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Office of the Deaf and Hard of Hearing

ODHH SYMPOSIUM:

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BREAKOUT SESSION: 11:00 am - 12:30 pm, Room: Lookout Room
COURT INTERPRETING SESSION

TAKEN BY Lisa K. Hutchinson, Certified CART Provider

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>>EMILY HILL: Good morning, everyone. I just wanted to say thank you for coming. It's wonderful to have a group here that is interested in court interpreting and making sure that we've got access in our court system.

Well, first of all, my name is Emily Hill and I work for the Office of the Deaf and Hard of Hearing (ODHH). I manage the statewide sign language interpreter contract and recently have been working on court interpreting standards which is what we're here to talk about. I would like to introduce Katrin Johnson.

>>KATRIN JOHNSON: My name is Katrin Johnson. I work about a half a mile away from here at the office called the Administrative Office of the Courts (AOC), which provides services and support to state courts throughout the state of Washington. My particular role is the interpreter program coordinator, which I'll talk more about.

All right, we're going to start off the conversation today first talking about the dilemma we have in the courts when it comes to sign language interpreters. What are some of the consequences of those dilemmas, what are the opportunities that we currently have, and what has been done very recently?

First of all, I want to give a little bit of background about the courts. The courts in this state are not unified either administratively or financially, which is actually a very important thing to understand. In this state, there are 39 counties in Washington. Any guess as to how many state courts there are? 250.

And state courts, when I'm referring to that, is the municipal courts, the district courts, superior courts, and sometimes superior courts also break off juvenile courts.

This doesn't include federal court or immigration court, but it's the courts where most citizens go. That's where the majority of criminal matters are dealt with, family law matters, and, of course, many civil matters as well.

Again, in the state of Washington, we have approximately 250 courts.

There's kind of a running joke in our office because the number of courts always changes. What we find is that there are many small towns that will decide one day that they want a municipal court as a revenue generator, but perhaps they only file three or four cases per year. So do you count that as a court or not?

All courts are funded locally by the city or the county, so they are not funded by the state. That also means all of the policies and practices differ, not only from county to county, but from court to court even within the same county. At the state level where my office is, we can provide a lot of help,

assistance, and best practices, but we don't necessarily have the leverage to make things happen a certain way, so it has to be a very collaborative relationship with the courts.

I also want to talk a little bit about the scheduling of interpreters. In Washington, the scheduling of interpreters for either sign or spoken languages is done at that local court level. There are some exceptions around the state where it is centralized, and that's a model I'm hoping most courts go to, but for the most part, in each of those small courts around the state, somebody who is a court employee does interpreter scheduling.

We have some very fortunate courts around the state, such as King County Superior Court, or even Pierce County Superior Court, where there's actually an interpreter office. The people who staff that office develop an expertise and knowledge of the special interests regarding interpretation, so they understand how to identify qualified interpreters, where to find them, and how to appropriately pay them.

But for the most part, court staff around the state don't know that information. And, of course, for many of our courts, they have to hire interpreters so infrequently that they may not be in a regular habit for those hiring practices. These are some of the challenges that we have with the courts in hiring interpreters. Again, the dilemma is the combination of the non-unification and the fact that we don't necessarily have that expertise in the people who are making the selections of interpreters.

At the AOC level, the program that I manage has always been focused only on spoken language interpreting. We do testing and training for many different foreign languages and there have been best practices documents provided to the courts on spoken language interpreters, but really sign language interpreters have never been addressed from my organization.

I'm relatively new to the organization. I came less than two years ago from Minnesota where I also ran the state court interpreter program. In Minnesota I had the benefit of dealing with both spoken and sign language, and so when I came into the job here, it became very apparent to me early on: "Well, what about sign language? Who is answering these questions about sign language? Who are the interpreters that are being provided to the courts for sign language?"

And I kind of got a lot of shrugs as well as the answer: "Oh, ODHHS takes care of that." But as I learned, this is something that has sort of fallen between the cracks.

RCW 2.42.130(1) is a statute which actually, among other things, states that ODHHS shall maintain a list of sign language interpreters for use in the courts.

Going back again to the people who hire interpreters, the people who do hiring don't have that expertise. They don't know what a CI, a CT, an SC:L, or an NAD 3 are. That's all alphabet soup for them. Being able to rely on a list that has some

prescreening to it is an extremely useful tool.

Obviously there was foresight in that there was this statute in place, but unfortunately, no such list has yet been created.

To give an example of this situation (and I know I'm breaking PowerPoint rules here by having too many words on one slide) this is an actual e-mail that I received in January this year from a court staff person.

It says: "It's me again with more problems. I need a sign interpreter for January 26, 2009. The two sign interpreters that we use in Kitsap County are not available. I went to the Web site suggested by AOC to find some sign interpreters, but the list does not include phone numbers, so I cannot contact any of the interpreters on the list. How do I find their phone numbers or e-mails?"

The list she is referring to is the list maintained by ODHHS under the DSHS contract, which serves a completely different and unique purpose.

Again, here is a very succinct example from a court employee who is trying to find an interpreter but doesn't have the resources on where to go to. So that's when Emily and I started talking and forming our collaboration.

>> AUDIENCE: Can I make a comment? I was involved in that situation the email described. And I had to work with the office itself, share information so that they could find interpreters.

I had to be clear that the client and the attorney themselves did not have to find one on their own, and then they had said that the court wouldn't pay for them. So we worked closely with the office and they finally did get the interpreters, after realizing that they were responsible to provide them.

>>KATRIN JOHNSON: Thank you for providing that other side to that story as well as your assistance there.

And if anything, again, that shows how the courts simply don't know how to respond to this situation when these requests are made, whether it's hiring interpreters, or payment, or who is responsible for payment. Obviously there are many issues attached to this.

So, you probably don't need me to talk about the consequences. Obviously, this lack of direction does have detrimental consequences for the Deaf Community as well as the courts.

