreter (Sign Language) Bench Card
- Newly developed online web tutorials on working with court interpreters.

**PROPOSED TEACHING METHODS AND ACTIVITIES:** Describe how the session will be presented to actively engage the audience in the education (*e.g., small/large group discussion, hypotheticals, case study review, role play, lecturette, responder units, games, etc.*).

The audience will be engaged by:

- Having two new bench cards and one new desk reference guide in-hand during the presentation on these materials.
- Responder unit questions.
- Interactive dialogue and group discussion regarding additional resources needed to better provide language access services.

**Proposals due by August 31, 2019 to [pam.dittman@courts.wa.gov](mailto:pam.dittman@courts.wa.gov)**

**DMCMA Education Committee Session Proposal Form**

*DMCMA Annual Conference*

*May 17-20, 2020*

**PROPOSAL DEADLINE: August 31, 2019 to [pam.dittman@courts.wa.gov](mailto:pam.dittman@courts.wa.gov)**

**ANTICIPATED COST:** *e.g., speaking fee, transportation (airfare, vehicle rental, mileage, meals); lodging; special materials (e.g., books/workbooks)*  
\$1000

**FUNDING RESOURCES:** *Is the session sponsored/paid for by another entity? If so, provide the entity and contact information.*

Interpreter Commission will pay for all related costs.

Form Updated 7.11.2019

DRAFT

**Proposals due by August 31, 2019 to [pam.dittman@courts.wa.gov](mailto:pam.dittman@courts.wa.gov)**

**Education Committee Session Proposal  
Superior Court Annual Conference 2020**

**PROPOSAL DEADLINE:**

*Complete as best as possible.*

<b>REQUIRED COMPONENTS</b>		
<b>Substantive Knowledge</b>	<b>Administrative/Procedural</b>	<b>Skills, Attitudes &amp; Beliefs</b>
<ul style="list-style-type: none"> <li>• Legal requirements for interpreted proceedings.</li> <li>• Practical tips for managing hearings with interpreters.</li> </ul>	<ul style="list-style-type: none"> <li>• Training new &amp; existing judges on court interpreter's role and modes.</li> <li>• Use of new Bench Cards</li> </ul>	<ul style="list-style-type: none"> <li>• Equal access to court services for persons with limited English proficiency</li> </ul>

**RECOMMENDED FACULTY** *(add lines as necessary)*

**Name**

Superior Court Judge as co-faculty

Francis Adewale

Luisa Gracia

**Contact Info (email, phone number, etc.)**

TBD

[fadewale@spokanecity.org](mailto:fadewale@spokanecity.org)

[graciacamonml@gmail.com](mailto:graciacamonml@gmail.com)

**SESSION DESCRIPTION:** Describe the purpose of the session and key issues to be presented. Explain what addressees will learn in the session and how the information will apply to their work in the courts. *(This information may be modified for use in the registration and program flyer as your session description.)*

**Access to justice for all.**

Interpreter services is not a luxury. It is an access to justice issue as it impacts delivery of justice for many communities in our state. Any experience that negatively impacts the presentation of parties' case before the court leaves a deleterious effect that lingers in the community. Most of our foreign-language speaking community members often get their first exposure to our democratic system through their courtroom experience. To prevent unnecessary or misguided self-help and increase access to justice, we have to provide quality interpreter services in our courtrooms using professionally trained and credentialed interpreters. It is also important for the efficient administration of justice for judges to ensure that interpreters services are of good quality and available for the purposes needed.

Effective communication will help the achievement of transparency of the legal system and improve the trust of the community.

Paying attention to some of the subtle hints and helpful process we outline in this presentation will greatly help reduce the incident of miscarriage of justice in our courts. It gives confidence to crime victims, increase community participation and engagement in democratic values.

**Education Committee Session Proposal**  
***Superior Court Annual Conference 2020***

**PROPOSAL DEADLINE:**

This training will benefit everyone in our Justice system, as Superior Court Justices set the tone in Washington trial courtrooms state wide.

This session will include the latest updates on the new Bench cards regarding the proper steps in the appointment of spoken and signed language interpreters, the new Code of Professional Responsibility for Judiciary Interpreters, as well as the opportunity for further learning through other web-based training materials.

