

COURT INTERPRETER COMMISSION
FRIDAY, FEBRUARY 4, 2011
CONFERENCE CALL

Members Present: Justice Susan Owens (chair), Leticia Camacho, Kristi Cruz, Judge Judith Hightower, Frank Maiocco, Dirk Marler, Sam Mattix, Mike McElroy, Judge James Riehl, Judge Gregory Sypolt

AOC Staff: Katrin Johnson, Tina Williamson

I. General Business

The November 2010 meeting minutes were unanimously approved and will be posted to the AOC's website.

II. Disciplinary Committee Report

Complaint filed against certified Interpreter

Program staff received a complaint from the Pierce County Sheriff's Department regarding a court certified interpreter who failed to provide transcriptions/translations for a murder case in the promised timeline, and after multiple extensions. The Sheriff's Department and Court Interpreter Scheduler were concerned about the professionalism level of the interpreter.

The Commission discussed whether it had jurisdiction over court certified or registered interpreter's conduct when working for law enforcement.

Applicable Rules:

- GR 11.1(2) states that the Disciplinary Committee has the authority to impose disciplinary sanctions on interpreters for violation of continuing education requirements, **failure to comply with the code of conduct or professional standards**, or violations of the law.
- The Code of Conduct's preamble states: All language interpreters **servicing in a legal proceeding**, whether certified or uncertified, shall abide by the following Code of Conduct:
 - (a) A language interpreter, like an officer of the court, shall maintain high standards of personal and professional conduct that promote public confidence in the administration of justice.
- "Legal Proceeding" is defined in RCW 2.43.020(3) as "a proceeding in any court in this state, grand jury hearing, or hearing before an inquiry judge, or before an administrative board, commission, agency, or licensing body of the state or any political subdivision thereof."

While this interpreter’s conduct was highly unprofessional, and may reflect poorly on the certification program, the Commission’s jurisdiction doesn’t extend to conduct occurring outside of legal proceedings. However, the Discipline Committee voted unanimously that it would be appropriate to send the interpreter a letter of concern.

III. Issues Committee Report

Interpreter Complaint Against Court

A certified interpreter made a complaint about a court never hiring him for work. Staff conducted preliminary research that showed the court does regularly hire certified interpreters for this language, but chooses not to work with this particular interpreter. The Committee found no merit in the complaint and agreed they cannot instruct a court who they need to hire as long as they are hiring certified interpreters. Further investigation will not be conducted.

Versant English Test

The Issues Committee recommended to the Commission that they consider adding the Versant English Test (VET) to the registered requirements for purposes of testing candidates’ English speaking skills. Adding the VET to the list of registered interpreter requirements will help improve the quality of interpreters receiving the AOC registered credential, at little cost to the candidates, and with little effort by AOC staff. It is a useful tool employing modern technology, which hasn’t been available in previous years.

In the chart below are the current requirements for becoming certified or registered by the Court Interpreter Program. The differences between the certified and registered requirements are in red.

Certified Requirements		Registered Requirements	
1	Pass Consortium written exam that tests English, legal terminology, ethics, and evaluation of written non-English language skills.	\$75	Pass Consortium written exam that tests English, legal terminology and ethics. \$75
2	Attend one-day orientation class that provides basic information about court interpreting techniques. \$0	\$0	Attend one-day orientation class that provides basic information about court interpreting techniques. \$0
3	Pass oral interpretation exam that tests your ability to interpret in the three main modes between English and the non-English language: sight translation, consecutive and simultaneous. \$250	\$250	Pass Oral Proficiency Interview (OPI) that tests your ability to speak the non-English language. This is a telephonic test conducted at the AOC in Olympia. The candidate is interviewed by an evaluator. \$143
4	Undergo a criminal background check. \$26	\$26	Undergo a criminal background check. \$26
5	Attend a one-day class on ethics and courtroom protocol and take the oath. \$0	\$0	Attend a one-day class on ethics and courtroom protocol and take the oath. \$0
Total Cost		\$351	\$244

The two primary areas where we test certified interpreters but *not* registered interpreters, are 1) interpreting skills and 2) English speaking skills. Adding the VET will allow the AOC to test registered applicants’ ability to speak and understand English.

The VET evaluates spoken English skills of non-native English speakers. It is a computerized exam administered telephonically, using advanced speech-processing technology. A candidate calls in, and responds to pre-recorded questions. The candidate's English responses are then evaluated by a computer. Results are available almost instantaneously.

Committee has reviewed the validity/reliability reports, which shows that the test works well. This test has already been vetted and approved by the Consortium for Language Access in the Courts (the national organization that provides our oral certification exams) and is a mandatory requirement for abbreviated certification exams. After completing a standard-setting study in 2008, the Consortium adopted a cut score of 49.

The Commission approved adding the VET to the registered requirement. Katrin will report on how it's going at the next Commission meeting. An amendment to the policy language was also approved.

Interpreter Declaration on Plea Petitions

Rule 4.2 (h) of both the Superior Court Criminal Rules and Limited Jurisdiction Criminal Court Rules state the following (Rule 4.2 pertains to plea petitions):

(h) Verification by Interpreter If a defendant is not fluent in the English language, a person the court has determined has fluency in the defendant's language shall certify that the written statement provide for in section (g) has been translated orally or in writing and that the defendant has acknowledged that he or she understands the translation.