First of all, we did some research as part of our workgroup efforts. For the first time, actually, we have some data on 40 of our 250 courts on their interpreter usage, and from that data, we found that last year 95 different interpreters had been working in the courts, and they ranged in the full spectrum of abilities from SC:L, or legally certified interpreters, to interpreters who have absolutely no certification and are not even members of RID, the Registry of Interpreters for the Deaf.

Emily, as an expert more than I, would you like to explain what an SC:L interpreter is? We'll be referring to that throughout the presentation.

>>EMILY HILL: There are a lot of requirements for an interpreter to become an SC:L. SC:L interpreters are already certified. They already have a generalist certification when they are studying for their SC:L exam. They have to have a specific number of hours of observation of legal interpreting, they have to have a specific number of hours of experience, and they have to take a completely additional test.

When they maintain their legal certification, part of their continuing education units are required to be focused on legal interpreting, and so it's a very, very highly specialized field. You'll see later the numbers that we have in Washington that aren't really as high as you'd think. But it's very, very specialized, and so keep that in mind as we progress through this presentation. When you're talking about an SC:L, we're talking about somebody who has a lot of experience, a lot of training, a lot of knowledge.

>> AUDIENCE: Hello. My name is John Burke. I'm with Signing Resources & Interpreters, an interpreting agency in Vancouver, and I understand that the SC:L is very important. I know that it's an important specialty. And we are lacking SC:L's--They are hard to find. But we also bring in somebody who has NIC or RID equivalent because a lot of times they have trained with an SC:L and some are quite successful in the courts and are able to do that, not just SC:Ls.

>>KATRIN JOHNSON: Thank you.

>> AUDIENCE: Hi, my name is Mike Izak.

Back in 1982 when RCW 2.42 was written, it required SC:Ls only in the courts, period. And it caused a lot of problems because at that time there were only two interpreters with that certification and they were living in Seattle. They had to pay hundreds of dollars to have those interpreters fly throughout the state, to Spokane or wherever. It caused a lot of problems.

I got involved in that in 1986 and helped rewrite the law because it was choking deaf people and their ability to get services. So they went to a requirement for general RID certificates (and at that time NAD), and so far it's worked well after that.

Now the certification processes have changed, but nonetheless, the legal certification specialty is nice, but there's not enough here.

You know, if the case is for a murder or a rape, then of course we do need that specialty certification involved.

>> AUDIENCE: Similarly, with a trial, the interpreter has to be legally certified. I agree with Mike on that a hundred percent.

>>KATRIN JOHNSON: We're going to actually get to a lot of these topics in the presentation today because ultimately we'll

be talking about recommendations from a workgroup, and the things that you're mentioning here were all part of those discussions. Supply and demand is one of the crucial issues we have to face with statewide interpreter issues.

I don't want to dismiss those comments, but we will get to that more, and thanks for sharing.

>> AUDIENCE: I understand. My apologies.

>>KATRIN JOHNSON: No apologies necessary.

Back to the data, we wanted to take a look at what is happening out in the courts.

Are SC:Ls providing all interpretation or are they not there at all? Again, we were very surprised by the results, representing only 40 courts, at that wide disparity we have of the different qualifications and even the sheer number of interpreters. There were some interpreters on this list who had provided hundreds of hours of interpreting and many who had done two or four. Those may represent people who have less experience in court, and are those necessarily the people who provide the best interpretation in what can be a very complicated environment to interpret in?

We also took a look at payment. I know payment is a very controversial issue, but interpreting is a profession and so you can't have a discussion about this profession without also discussing payment issues.

We looked at how much interpreters are being paid, (in the courts where we have data) and the range went from \$40 to \$100 an hour. The \$100 an hour recipient was someone who is not even certified, and we had \$40 an hour going to an SC:L, the most highly legal credentialed interpreters we have.

Again, this didn't make sense, and it reinforced there's a need to address this and to establish some standards. Obviously there's even further consequences to the Deaf Community and the courts in ensuring that justice is administered. First of all, by having no standards in place, you risk diminished quality in the interpretation. The legal terminology in the courtroom is highly technical. Most "lawyer-speak" is not even understood by native English speakers.

I remember my first times going to court, I had no idea what they were saying. As a Spanish speaker, I enjoyed it when the Spanish interpreters were there, because I understood them better than I did the English-speaking lawyers and judges.

Also, access to justice. We want to make sure that our courts are accessible by all Washingtonians, including all deaf individuals, so they can participate in our jury pools, they can participate by watching, and not to mention their own cases they're involved in either as litigants or witnesses. We don't want language to fall in the way of their accessing the courts.

Delays and continuances: We don't have data to support this, but I would venture a guess that the Deaf Community faces more delays and continuances in their cases because of the

difficulty in finding interpreters. You know, going back to that Kitsap situation, they only knew of two interpreters. Well, there are more interpreters that live in Kitsap County and certainly even more when you go to Pierce and King County. Without knowing where to find interpreters, it's very logical that a court staff person, who doesn't understand the full dynamics, may say: "Oh, our two interpreters aren't available. We'll have to reschedule for the next day. The next day open is in three months." So then cases go on and on.

People may come to court to find there's no interpreter. They took time off from work. They made child care arrangements.

There are a lot of issues that go into delays and continuances, and courts try to reduce that in many ways, and this is another way to try to help with that.

Also, of course, there is the imbalance in payment based on experience. We also want to make sure that we're attracting the best and the brightest to the courts because we want them working for us. But if we do pay low rates, it's understandable that that's not going to happen.

And then of course, there is the disparity in the interpreters that are working there, and we want to keep our SC:Ls working in court. If they want to work in court, we need to give them the work. Also for those who are aspiring to be SC:Ls and want legal training, we want them working in court as well, because we want to help foster the development of more SC:Ls.

So, again, these are all parts of the consequences of the lack of direction for the courts. Which brings us to the good news, right? The opportunities and where we're going from now.