**LEARNING OBJECTIVES:** Describe what participants will be able to do or say as a result of this session.

- Define and clarify the role of interpreters in the justice system.
- Provide participants with the interpreter’s perspective in the courtroom.
- Explain the different modes of interpreting through a hands-on exercise.
- Identify information and guidance relating to challenging hearings with team interpreting.
- Share bench cards and webinars designed for judicial officers to assist them in properly and managing interpreted hearings.
- Provide education materials and resources to judges who are responsible for using interpreter services properly in the courtrooms.
- Provide an overview on how to access web-based training material.

**FUNDAMENTALS COVERED:** Describe the best practices or “nuts and bolts” that will be addressed during the session.

Courts are responsible under state and federal law to provide quality language access services, which can often be a challenging task. This session is designed to provide participants with key information on expectations and limitations of the interpreters’ role in the justice system, how to conduct courtroom proceedings and offers best practices guidance court staff and parties regarding the use of interpreter in and outside of the courtroom.

**PARTICIPANT RESOURCES:** Describe the resources faculty will recommend participants reference when handling the key issues described in this session (*e.g., checklists, websites, organizations, agencies, etc.*).

- Desk Reference Guide for court staff responsible for coordinating interpreter services.
- New Court Interpreter (Spoken Language) Bench Card.
- New Court Interpreter (Sign Language) Bench Card.
- Newly developed online web tutorials on working with court interpreters.

**PROPOSED TEACHING METHODS AND ACTIVITIES:** Describe how the session will be presented to actively engage the audience in the education (*e.g., small/large group discussion, hypotheticals, case study review, role play, lecturette, responder units, games, etc.*).

The audience will be engaged by:

**Education Committee Session Proposal**  
**Superior Court Annual Conference 2020**

**PROPOSAL DEADLINE:**

- Having two new bench cards and one new desk reference guide in-hand during the presentation on these materials.
- Demonstrative learning. - Exercising modes of interpreting and understanding the challenges inherent to each mode.
- Interactive dialogue regarding additional resources needed to better provide language access services.

**ANTICIPATED COST:** *e.g., speaking fee, transportation (airfare, vehicle rental, mileage, meals); lodging; special materials (e.g., books/workbooks)*  
\$1000

**FUNDING RESOURCES:** *Is the session sponsored/paid for by another entity? If so, provide the entity and contact information.*

Interpreter Commission

# SCJA Education Committee Session Proposal Form

*Superior Court Judges' Spring Program*

*April 2020*

**PROPOSAL DEADLINE: September 16<sup>th</sup> to [phil.zitzelman@courts.wa.gov](mailto:phil.zitzelman@courts.wa.gov)**

**PROPOSED SESSION TITLE: Juries and Inclusive Justice: Empowering disAbled Jurors**

**PROPOSED BY:**

**CONTACT NAME:** David Keenan

**CONTACT PHONE:** (206)477-1486

**CONTACT EMAIL:** david.keenan@kingcounty.gov

**TARGET AUDIENCE:**

Experienced Judges

New Judges

Experienced Commissioners

New Commissioners

**PROPOSED DURATION:** *(Including break times)*

90 Minutes

3 Hours

2 Hours

Other:

**SESSION TYPE:**

Plenary

Choice

Colloquium

**IS THERE A LIMIT TO THE NUMBER OF PARTICIPANTS?**

Yes

No

If yes, maximum number:

**TOPIC AREA: Theme is *Back to Basics: A Judicial Toolkit for Learning on the Job.***

Criminal Law

Family Law

Civil Law

Ethics

Evidence

Decision-Making

Courtroom Skills

Good Communication

Guardianship

Dependencies

Juvenile Law

Pro Se Litigants

Judicial Procedures

Other: Selecting and accommodating disabled jurors

**REQUIRED COMPONENTS**

*The session must address the following essential areas of information:*

**Substantive Knowledge**

**Administrative/Procedural**

**Skills, Attitudes & Beliefs**

- Legal requirements concerning seating and accommodating disabled jurors.
- Legal requirements concerning disqualifying

- Best practices when accommodating disabled jurors, including things such as note-taking, how best to present testimony, evidence handling, and conduct of jury

- Seeing past an individual's disabilities to think creatively about how they can fully participate in our system of justice as jurors.