The corresponding Interpreter's Declaration that appears at the bottom of the plea petitions state the following:

Interpreter's Declaration

I am a certified interpreter or have been found otherwise qualified by the court interpreting in the _____ language, which the defendant understands, and I have translated the _____ for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of the document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

The language is inconsistent as to the role of the interpreter as proscribed in General Rule 11.2. In some courts, judges are instructing interpreters to interpret the document, and then follow up with a questioning of the defendant – “Did you understand my translation of this document?” And, “Did you understand the subject matter of the document?”

The Issues Committee recommends the elimination of “*and that the defendant has acknowledged that he or she understands the translation*” from Rule 4.2(h) of the Superior Court Criminal Rules and Limited Jurisdiction Criminal Court Rules, along with the corresponding language in the proscribed Interpreter's Declaration language so that the verification requirement falls with the judge, not the interpreter.

The Commission agreed to pursue a change in the Rules, and instructed Katrin to follow-up.

Change to Biannual Compliance Form Regarding Criminal History

Certified and registered court interpreters are required to submit a biannual report to the AOC. This report includes information such as continuing education hours, court hours, interpreter oath, and verification on whether the interpreter has been convicted of a crime (this is in place of a criminal background check).

A proposal was made to the Issues Committee that certified and registered court interpreters affirm that they have not been charged with or convicted of a crime. The current reporting form states: *“Have you ever been convicted of a crime or found to have been in violation of a court order?”* The Issues Committee recommends such a modification and requested that the form state: *“Have you been charged with or convicted of a crime, or found to be in violation of a court order, within the past two years?”* The Commission unanimously approved the modification and AOC staff will revise the form accordingly.

IV. Education Committee Report

2011 Judicial College

In January, Judge Riehl and Katrin presented to an audience of 40 at the 2011 Judicial College at the Cedarbrook Conference Center in SeaTac. The session highlighted working with court interpreters and was well received.

2011 DMCJA Spring Conference

Currently in the early stages of planning, this will be a two-hour plenary session and topics will include 1) sign language and deaf court customers, 2) understanding requirements under the ADA, and 3) GR 33 requirements. Theresa Smith, Judge Catherine Shaffer of King County Superior Court, and Bruce Moran of Pierce County Superior Court will be presenting.

2011 Fall Judicial Conference

A joint session proposal was submitted with the Minority & Justice Commission and was not selected.

Attorney Fact Sheet

Concerns have surfaced regarding the inappropriate use of interpreters in the courtroom by attorneys, and as a result, an Attorney Fact Sheet was created. The Commission approved the content and AOC staff will distribute the Fact Sheet around the state to judicial associations, court managers, public defenders, prosecutor associations, interpreters, and the WSBA. The Fact Sheet will hopefully also be available at the courts' front counter and used as a training tool for court staff to better understand the roles and relationships.

IV. Follow-up From November Meeting

Response from Court that did not Provide Interpreter

In November Leticia brought to the Commission's attention an incident where an LEP person in a civil matter did not receive interpreting services, and Justice Owens sent the court a letter with a copy of the proceeding transcript.

The Presiding Judge responded, acknowledging that the judge should have provided an interpreter. The decisions made in that case were contrary to court policy, and the court will work with staff and judges to better educate them on providing interpreters in civil cases.

Recommendation of Statutory Changes

At the last meeting, the Commission voted in favor of requesting that the BJA seek statutory changes to match the standards set by the U.S. Department of Justice. Because the BJA is focused on budgetary matters for this session, it was decided to prepare for next year instead. The Issues Committee was asked to follow-up.

Letter from CCJ and COSCA to DOJ

The Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) together, submitted a letter to the Department of Justice (DOJ) in response to a letter regarding LEP (limited English proficiency) guidelines under Title VI.

V. AOC Staff Updates

Video Remote Interpreting

A project is pending with Grant County District Court. InDemand, a company based in Wenatchee that employs a court certified interpreter, will collaborate with Grant County and the AOC to launch a 3-month pilot project. In exchange for purchasing the equipment, the company will provide three months of free interpretation by the court certified interpreter.

2010 Oral Exam Results

The 2010 Oral Exam results showed a steady increase in the passing rate from 6% in 2007 to 19% in 2010. Oral Exam highlights include: 1) Bosnian had its first interpreter in the state to become certified; 2) a *registered* French interpreter passed the *certified* oral exam on the first try; 3) a Korean interpreter was the first to obtain certification in approximately 10 years; and 4) a court administrator passed the Spanish exam. Of the nine Spanish interpreters that passed the exam, only one was from King County, and the others were from Kitsap, Pierce, Grays Harbor, Benton, Snohomish, and Douglas Counties.

Database Development

A more effective interpreter database is being developed to house interpreter contact, testing and continuing education information. This project is scheduled to be completed within six months.

Recent Court Observations and Concerns with Pro Se Calendars

Katrin and Leticia recently completed some court observations. There are strong concerns about how interpreters step outside their appropriate boundaries in courtrooms with pro se defendants and pro tem judges. It is clear that this has become the “culture” in some courts, and therefore, the blame cannot be placed solely on the interpreter. Katrin will be doing some follow up with the interpreters and court administrators of these courts.

Status of Sign Language Interpreter Standards

A workgroup in 2009 that developed new sign language interpreter standards is moving forward. DSHS is in the process of writing WAC's and is “shopping” ideas around the state to interpreters.

Next Meeting:

Friday, April 22, 2011
11:00 a.m. – 2:30 p.m.
AOC SeaTac Office