The first one that I'm going to speak about, and then I'm going to hand it over to Emily, is that we have a new program in place at the Administrative Office of the Courts regarding funding. Now, as you probably know, whoever pays you has a lot of influence over what you do, so one of our difficulties with the courts is that it has been difficult to influence practices and behavior because courts are funded locally. But once you control the purse strings, it's amazing what you can do.

Two years ago the state legislature gave the Administrative Office of the Courts \$2 million for language access issues. Four hundred thousand of that went specifically to the development of what's called LEP or Limited English Proficiency plans, but 1.5 million went to funding of interpreter services. This program is sort of managed like a grant might be. Courts could apply to receive this funding, because it wasn't enough money for all courts, and courts were then selected on the basis of several criteria.

How it works in practicality is that there are about 40 courts. Those are the ones who supply us data, so that's how we're getting data for the first time. When those courts hire and pay spoken language interpreters -- and sort of sign language, we'll get to in a moment -- according to our standards that we

set, we will reimburse them 50 percent of their expenses. So, for the very first time, we've had some influence--and we've seen dramatic changes in the spoken language spectrum.

Now, taking a look at spoken language, I think it's interesting to look at it as a parallel. In spoken language, there has been a statute for almost 20 years now saying that the courts are required by law to hire certified interpreters and can only hire non-certified interpreters if good cause is shown on the record.

We have the strength of the statute requiring a certain caliber of interpreters to work in the courts. But many courts don't follow that statute. Attorneys don't make objections. It's not brought up. In some cases it's meaningless.

Now, on the other hand, there are many courts that do follow it very diligently, so I don't want to paint a grim picture. Sometimes just having a statute in place isn't enough.

So under our new funding program, we said: Okay, we're only going to pay you back for the languages that have certified interpreters, if you use a certified interpreter. Maybe for a language like Vietnamese that only has five certified interpreters, if they are all busy and you have to use a noncertified, we're not paying you back, because we want to encourage the courts in every way possible to use certified interpreters and not come up with excuses.

That has had effects, and it's been just wonderful to hear about those effects from the certified interpreters. What we hear is they are getting more calls to work in court.

We also now require them to pay certified interpreters \$50 an hour, which in the spoken-language world is a very good rate. It used to be \$40 an hour.

Therefore, many of our certified foreign language interpreters who left the courts for more better-paying jobs are now coming back to the courts.

There's also fewer continuances on interpreter cases, so we're getting more energy back with our certified field in the court. We're getting them work. We're getting a higher quality of services out to the foreign language court users.

Later in the presentation, we're going to get to the statute of what a qualified interpreter is for sign language.

It's a statute that's very ambiguous, so up until now with this funding program, the AOC hadn't set particular standards yet for the hiring of sign language interpreters because it's such a mucky area.

Thanks to the work of this workgroup, we can start to develop the standards to influence hiring practices. So it's a fantastic opportunity that we simply have never had before.

Let me answer a couple of questions.

>> AUDIENCE: Within my experience, when I work as an advocate, which I did about, oh, say two or three years ago, mostly in the Tacoma area as well as Bremerton courthouses, I

would call, make an appointment for an interpreter, say specifically that I have several clients who needed one. And for some reason, a struggle ensued.

I decided to actually physically go there in person and talk to the court clerk, and I said: "Look, hey, why are you giving me so many problems here?"

She and the judge both met with me. I showed them the ADA law, and they said that they can hire qualified interpreters, not certified. Qualified. So that law itself is rather vague. And that is what we're struggling with today.

So, at this point, then, where do we go to get that ADA ambiguity changed?

Can ODHHS be a part of that discussion? Or what? Because that is an issue that really we need to start resolving at some point.

>>KATRIN JOHNSON: What we're going to get to later in this discussion is the Washington definition of qualified interpreter. As much as I wish I could wave a magic wand, I have no influence over the ADA.

But we do have influence over the Washington definition of qualified interpreter and the workgroup does have a proposal to deal with specifically that.

We will get to that later in the presentation.

>> AUDIENCE: My name is Mark Schmitz and, as far as I know, I'm the only SC:L holder in the south Sound. Once I obtained that certification, even up until now, I still receive calls from various states around the country who offer to go fly me out, pay for my expenses, to put me up for trials.

But once I obtained the SC:L, and once the LEP program went in place in Pierce County, I no longer received calls from Pierce County courts.

>>KATRIN JOHNSON: Do you know why?

>> AUDIENCE: Yes. It's money. So I can say that in the times in which I have gone to Pierce County, which is infrequently now, I often see lesser-certified people working there who are fine generalist interpreters. I have nothing negative to say about their generalist qualifications. But I happen to know that in most cases they have no training, and very, very little experience. There's no oversight, there's no supervision. So this is a bigger problem in Pierce County than it used to be, in spite of the fact that they have an interpreter coordination office. Their main objective is to keep the costs down.

>>KATRIN JOHNSON: Thank you for bringing that perspective, and I think that goes along with what we were talking about, the consequences, right? Because certainly one of our objectives is to get interpreters like you working in courts more, and unfortunately we have not yet had the foundation to get the courts to do that, and that's what we're moving towards.

>> AUDIENCE: Just to kind of add a little bit of irony to it. I make more money going to the dentist, working under the

DSHS contract, than I do going to the courts, and I use none of my legal skills when I go to do a dentist appointment.

>>KATRIN JOHNSON: And we want to change that.

>> AUDIENCE: I'm wondering if you're going to be letting us know how we can -- is it possible to give feedback to this workgroup?

>>EMILY HILL: That's what we're here for.

>>KATRIN JOHNSON: Yeah. Let's keep going through.

We love the comments and the feedback, and we do want your feedback, whether it's orally or there are evaluations to add written feedback. That's why we're here. The recommendations are all recommendations, but the report isn't finalized yet and we do want feedback, yes.

>> AUDIENCE: Margaret here. Can I make a brief comment about about Universal and International [interpreter referral agencies]? Some of them do not have the qualifications necessary to be interpreting within the legal arena. And it is a horrible problem, because these agencies are contacting the cheapest person on the block.