**Proposals due by September 16, 2019 to [phil.zitzelman@courts.wa.gov](mailto:phil.zitzelman@courts.wa.gov)**

# SCJA Education Committee Session Proposal Form

Superior Court Judges' Spring Program

April 2020

**PROPOSAL DEADLINE: September 16<sup>th</sup> to [phil.zitzelman@courts.wa.gov](mailto:phil.zitzelman@courts.wa.gov)**

disabled potential jurors.	room deliberations.	
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## RECOMMENDED FACULTY, INCLUDING CONTACT INFORMATION:

Judge David Keenan, King County Superior Court, (206)477-1486, [david.keenan@kingcounty.gov](mailto:david.keenan@kingcounty.gov).

Judge David Whedbee, King County Superior Court, [david.whedbee@kingcounty.gov](mailto:david.whedbee@kingcounty.gov). (Judge Whedbee was recently appointed to the King County Superior Court. Judge Whedbee practiced disability rights law and is disabled.)

Donna Walker, Certified Signed Language Court Interpreter Specialist, [donnainterpreter@gmail.com](mailto:donnainterpreter@gmail.com)

Donna Cole-Wilson, Licensed Speech-Language Pathologist, Provail, Inc., [donnac@provail.org](mailto:donnac@provail.org)

One or two panelists with vision, speech, or hearing disability - (to be determined) [Judge Keenan recently presided over a tort motor vehicle trial in which he seated a completely blind juror; Judge Keenan might see if that juror can participate in the panel.]

**SESSION DESCRIPTION:** Describe the purpose of the session and key issues to be presented. Explain what judicial officers will learn in the course and how the information will apply to their work in the courts (*this information will be included in the program flyer as your session description*).

The session is intended to educate judges concerning (1) what the law requires in terms of seating and accommodating disabled jurors, (2) when the law allows a disabled potential juror to be disqualified, and (3) best practices when accommodating disabled jurors.

**LEARNING OBJECTIVES:** Describe how participants will be able to apply the information to their work.

Attendees presiding over jury selection and jury-related proceedings will understand when the law requires them to accommodate disabled jurors, e.g., jurors whose vision, speech, or hearing is impaired; when the law allows them to disqualify a disabled potential juror, e.g., where the potential juror's vision is impaired and the important issues in the case turn on visual evidence; and how to accommodate disabled jurors throughout the jury-related proceedings and jury deliberations, e.g., by allowing blind jurors to use devices for note-taking, providing descriptive information to blind jurors regarding visual information (such as crash diagrams), speech-augmentation devices to enable jurors with speech disabilities to participate as jurors or the provision of interpreters or personal assistants.

**Proposals due by September 16, 2019 to [phil.zitzelman@courts.wa.gov](mailto:phil.zitzelman@courts.wa.gov)**

# SCJA Education Committee Session Proposal Form

Superior Court Judges' Spring Program

April 2020

**PROPOSAL DEADLINE: September 16<sup>th</sup> to [phil.zitzelman@courts.wa.gov](mailto:phil.zitzelman@courts.wa.gov)**

**FUNDAMENTALS COVERED:** Describe the case law, best practices, or "nuts and bolts" that will be addressed during the session.

The session will cover disability law as it relates to jury selection and juror accommodation, and best practices to employ when accommodating disabled jurors, such as the use of software, ensuring that lawyers and witnesses are descriptive during examination, testimony, and argument, and, e.g., allowing vision-impaired jurors extended time to feel physical evidence, when appropriate. It also will address how judges can properly enable disabled jurors to effectively participate in jury deliberations and what corresponding jury instructions and procedures should be given to jurors and parties involved in closed-room deliberations.

**PARTICIPANT RESOURCES:** Describe the resources faculty will recommend participants reference when handling the key issues described in this session (e.g., bench books, checklists, bench cards, websites, organizations, agencies, etc.).

Participants will receive bench cards outlining the law and best practices.

**PROPOSED TEACHING METHODS AND ACTIVITIES:** Describe how the session will be presented to actively engage the audience in the education (e.g., small/large group discussion, hypotheticals, case study review, role play, lecturette, etc.).

Moderated panel, starting with an overview of the law, questions concerning the law, the approaches available to make effective participation possible, the perspective of disabled individuals regarding what it is like to serve on a jury as a disabled individual, and discussion of both real-life (e.g., how Judge Keenan worked with a completely blind juror) and hypothetical situations (e.g., jurors who need vision, hearing, or speech accommodations while in jury deliberation).