I will often ask the interpreter: Are you qualified, because the people are not signing what I need for communication. They might be signing exact English and I don't even sign exact English.

It's a horrible situation.

It's happened to me twice now in court, for those agencies. They need to be contacted and that needs to be changed.

>>KATRIN JOHNSON: Again, what we're going to get to are the standards that this workgroup is proposing that the courts follow for how they find interpreters or what qualifications or experiences interpreters have so that finally the court staff and judges, who don't know anything about interpretation, can have some guidance to look to so that they can better identify who is more qualified and who isn't.

So, I'm going to -- I'm sorry, one more question.

>> AUDIENCE: Yeah, one brief statement. Who is the watchdog group?

My name is Anthony Bandro (phonetic).

Isn't there some type of oversight committee or group who makes sure these requirements and criteria are being adhered to?

>>KATRIN JOHNSON: No. (Laughter.) To be honest, there isn't. And one of the problems is there have never been standards for monitoring.

>>AUDIENCE: Okay. Thank you very much.

>>EMILY HILL: And that's what we're here to address.

That's what we want to share with you, because there hasn't been anything done, and so all these problems are happening.

You're not getting qualified interpreters in Pierce County. You're having issues getting interpreters.

And so we're just going to quickly finish this part and then we get to dive into the real meat. I know you're all really

excited about it, but let me just finish here because you really need to see the picture that we saw when we first started looking at this.

The interesting thing about when Katrin and I started talking -- how long ago? Almost --

>>KATRIN JOHNSON: Year and a half.

>>EMILY HILL: A year and a half ago. I don't know if when you were growing up you ever watched Schoolhouse Rock, the little cartoons which would sing a song and teach you things like how a bill is made?

I feel like I'm kind of in Schoolhouse Rock, because ODHH as part of DSHS is part of the Executive Branch of government, and the Administrative Office of the Courts, key word "court," is part of the Judicial Branch of government. We're separate. We're not the same. We're all government, but we're different arms.

So as we started talking and developing things, it's like I saw those little Schoolhouse Rock cartoon characters singing in my head about how everybody's related and connected.

Fortunately it was good timing. Katrin moved to Washington, and started working at AOC. We had resources in our office and everybody just sort of clicked. We developed this partnership to be able to look at these issues and make sure that services are happening for our clients, our friends, our family, in the state of Washington, in the courts.

Now, the third bullet up here says: Washington's high number of SC:L interpreters.

"High" is be a relative term. High does not mean 300. It does not mean 50. It means 11.

But if you look at the picture -- now, this data is all from August of 2009. That's this summer. Some of the data has changed. Some of the states have gained or lost interpreters. I'm sure it happens daily.

But as of August, you can look at California. They had 42 SC:Ls. We just ignore them because they're huge and they have hundreds more certified interpreters, so don't even really consider them in your equation. (Laughter.)

But Maryland had 14. Colorado has 13. Washington and Florida are tied for fourth place with 11.

To me that's very hopeful. That means that there are people in our state who are interested in legal and court interpreting, who want access in our courtrooms, who want to learn, who want to make other people learn and help them, and that's exciting to me. That was exciting to Katrin and I when we started doing this research, and everybody that we shared with, that there are actually people out there who want these things to happen.

So this is sort of where we got our base for even just looking at what we have available.

We worked with Theresa Smith who is the Washington State Registry of Interpreters for the Deaf's legal interpreting

liaison. We worked together with her to develop a survey that we sent out to all certified interpreters in Washington. We gathered a lot of information. I'm not posting everything up here because you guys probably don't care about all of the answers that we got, but we were able to look at some key questions.

Out of 70 interpreters who answered the question "Are you interested in obtaining an SC:L," 43, that's 71.7 percent, said yes. That means that there's a lot of people out there who are interested in this, who want to pursue education, who want to improve their skills, get the experience, whatever that means. That doesn't necessarily mean that all 43 are qualified, but it means that they want to be. They want to get to that point.

We asked them what their obstacles were to getting an SC:L, and this was just a write-in question, but I went through and organized what the answers were.

Number one was training. There is a lack of training. We don't have much legal interpreting training in Washington -- we have some, I'll say that, but not enough. And it was really an eye opener for us to see that these interpreters, first of all, recognize that maybe they're not qualified to be somewhere, but they want the training to be.

It's really exciting.

Again, the next question: "Why do you interpret in legal or court settings less than you want to?" Some said they weren't contacted, some said they weren't available, but the number one answer was that they needed more training or experience.

Very interesting.

This led us to develop a workgroup, and you've heard Katrin mention it. There are a lot of names up there. You might recognize some of them. You might not recognize some of them.

The great thing that we did for this workgroup was that we identified needs, not necessarily individuals that we wanted, but specific qualifications, unique representations of each community.

We wanted to make sure that we had somebody representing the courts, somebody representing legal perspectives, somebody representing interpreters, representing some state agencies, representing the Deaf Community. We did our best to try and get as many perspectives involved without getting such a big group that you can't do anything with. Because, you know, if you have a group of 50 people, you're not going to accomplish anything. If you have a group of 12 people, you might get something done.

And you can see we have -- I hesitate to read this all off to you because you're not first-graders, but you can see we have members of the Administrative Office of the Courts. We have representatives from King County Superior Court; Kitsap County Superior Court; one of the officers from the Washington State Association of the Deaf; two SC:Ls; the WSRID president and their legal interpreting liaison. We had a judge from Kitsap County District Court. Members of the Office of the Deaf and Hard of

Hearing. We had a really good representation. We had a lot of differing perspectives.

And this workgroup was phenomenal in how well everyone works together. Differing opinions were offered, but everybody had the same goal, and the goal was access, to make sure that access happened in the courts.

And I think that having that same goal meant that everybody came together, looking at money, looking at resources, looking at everything that's out there. We all worked together.

This group of individuals had four main goals.

First of all we were looking at the RCW, at the information that we had collected, and we said: Okay, ODHH has to have this list of interpreters. But what are the criteria to be on the list? You can't just write somebody's name down and say: "Hmm... That person is a court interpreter." That doesn't make sense. So you have to have some sort of criteria to be on a list.