**ANTICIPATED COST:** (e.g., honorariums, travel, lodging, transportation, etc.)

Estimated Cost: \$1700.00

**FUNDING RESOURCES:** (Is the session sponsored/paid for by another entity? If so, please let us know.)

**Supreme Court Interpreter Commission**

**Proposals due by September 16, 2019 to [phil.zitzelman@courts.wa.gov](mailto:phil.zitzelman@courts.wa.gov)**



## Interpreter Commission – Issues Committee Meeting

Tuesday, June 11, 2019

Teleconference Meeting

12:00 PM – 1:00 PM

Call-in number: 877-820-7831

Passcode: 618272#

### MEETING MINUTES

**Present:** Judge Beall, Francis Adewale, Thea Jennings, Bob Lichtenberg, Frankie Peters, Fona Sugg, James Wells

A quorum was not present for the meeting.

#### Previous meeting Minutes

The members present discussed corrections to the May 7 minutes. There was not a quorum of members available to approve the minutes so an updated version of the minutes will be circulated online for approval.

#### Team Interpreting Court Rule

At the most recent Interpreter Commission meeting, the Committee was tasked with investigating the creation of a court rule about team interpreting. The discussion included the following points:

- Creating court rule would require modifying GR11 or adding an additional language.
- Creating a court rule could result in a rule that is either too general or that would contain too many provisions to make the rule useful.
- Many courts, especially outside urban areas, frequently do not use team interpreting. A court rule could help send the message that there are times when team interpreting is necessary.
- Interpreters sometimes turn down the option to have a team interpreter when offered by a court and prefer to have breaks.
- From an administrative perspective, the length of certain kinds of hearings can be hard to predict and it may be difficult to determine that team interpreting would be necessary.
- For languages of lesser diffusion, finding multiple interpreters who are available can be very challenging.
- Alternatives to creating a court rule could be more education to judges and court administrators about the issues of team interpreting and effects of interpreting for long periods on accuracy. Language access plans could also include language about team interpreting.

**Action Items**

- AOC – Research what other states have a court rule regarding team interpreting.
- AOC – Sent out previous meeting minutes for online approval.



**Interpreter Commission  
Ad Hoc Policy Workgroup Committee Meeting  
June 20, 2019**  
Teleconference Meeting  
12:00 p.m. – 1:00 p.m.  
Call-in number: **877-820-7831**  
Passcode: **618272#**

**Meeting Minutes**

**Present:** Diana Noman, Francis Adewale, Luisa Gracia Camon, Frankie Peters, Bob Lichtenberg, James Wells

**Previous meeting minutes**

- May 6 minutes approved with modification

**Desk Card**

- Frankie, Luisa, and Diana are working on the desk card.
- The audience for the card will be court interpreter coordinators.

**Materials for interpreters**

- If other states have already created materials for interpreters, there's no need to re-create that material here if there other states which allow the use.
- Links to these materials can be provided on the AOC website.
- Washington State has some video materials. Splitting up the "Working with Interpreters" video into smaller segments would make it more usable
- There is another subcommittee looking at creating short webinars for court staff and judges. The experience of creating these videos could lead to making videos for interpreters as well.

**List of Non-credentialed Interpreters**

- The AOC could maintain a basic list of interpreters who have met the minimum requirements established. This would be a separate list from the list of certified and registered interpreters that the court interpreter program maintains. It would not track any continuing education for these interpreters, but would track if they met the minimum requirements.
- The minimum requirements to be put on the list would need to be established.
- A quiz or some kind of test material could be created to help ensure interpreters have reviewed and understood the material. Luisa may be able to contribute with the quizzes.
- Courts could have a document with a list of materials that an interpreter would be required to review, such as reading the code of conduct. The interpreter could sign an affidavit that they have reviewed the materials which could be sent to the AOC for tracking.

- Some states, such as Arizona and Hawaii, have a tiered system of interpreters.

**Action Items**

- AOC - Send out Doodle Poll for a meeting in mid-August.



## Interpreter Commission – Issues Committee Meeting

Tuesday, July 2, 2019

Teleconference Meeting

12:00 PM – 1:00 PM

Call-in number: 877-820-7831

Passcode: 618272#

### MEETING MINUTES

**Present:** Judge Beall, Francis Adewale, Kristy Cruz, Thea Jennings, Bob Lichtenberg, Diana Noman, Frankie Peters, Fona Sugg, James Wells

#### Previous meeting Minutes

- May 7 meeting minutes were approved with modifications.
- June 11 meeting minutes approved.

#### Team Interpreting Court Rule

- AOC staff researched the practices in other states of how team interpreting was incorporated into court rules.
  - A number of states do have court rules regarding team interpreting, although some of the rules are written as guidelines or recommendations as opposed to rules.
- Team interpreting could be added to General Rule (GR) 11 either by amending one of the current rules or as a separate rule.
- Alternatives to putting team interpreting into a court rule could include:
  - Making team interpreting more prominent in the LAPs.
  - Making team interpreting a requirement for courts in the reimbursement program.
- Potential problems with adding team interpreting to court rules include:
  - Creating mandate for courts to follow without providing additional funding.
  - Challenges in finding multiple interpreters in rare languages.
  - Possible delays to proceedings due to lack of interpreter availability.
- Potential benefits with adding team interpreting to court rules include:
  - Demonstrating that team interpreting is the standard practice for courts to follow and is an important element in providing language access.
  - Demonstrating that team interpreting is allowable for those courts less familiar with the practice.
  - Setting a higher bar for courts to achieve language access.
- The language of a court could be made less stringent by using phrases such as, “courts shall consider using a team of interpreters” or by providing specific exceptions where courts would not be expected to provide team interpreting.
  - Rules with “shall” will get push back because of practical issues that make appointing more than one interpreter a challenge

- Some courts have language in their language access plan
- Review of language access plans that have been submitted and see how often team interpreting is specified.

The Committee made the following motion, which would be their recommendation at the next Commission meeting. The motion passed with one committee member in opposition:

**Motion: Team interpreting should be put forth as a best practice and included in the Language Access Plans.**

There was a suggestion that the topic be revisited in one year after. During that year, the current practices of team interpreting could be researched. However, there was a concern that this information could be difficult to obtain.

#### **Update on the Office of Deaf and Hard of Hearing (ODHH)**

- The AOC was recently contacted about potential legislation that would give ODHH the primary authority for creating rules regarding the use of sign language interpreters in the courts.
  - Under this rule, ODHH would not need to consult the AOC or Interpreter Commission regarding policies.
- It could be premature to give ODHH such authority. The AOC may enter a Memorandum of Understanding (MOU) to work with them to refine RCW 2.42. The Interpreter Commission may have more involvement with sign language interpreting in the future.
- Currently there is not an exam that is available to use for the certification of court sign language interpreters, which is affecting most states.

#### **Next Meeting**

- No meeting is currently planned for August.



**Interpreter Commission  
Ad Hoc Policy Workgroup Committee Meeting  
August 13, 2019  
Teleconference Meeting  
12:00 PM – 1:00 PM  
Call-in number: 1-877-820-7831  
Passcode: 618272#**

**Meeting Minutes**

**Present:** Diana Noman, Bob Lichtenberg, Moriah Freed, Francis Adewale, Frankie Peters, James Wells, Judge Rahul

Luisa Gracia Camon could not make the call but left notes for Diana

**Review and Approval June 20, 2019 Meeting Minutes**

- June 20 Minutes approved with modification

**Desk Card**

- Desk card is still under development
- Issue of "in-court qualified" interpreters is being evaluated as a bench card topic

**Matter of Non-Credentialed/Qualified/In-Court-Qualified Interpreters**

- Non-certified/non-registered interpreters have been presenting themselves to the court as having 'qualified' status when asked about credentials
- May need a topic in the bench card – responsibility of the courts needs to be emphasized, could be a training issue
  - Issue is being reviewed and added to the bench card. We will wait to see if language is sufficient to address this issue.
- Judge Rahul - from talking to Judges, she thinks that the different credentialing and qualifications of interpreters is not understood (training issue)
  - Judge Rahul is willing to be a resource in King County for education and training
- Could be due to a lack of resources available to courts, which results in them qualifying on the record instead of hiring certified/registered interpreters
  - Judges and court staff need to be made aware of which languages are certified, registered, or no testing available

**What makes non-credentialed interpreters claim that they are 'qualified'?**

- There is an assumption that if they are qualified in one court, that it is the same for all courts – like a "permanent" court qualification
  - The process and purpose of qualifying on the record each time needs to be common knowledge for interpreters – must be repeated each time for the record
  - The process is part of understanding the code of conduct and being a court interpreter
  - Could the AOC interpreter program include this topic in the ethics class or trainings?
- Judges could adjust the qualifying language – "I find this interpreter qualified to interpret for this hearing" and make it clear that it is not a general qualification