The definition of qualified interpreter in the state law -- we're not talking about in the ADA, the federal law; we're talking about just in the state law -- isn't really clear. It may have been appropriate 20 years ago when it was developed. But right now it talks about being certified by the state, which we don't have state certification. It doesn't make sense. So we talked about changing the definition of qualified interpreter.

The sticky part: Standards for fees for court interpreting.

Also, gathering research from other states, which is a lot of what we did outside of the workgroup, some work looking at different state models. There's a lot of states that have a lot less than we do.

There are other states that have more. They have a lot more standards already established in their laws, in their rules, and so we wanted to gather what they had, because if somebody else had a model that's better than what we do, then we're not going to recreate the wheel. We're just going to use what we can and incorporate it into our own system.

Really big disclaimer: The group is not finished. We have finished meeting, hopefully, but we're still working on some of these documents. The reason why we don't have a handout of everything that we've worked on is because we're not done yet. (Laughter.) We're getting there, but we're not quite at that point yet. And so this is still in draft.

You guys are all here. Maybe you see something that you say "Right on, that's perfect," or you say "That's really not going to work in real life." This is the time to give us feedback.

So I'm really, really happy to see so many of you here, because you're the ones that are going to be using this. You're going to be requesting the interpreters. You're going to be interpreting. You're going to be in court -- I mean, I hope that none of you are actually in court because you did something bad,

but you never know what happens.

So, just keep in mind that what we're showing you is still in draft form. Everybody got that?

Remember our four goals? The first one was that we needed to create criteria for a list of court interpreters. We had to face the facts that, first of all, there are not enough SC:Ls for every court request.

It's like you had mentioned before: If you say: "You have to be an SC:L to interpret in court, period," there's no way.

>> AUDIENCE: (Mike Izak) I disagree with that. There has to be some flexibility. It should not be an absolute requirement.

>>EMILY HILL: Exactly. Exactly. That's exactly what I said.

>> AUDIENCE: And I'm talking from experience.

>>EMILY HILL: Exactly. There are not enough SC:Ls. If we had a hundred, maybe if we had a hundred SC:Ls.

We're on the same page, you and I, that there are not enough, therefore it can't be a requirement.

There has to be some flexibility.

And --

>AUDIENCE: No, no, no, no. You're misunderstanding me. The SC:Ls are fine. But they're not always required. I get the impression that you're saying that you want an SC:L for everything. And I'm saying no, I disagree.

>>EMILY HILL: No. We are completely together. We're saying SC:Ls are great, but there's not enough, and so there's no way that we could ever require having only SC:Ls. There are other states who do that and it has really bad consequences. And we didn't want to create those kind of consequences in Washington, because that means that the people aren't going to get what they need.

So as a group, we came up with some ideas.

We created the perfect interpreter. We looked at who we want in court. This ideal vision of the absolute best interpreter isn't necessarily how we ended up going, but it was a good way for us to start thinking.

We also ended up looking at the difference between Sign Language Interpreters, like the kind that we're using right here, and also what the law calls Intermediary Interpreters. Often those are referred to as deaf interpreters. They're used for deaf-blind interpreting, or for somebody who doesn't have a lot of language skills. Those types of interpreters are referred to as intermediary interpreters. So when you see the word "intermediary" you can think the common phrase "deaf interpreter."

So, here comes what you're all waiting for: The List. And you actually have this in your handout that we passed out.

This is just an excerpt from it. We developed two different levels. We have a Level I and a Level II interpreter. And we're saying in here that the courts need to make every effort

to try to hire a Level I interpreter because those are the people with the most experience. They are the cream of the crop, the best you're going to get.

But that's not always going to happen. They're not always available. They could be booked somewhere else. Maybe Pierce County has five different things happening at the exact same time. And so we needed to give them the wiggle room.

If you look at Level I for sign language interpreter, you'll see that it requires an SC:L. It requires background check. Everybody requires a background check. It also requires a pre-training which we'll get to. There are two different trainings that you'll see. We'll talk about that training in a little bit.

Did you have a question? We're actually running a little short on time.

>> AUDIENCE: I have a question: Why a criminal background check? I know several interpreters that while in their early days flashed people, for example, and so (laughter) got arrested for indecent exposure. So, with that right there, 20, 30 years later, they can't interpret?

>>KATRIN JOHNSON: We require criminal background checks of our certified interpreters for spoken language, and so we're not sure we should have a lower standard for sign language either. And simply having a crime in your past doesn't mean you're barred from working in the courts. This is simply a way for us to identify what, if any, crimes someone might have, and then we will look at it and take it in context: Is it something that happened long ago versus last month? Was it something that was violent or dealt with corruption versus flashing someone?

So again, it's not an outright bar, but it gives you more information about the background of interpreters who are going to be interpreting in court in highly sensitive criminal matters.

>>EMILY HILL: Thanks.

We also have a requirement for everyone that they have experience working with deaf interpreters or intermediary interpreters.

They execute an oath of interpreter. That, again, is for everyone.

They also have to maintain their RID certification. We don't want somebody who is an SC:L and then they stop paying their dues or taking their continuing education. That would be really bad. So we have that on the list.

If you go to a Level II, that looks at the different certifications that there are. You can see that first row has the list of all the others that are offered right now. It may change again in a couple years. Who knows?

The five years of interpreting experience post certification, that's what's highly recommended by RID to get an SC:L and so we thought: Let's follow what RID's recommendations are.

Again, everything else is the same, except for we've added Washington Court Sign Language Interpreter Training, which we'll talk about, again, in a minute.

For their certification, they need to maintain their ongoing certification, but they also have to complete 20 hours of legal continuing education every four years, the exact same requirement that an SC:L has.

This is for people who want to do legal interpreting. It's not for just somebody who says "Yeah, I can do a court case here and there." It's for people who know this is a track they want to go on, so they can develop their expertise.