- Some interpreters become defensive when their credentials and experience are "questioned" each time they are sworn in
- There is a fear that if the interpreter says "I have no qualifications" they will lose the job
- There is confusion with types of interpreter certifications in a non-malicious way, i.e. DSHS certified, but not court certified by AOC
  - Could lead to accidental misrepresentation of court credentials

**ACTION:** Wait and see what areas of this topic are covered in the language in the desk card. Take action on the issue and provide clarification to address areas of the topic that are not covered for court staff.

**What measures can be implemented to educate interpreters on credentialing issues?**

- An Introduction packet could be given to interpreters
  - How can we better prepare interpreters for court interpreting?
  - Could be accessed online or hard copy.
  - This would mostly be accessible to credentialed interpreters
- The court scheduler is the first point of contact with the interpreter – information and education could be provided to court staff
- Not all courts follow the rules regarding using certified interpreters first if available
  - Diana – Snohomish county as an example
- What if the litigant cannot understand the interpreter? – i.e. different dialects, but the interpreter is certified (not a qualification issue)
  - Judge should have language on the record that the litigant can effectively communicate with their interpreter

**Update from AOC on creation of Approved Registry of Non-Credentialed Interpreters**

- Bob – It is still being worked on. Will need to figure out creating an online tool, and how to set up criteria before creating the tool.
  - Name, data set, etc.
- How would non-credentialed interpreters get their name on this list?
  - They could complete approved training videos, ethics documents and classes, etc.

**Updates**

- Next meeting sometime in September – A doodle poll will be sent out with date proposals for mid-September



## Interpreter Commission – Issues Committee Meeting

Tuesday, September 3, 2019

Teleconference Meeting

12:00 PM – 1:00 PM

Call-in number: 1-877-820-7831

Passcode: 618272#

### MEETING MINUTES

**Present:** Judge Beall, Francis Adewale, Thea Jennings, Bob Lichtenberg, Diana Noman, Frankie Peters, Moriah Freed

#### Approval of July 2 Meeting Minutes

- The July 2<sup>nd</sup> minutes were approved with modification
- It was suggested that minute changes get sent ahead of time instead of being discussed at the meeting

#### Request to Rescore Oral Exam - Policy Language Discussion

- It is very difficult for an interpreter to prove there is an issue in scoring. AOC has to follow NCSC rules, so we are unable to provide a copy of their scoring. This makes it difficult to know where the interpreter's error was in the exam.
- There is a rule referring to a certain scoring percentage where a recount can be requested. You must also show there is a fundamental error in the scoring or testing.
  - How do you do this? It is difficult to actually qualify for a rescoring in both steps.
- The dialect argument could be a fundamental error if the scorer of the exam is unfamiliar with the dialect.
- **MOTION:** Is the dialect argument as a fundamental error sufficient to allow a rescore at the interpreter's expense?
  - Diana motions, Thea seconds. All vote in favor of granting a rescore.
  - **ACTION:** Bob will draft a statement for Judge Beall.

#### Clarification of reporting obligation for license suspension by DOL in absence of formal criminal charge - Bob

- The current compliance reporting policy requires interpreters to report criminal charges filed against them but not arrests. Because the interpreter's driving license suspension occurred as a result of a DUI arrest prior to the actual charges being filed and since the interpreter reported the DUI charge when she became aware of it, she is in compliance with the reporting obligation policy.

### **Ad Hoc Non-Credentialed Interpreter Workgroup Update - Diana**

- The included report outlines everything the ad-hoc workgroup has been working on. This includes the matter of non-credentialed interpreters introducing themselves as “court qualified” in court. No such credential exists.
- A bench card is being developed to help guide Judges’ best practices on how to qualify interpreters on the records. The dialogue would not give these interpreters the opportunity to introduce themselves as “court qualified.”
- Other outreach and education opportunities could be to contact judicial officers and staff through AOC, and work with those who schedule interpreters at courts.
- Non-certified or registered court interpreters could watch ethics videos for court interpreting or complete other steps, such as reading the ethics code. A document could be signed and kept at AOC stating that they completed this training.
  - AOC would manage this list of interpreters who are not registered or certified, but have done training.
  - How do we keep the list current if there is no requirement to continue training?
  - **ACTION:** Work with James Wells and the Interpreter Program about possible solutions and list maintenance.
- Diana moves to bring issue to Commission meeting on 9/27
  - **ACTION:** Judge Beall will raise this issue at next Commission meeting, with the intent of supplying specifics soon after the meeting.

### **Closing Comments**

- The next Issues Committee meeting is scheduled for the 1<sup>st</sup> Tuesday in October.
- This is Thea’s last Issues Committee meeting.



**Interpreter Commission – Issues Committee Meeting**  
**Tuesday, September 3, 2019**  
Teleconference Meeting  
12:00 PM – 1:00 PM  
Call-in number: **877-820-7831**  
**Passcode: 618272#**

**Ad-Hoc Workgroup on Non-Credentialed Interpreters Report**

The following has been discussed in the Ad-Hoc Workgroup on Non-Credentialed Interpreters:

- The issue of Non-credentialed interpreters introducing themselves in court as court-qualified, which is not a recognized credential

The Ad-Hoc Workgroup discussed:

- The new Bench Card for spoken languages containing language which should facilitate the resolution of this practice from the judge's side.

- Having this topic be addressed in an AOC Ethics Protocol class for interpreters.

- The possibility of having the AOC send a letter or communication with some guidance regarding how Non-credentialed interpreters should introduce themselves.

- Have interpreter schedulers address the matter with Non-credentialed interpreters whom they schedule.

- Including the issue in the Interpreter Scheduler's Desk Card that is under development.

- Having Non-credentialed interpreters watch already available training videos and attend classes in order to familiarize themselves with courtroom protocol and procedure and subsequently sign a document declaring that they have completed the trainings and that they will abide by the Interpreter Code of Professional Responsibilities.

- Having the AOC keep a list of Non-credentialed interpreters who have completed the above listed bullet point.



## CITY OF PUYALLUP

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Municipal Court  
929 E. Main Ave. Suite 120  
Puyallup, WA 98372  
253/841-5450

September 17, 2019

Ms. Ángeles González-Aller  
8427 N. General Grant Way  
Spokane, WA 99208

Dear Ms. González-Aller,

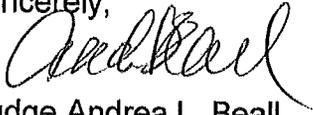
Thank you for submitting your letter of August 2, 2019 sent to the Administrative Office of the Courts' (AOC) Court Interpreter Program regarding your request for re-scoring of your court interpreter oral examination. I am responding to your letter as a member of the Court Interpreter Commission serving in the capacity of District and Municipal Court Judges Representative and Chair of the Issues Committee.

Your scores qualified for a re-score request under the Commission's policy related to rescoring of oral examination results and was referred to the Washington Supreme Court Interpreter Commission's Issues Committee. Your request for rescore was discussed during the September 3, 2019 Issues Committee meeting. The committee voted to authorize the AOC Court Interpreter Program to make arrangements with the National Center for State Courts' (NCSC) Test Administration Program to have the consecutive interpretation section of your last exam rescored by a different group of raters. Please be aware that any decisions regarding the rescoring process of the NCSC oral examination is guided by the test administration and scoring protocols established by the NCSC. There is no guarantee the NCSC will agree to have a different group of raters conduct the re-scoring, however that is our recommendation to be advanced for your case.

Henceforth, please continue to communicate with Robert Lichtenberg and/or James Wells regarding the testing of our court certified and registered language interpreters. Mr. Lichtenberg can be reached via email at [Robert.Lichtenberg@courts.wa.gov](mailto:Robert.Lichtenberg@courts.wa.gov) and Mr. Wells can be reached likewise at [James.Wells@courts.wa.gov](mailto:James.Wells@courts.wa.gov)

Thank you for your interest in becoming a credentialed court interpreter. The work of court interpreters is essential to the provision of fair and equitable justice in our system of jurisprudence.

Sincerely,

A handwritten signature in cursive script, appearing to read "Andrea L. Beall".

Judge Andrea L. Beall  
Puyallup Municipal Court Judge

CC: Robert Lichtenberg, Senior Program Analyst, Interpreter Commission  
James Wells, AOC Court Interpreter Program

# **Court Interpreter Program Reports**