Next you can see intermediary interpreters on the list. Again, this is deaf interpreters.

For this part I put a draft on the slide. Our two WSRID members were sending out some feelers with the deaf interpreters in the community to make sure that this actually fits what they think is happening.

Some of this is pretty much copied from the Level I and Level II for just the sign language interpreters, but you'll see Level I is a CDI, Certified Deaf Interpreter.

Everything else is the same for this one.

If you go down --

>>KATRIN JOHNSON: Legal experience.

>>EMILY HILL: Oh, you're right.

The experience isn't just interpreting experience, but it's actually working in the legal setting, because a CDI is a generalist certification, whereas the SC:L is a specialized legal certification, so they'll have that experience. So that just specifies legal interpreting experience.

Again, for Level II for intermediary interpreters, it's very similar. We have no certification requirements on this one because there is only the one certification for deaf interpreters. But they have to have experience interpreting, go through everything else, and take continuing education, which is something that may or may not be happening normally.

>>KATRIN JOHNSON: Okay, we just want to talk -- I'm sorry, there's a question.

>> AUDIENCE: Mike Izak.

Okay, so we were talking about the various levels, but really what I notice is it is very silent about how often we check on this stuff. Meaning, you know, that should be rechecked. These criteria should be checked, say, every two years or so, all of them. Not every four years. We need to make sure that this information is current and accurate.

>>EMILY HILL: I agree. We don't have the specifics of how everything will be implemented yet because we're still in the development phase right now, but it definitely does need ongoing maintenance; we need to be able to check things like your certification maintenance and how much legal interpreting training you're receiving, making sure that you take the specific

trainings, things like that. It is very much on our radar that obviously if we develop this, we have to have a way of maintaining it.

And we haven't, like I said we haven't developed the specifics about that yet, because we're still making sure this part works. And once we develop this part, we'll get it maintained. We'll be operating every year. I'm sure it's going to be some work up at the beginning, but then it'll just be a review process from then on out.

>> AUDIENCE: Okay, Mike again, thank you.

>> AUDIENCE: I would like to have a rebuttal on that.

You know, I know there are interpreters in this room, but I have had some terrible experience with interpreters, and especially in court, and, you know, there are ways that I really wish I could go through and get rid of them. That way they won't be able to hurt any of the other people they work with.

>>EMILY HILL: I think that's an issue that's bigger than just court. That's an issue that's about interpreting. When you have a lousy interpreter, often that interpreter's a lousy interpreter in general, not just in court.

And so that's something that we will make a note of for that kind of review, but also if they are following these standards that we've talked about, they are certified, and so hopefully if there was actually a real problem, hopefully we could go through the RID process.

>> AUDIENCE: (Karen Carlson) And I just want to put a pitch in for the RID grievance process, because as a mediator for part of that system, I know that often people hesitate to file grievances. They're not sure what the system will actually offer them, but there is a whole process that involves mediation, and if that doesn't work, then it involves an adjudication group, and it can result in someone losing their certification.

And if something goes through to that level and the person loses their certification, then they would no longer be eligible for the system.

So I think that really -- they work together really well.

I really appreciate seeing all of the work that you've done so far.

And I'm grateful, as someone who works in the courts, to see that this work is happening, and I've got a couple other ideas that I want to throw in later on, but I'm not sure when is the right time.

>>EMILY HILL: Excellent.

And just as a note, it is 12:10 right now and this only goes until 12:30, and so one recommendation I would have is perhaps we'll finish what we're talking about and then we do have written evaluations.

I will make sure also to get out my e-mail address, phone number, and Katrin's too. We had no idea how long this was going to go. (Laughter.)

>> AUDIENCE: Another possible idea is that because we have the materials in written form, we can review them ourselves later and comment on that. Maybe this might be a forum for discussion instead of presenting what we have on paper. So that's just another possibility.

>>KATRIN JOHNSON: And really quick, actually the questions that are coming here are very reflective of our workgroup process, because we had four main goals with our workgroup, and we know there aren't just four issues when it comes to court interpreting, but at the same time, we had to keep with our four goals, because otherwise if we allow all the other issues to dominate our conversation, we'll get nowhere.

And so that's why this workgroup did work with the main four goals. We developed a parking lot of the other issues, whether it's complaints of the interpreters or many other issues that came up, but we had to stay focused to be able to achieve the first steps of establishing standards.

Just briefly, and certainly you can read this better than I can, about the training process. When we sort of developed that list of criteria of our perfect interpreters, things came up with understanding the courtroom protocol, which is a whole new thing to learn for those people, the specific ethical dilemmas involved in courtroom interpreting that may be different from other areas of interpreting.

And so using those different criteria in that discussion, we figured: Here's our curriculum. Here are the topics for our training.

And they fell kind of neatly into two categories; one was a legal-based training. Even for many SC:Ls, though the SC:L exam is a national exam, in Washington, process can be different, right?

We wanted to make sure that everybody received training on the Washington court system: What is the difference between municipal courts and superior courts? What are the names of the common hearings that you have or the documents you may see? The ethics, the courtroom protocol, many of those that may be unique to Washington state.

And we understand that a lot of SC:Ls could probably teach this course for us as well, but we wanted to ensure that all people on both Level I and Level II of intermediary and ASL interpreters had access.

So the AOC will be partnering with ODHH to put together the legal side of the training.

>>EMILY HILL: And like Katrin said, there are two sides: She covered the legal side.

This is the legal interpreting part. One of the big things that we discussed was what we called "interpreting in an adversarial setting," meaning not everybody has the same goal. This (pointing) person wants you to trip up and say this, but (pointing) that person doesn't want you to say that, so

everybody's trying to kind of make you say things, and it's very adversarial. People don't have the same goal. They want communication, but they don't necessarily want the same goal in a courtroom.

Things like different interpreter roles in a legal setting. Things that SC:Ls will have the education about, they'll have the experience on, but most of the other interpreters may not have taken some of that training. They may not have that experience.

And so this is required for the Level II interpreters and both intermediary levels, so that they get this experience that often would be taught to or experienced by SC:Ls.

Do you remember the earlier slides that said: What do we want, what do we need, what are our obstacles to getting the SC:L that the interpreters said? They said training.

We're hoping that by providing some of these trainings, will be at least a tool, a tiny tool, to providing a little bit more of that training.

>>KATRIN JOHNSON: Obviously putting together a list of standards doesn't answer all of the questions when it comes to best practices for hiring of interpreters.

It was brought up earlier that people may want SC:L interpreters when it is a murder, or a rape case, or a high-stakes case. That is actually the same conversation that we had in this group.

One of the things we started talking about is: Should we try to identify what are the cases where you absolutely need an SC:L and what are the cases that you don't?

That was a very sticky conversation, because actually it was kind of ironic. The court administrator and judge who are part of our group were saying: "I want to get SC:Ls as much as possible. I don't want to designate some types of hearing as lower status."

It's a very difficult process to be able to identify one type of hearing for one group or the other. And that is because a misdemeanor case for one person may seem insignificant to others, but to that one person, it could have very profound impact.

At the same time, in a rape case, you may have a very short procedural hearing that's going to last 30 seconds. That's not going to have a huge outcome on that case.

It's a very muddled area, and so we couldn't reach any kind of agreement on identifying what is a Level I type of court proceeding and what is a Level II. That's just too sticky.

At the same time, we don't ignore the fact that judges and court administrators need to have a better appreciation for the qualification levels so that they themselves can identify -- well, they know already if this is going to be a significant hearing. There's going to be tough testimony here from expert witnesses or it's a murder or rape case.

And so by giving them these standards, we're hoping they

can use these standards as a tool for making wiser choices.

That's why we created a second part in your materials. Go home and read these. We want your feedback with this. That's called the Comments.

Now, the term the "Comments" is perfect in the judicial world because if you look up statutes, or if you look up court rules, there's going to be a small statute or rule, but underneath it is going to be something called the Comments, and this is what judges are used to. And Comments are a tool to show a practical real-life approach to that statute or rule and to give guidance to judges. It's already a process that judges are used to following and that they respect, so why not take advantage of that? Therefore, we created this Comments section to those standards as an educational tool.

Now, certainly this could probably be a 200-page-long book, so we tried to identify some of the key issues and make recommendations on best practices, and, without going into those specifics too much today, we're just going to highlight the broad topics.

We do want to hear your feedback in there. Are there things that we left out? Do you significantly disagree with the recommendations in there and why? So we can bring that back to the group, because we don't want to be off base from what the communities need.

>>EMILY HILL: And, again, as Katrin said, you will have all of this in your handout, so we're not going to read everything.

But we've just posed the six questions that we thought were very important for the judges to see, things like: What's the difference between a Level I and a Level II? Because alphabet soup doesn't mean anything.

What does SC:L mean? Why do you give it such high respect?

Looking at the difference between a Sign Language Interpreter and an Intermediary Interpreter: educating the judges on why that would be needed.

Looking at whether a deaf individual can request an intermediary interpreter.

How a judge makes a record, that's how they verify that the interpreter is qualified.

And ethics. We had one member specifically who was very, very adamant about needing ethics. The judges need to know that the interpreters are bound by an ethical standard. So we explained some of that in there.

So, again, like Katrin said, please review these and let us know if we're off the mark, on the mark, or need to add things.

>>KATRIN JOHNSON: Next I want to go back to that qualified interpreter definition that's been brought up a few times before and where the group went with that.

Up here on the slide is the current definition in

Washington of a qualified sign language interpreter.

For those of you who can't see it, "a 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" -- and here's my favorite part - "or an interpreter who can readily translate statements of speech-impaired persons into a spoken language."

Let's go back to when I was talking about the funding program and the state funding. We have a strict statute that says in foreign language, courts must use certified foreign language interpreters, so we were able to apply that in our funding.

We took a look at this statute and said: If we follow this statute, we wouldn't even reimburse courts for using SC:L interpreters. This did not provide us guidance.

Up until now with our funding program, we reimburse courts for any ASL interpreter they use, because under today's standards, any ASL interpreter could possibly fall under this definition.

It's that last part: Anyone who can readily communicate. That determination is to be made by a judge. And as much respect as I have for judges, they are not trained on making that type of determination.

Of course, with part of this group, again, the statute doesn't reflect the certifications, has no guidance to the court, and puts discretion on the judges. We couldn't leave that statute as it is because it completely contradicts what we're trying to achieve with this list.

If we were to create a list but leave that statute the same, the statute actually holds more credibility in court. So we need to make sure that there's some connection there.

Therefore, the statute that's being proposed by our group is that a "qualified interpreter means a visual language interpreter listed by the Department of Social and Health Services, Office of the Deaf and Hard of Hearing, as identified in RCW 2.42.130."

If you remember way back to the beginning, the statutes give ODHHS the authority to create a list. So we're basically saying: A qualified interpreter is somebody who is on that list. So that way we complete the circle and fill that gap.

Our goal is to take this not to the 2010 legislature, because we don't have a list of people yet, but instead, during 2010 to begin creating a list, and then take it to the legislature in 2011.

With this new statute, we're hoping that this will create the impetus on the courts to use the interpreters from the list. It gives attorneys better leverage as well for arguing the qualifications of interpreters. It creates that framework, again, for court staff to follow.

And then it allows the experts to identify what is

qualified and who isn't when they don't necessarily have that knowledge.

>> AUDIENCE: Mark Schmitz again.

I have to make a little bit of a complaint here. As somebody that's been under the DSHS system for a while, the list of interpreters maintained by ODHH is frequently out of date and incorrect, and getting it corrected or made current is almost an impossible task, so I'm really concerned that ODHH will be able to, first of all, create an accurate list, and keep it accurate so that as new interpreters want to and are qualified to provide court interpreting services, their names can be added there, or if their certification lapses or some other problem comes, their name could also be removed. It's a very hit and miss system right now.

>>KATRIN JOHNSON: Thank you for that feedback. We're hoping that this is a small enough program, a small enough list so there can be active management on that, but that is part of the implementation piece we haven't gotten to yet.

But, yes, thank you for bringing that forward.

>> AUDIENCE: (Mike Izak) I have to agree with what Mark just said. You have to take control of that list, take it away from the courts and give it to ODHH.

So that's where the payment is involved, so give it to a state agency under DSHS, because it has a long list of -- or a bad reputation for control, so maybe not that. And that doesn't sit well with the court system.

But it's also the responsibility of the interpreters themselves to contact the courts and get their names on the list as well. And then go on from there.

This has been going on for more than 30 years, so why fix what's not broken?

It's not broken. Why fix it?

>>EMILY HILL: Actually, it is broken. And we have.

>> AUDIENCE: (Mike Izak) I disagree.

>>EMILY HILL: I respect that very much, and I'm very glad that you have not had any issues with interpreters in the court system. That's a wonderful thing to hear.

Unfortunately, I have heard a lot of negative feedback. We have seen a lot of negative feedback. Getting feedback from the Deaf Community and from the interpreting community and the court community and everyone else, nobody knows what they're doing.

The interpreter knows that if they're qualified, if they're appropriate (laughter), whatever phrase we want to use right now, if they've got experience in the court system, they know what they're doing, but then when they get into a courtroom with a judge who has never used an interpreter, he or she doesn't know what their qualifications are; maybe this is the deaf individual's first time in court; so there's a lot, a lot, a lot of information that's going on with that.

I would like to move us on to the standard for pay, and

there is -- John, I see your finger.

>> AUDIENCE: (John Allen) Using the last two comments as a spring board, I'm concerned that if we present a list of qualified interpreters to the legislature, we are now going to become even more inflexible to get changes. As Mark points out, we become less dynamic.

>>EMILY HILL: The good thing about that is that the change that we would propose to the legislature is simply the change of the definition of qualified interpreter, because then we have flexibility -- say a new certification comes out. We have the flexibility to change it without having to go to the legislature and say: "We need to change the law again." But that gives us the flexibility and that maintenance, everything that we have so that we're not stuck to -- like right now we're stuck to interpreters being a CSC, a CICT, or whoever the judge says is appropriate. And that's not the world we live in.

We only have about four minutes left, and so I really, really want to get this last part out to you, and then, if we have any time left, we'll take any questions and answers. So I'm just going to push on through here. Hold your question and if we don't answer it, then talk to us afterwards or write it down.

Standards for pay: We started talking about this, going: What do we do? How do you say that an interpreter in Seattle and an interpreter in Ephrata are the same, there's the same needs, the same cost?

How do you do this? Our state is so spread out and so different, east side and west side, and what the needs are.

We realized that one thing that the law says is "standards" for pay. And so we started looking at things like: let's examine what is going to be addressed when an interpreter bills a court, things like pay rates, or hourly minimums. Some interpreters might charge a two-hour minimum. Some might charge a half a day. Things like that where the court system is going to get a bill and say, "Am I being taken for a ride here?" Or they may think, "Okay, this is totally reasonable." They don't have any experience with that.

Travel costs, like mileage or travel time.

Using multiple interpreters. Many times you say: "Oh, we need two interpreters because that's a two-hour hearing." The response is: "Well, why do we need two interpreters?" We face that every day, not just in courts, but every day.

Talking about cancellations and no-shows and interpreters' responsibilities.

Unfortunately, we don't have this document for handout because we have not gotten feedback from everyone yet.

We didn't want to distribute something that was really not toward the production side of things yet.

These are the issues that are addressed; not necessarily saying specifically: "You must pay X amount per hour for every interpreter no matter what," but "These are what you're going to

be faced with."

As Katrin mentioned, we did have a "parking lot." There were a lot of issues that were outside the scope of this workgroup, things like educating judges. Judges don't know everything and that's okay. We can educate them. Things like looking at the RCW and making sure that everything means the same at the end, that it all works together. Looking at the supply of the interpreters, the geographic diversity of interpreters, like I mentioned east side versus west side. There's a big difference. And looking at interpreters for court-related activities, not just court, but court-related things.

So, we have developed this "parking lot." We are developing a report right now that will be sent to the director of ODHHS, Eric Raff, who most of you heard speaking this morning. That report is going to include these parking lot issues so that they can be addressed outside of this workgroup.

That report is due to Eric by mid December. That gives you a time line, too. If you have feedback, get it to us as soon as you can, just because mid December is about a month away.

We should be developing our Legal Interpreting Trainings, the two trainings you heard about to be developed by ODHHS and AOC, by the beginning of next year. This is all still just sort of approximate in that time frame.

As Katrin mentioned, legislative change should be happening in 2011.

And then having the interpreters actually take the training, creating that ever-ambiguous list that will soon actually BE a list by the end of next year, hopefully.

It is now 12:30 on the dot. We have one hour for lunch and I don't want you guys to miss that. I'll be here. Katrin will be here for a little bit longer.

I want to say thank you to everybody. You guys are wonderful. Thank you for your feedback, and if you have more feedback, go ahead and write them down.

>> AUDIENCE: I would like to mention one issue before everybody leaves. I would like to mention one issue. I moved here a year and a half ago from California and I was very shocked that Washington does not often use CDIs or qualified, qualified deaf interpreters. The Deaf Community is really suffering from that. They're having their rights to access postponed while they look at another state or look for a CDI and bring it in.

They should use qualified CDIs. We have them. They have the skills. They may not be certified, but they're qualified. So, what does that mean? We need a resolution to this.

>> AUDIENCE: (Mike Izak) Yep, I agree with him 100 percent, because I've been through that myself.

>>KATRIN JOHNSON: What I would offer is that if there are litigants who are requesting CDIs or attorneys who are requesting CDIs and they are not being provided, contact me. I'm an easy person at the state to get ahold of and I work with courts

everywhere.

>> AUDIENCE: (Mike Izak) I don't think it's going to work.

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