

# The Oregon Supreme Court Council on Inclusion & Fairness

## Meeting Minutes

Date	Time	Location
June 16, 2017	1:00 - 4:00 PM	Tualatin Wildlife Refuge 19255 SW Pacific Highway Sherwood, OR 97140
Members		
Hon. Oscar Garcia (meeting chair) Justice Richard C. Baldwin* Lane Borg† Jeff Hall† John Haroldson†	Helen Hirschbiel Leola McKenzie Kelly Mills Hon. Adrienne Nelson Rep. Tawna Sanchez*	Bonnie Savage* Janet W. Steverson Serena Stoudamire-Wesley* Hon. Eva J. Temple Angelica R Vega

†attended via phone  
\*not present

Guest Presenters
Sarah Christie, Domestic Violence Resource Center Adrian Arias, Contract Spanish Interpreter for OJD Wendell Amstutz, Contract Spanish Interpreter for OJD
Others Present
Justice Lynn Nakamoto, Oregon Supreme Court Daniel Parr, Education and Court Management Division (CECM) Todd Sprague, CECM, Outreach and Communication Analyst Ed Alletto, OSCCIF Staff

## Agenda

Welcome & Announcements	Judge Garcia
<p>Chief Justice Balmer has asked Supreme Court Justice Lynn Nakamoto, to become OSCCIF Chairperson after Justice Baldwin steps down at the end of this year.</p> <p>Five Council members' terms will end before our next meeting:</p> <ul style="list-style-type: none"> <li>– Helen Hirschbiel, Kelly Mills, Janet Steverson and Judge Garcia have all agreed to stay on.</li> <li>– Bonnie Savage has had to decline reappointment.</li> </ul>	

Minutes	Offered By	Result
BE IT RESOLVED THAT, The minutes of the OSCCIF Spring 2017 meeting are adopted without amendment.	Judge Nelson Judge Temple (second)	APPROVED By acclamation

PowerPoint Slides



Discussion

- In Washington County, Law enforcement, the DA’s office and the courts have a history of working closely with DVRC to help victims of domestic violence (DV)
- Many Washington County judges are very knowledgeable about DV issues having attended the *Enhancing Judicial Skills (EJS) in Domestic Violence Cases* workshop sponsored by the National Judicial Institute on Domestic Violence.
- DVRC facilitates almost all FAPA petitions in Washington County. Often when a victim asks for help obtaining a FAPA order, courthouse staff refer them across the street to DVRC.
- DVRC and its partners in Washington County are in the process of setting up a Family Justice Center. The center will be a place where victims can access a range of support and services. It will probably be located in Beaverton for greater ease of access.

**DVRC clients face 3 major barriers to accessing the justice system**

- Financial
  - While fees are not charged to obtain a FAPA order, many DV situations are part of or lead to domestic relations actions where the parties are charged fees.
    - Fee waivers
      - Are handled differently in different counties—some counties routinely refuse them
      - Many people don’t know to ask for them
      - Possible solutions:
        - Have the clerk make an initial determination that the party can then appeal to the judge who can order a waiver
        - Consider deferrals automatic
      - Per Daniel Parr, the Chief is reviewing this now—we can expect changes to current rules and new guidance to courts
    - Payment plans tack on extra fees (also being reviewed)
    - Fees are charged for hard copies of form packets—they can be downloaded for free but internet access can be an issue
  - Necessary documents can be under the control of the alleged abuser and not accessible to the petitioner
  - Free/low cost legal help is in short supply
  - The victim loses their home and is without the financial means to find an alternative because
    - The alleged abuser stops paying rent on their current residence
    - The victim flees their current residence
  - Financial support can be difficult to find:
    - DVRC can help with some costs
      - Housing
        - Pay up front costs for a new place but covering moving and on-going costs is a problem
        - It is often better to keeping people in their current home (DVRC can pay for few months of rent)
      - Document printing
    - DHS is source of funds but willingness to pay varies from case manager to case manager (this is a frequent problem)
- Language
  - In court language services are good but out-of-court services are difficult to find
  - DVRC used to have access to OJD’s telephone interpreting services (Language Line), but that was discontinued, as DVRC is not an authorized user of the OJD contract.
  - Clients needing language services can be sent to the court’s Family Law center—they can handle the paperwork but not service referrals and safety planning
- Fear
  - Victim’s biggest fear is losing their children and their partner taking control
  - ICE – Clients are weighing their safety and the risk of detention
  - DVRC is working with other agencies (Catholic Charities) to address safety planning specific for immigration issues

## DV Forms

- Having forms available on OJD's website is sometimes helpful.
- There are often different versions of a form in different locations causing completed forms to have to be redone and even causing some judges to reject petitions submitted on the wrong form. (Per Daniel Parr, the recent rollout of OJD's new website hopes to solve this problem.)
- The Washington County Courthouse has fill and print kiosks in the Family Law area.
  - They can be helpful if the user's language is on the kiosk.
  - Traumatized victims sometimes want to talk to a person rather than sit and figure out a computer form (sometimes a DVRC advocate sits with the victim at a kiosk)
- Literacy is a challenge for some victims especially when they are in a traumatized state of mind.

## Access to Interpreting vis-à-vis Recent ICE Activity

Kelly Mills, Adrian Arias  
& Wendell Amstutz

### Discussion

Working with interpreters and other stakeholders, the OJD has established policies, procedures and best practices to make access to interpreting services readily available. As a rule, users of court interpreting services have expressed gratitude, appreciation, and even relief when the interpreter introduces him/herself before a proceeding in order to confirm the need for language services and to establish communication.

In light of current local media reported immigration enforcement activities, and in response to the OJD Chief Justice's letter to Homeland Security and the USDOJ urging inclusion of courthouses as "sensitive" locations (dated 4/6/2017), OSCCIF heard anecdotal evidence from two contract interpreters, Adrian Arias and Wendell Amstutz. Interpreters report that some LEP court users' and attorney attitudes and behaviors regarding accessing services are changing and impact both the interpreter's courtroom protocols and LEP person's access to justice. For some, interpreting services have come to be seen as a red flag that might promote unwanted Federal agent scrutiny of the LEP party. Some court language services are now being refused, and some parties avoid court proceedings altogether. It has lead us to wonder if CLAS should advise interpreters regarding courtroom protocols and how to apply them in the current climate.

- Anecdotal Accounts:

"I've always tried to be proactive on my assignments from CLAS in the Circuits Courts when it comes to identifying parties on cases that are set for the same courtroom where I am assigned . . . I go through the printed docket in the hallway, writing down names and case numbers which have names that indicate the possibility of a second language spoken, in case a need arises. I also ask plaintiffs, witnesses, and in-custody and out-of-custody defendants in the courtroom if they would prefer to use an interpreter, believing that this was best practice for the general functioning of the court.

"Recently however, I asked an attorney and his client, on a CLAS identified need case, if they would be using an interpreter. The response: "We didn't ask for an interpreter and would prefer not to draw attention to the fact that an interpreter was used on this case." At a later matter, I asked a defendant if he would prefer to use an interpreter. The attorney asked me, I believe in jest, "Why are you speaking to my client?"

These recent experiences leave me convinced of the need to reassess my approach. I didn't ask questions of anyone else at later assignments. I probably won't until the cases are called and an interpreter requested by the court."

— Adrian Arias, Oregon Court Certified Spanish Interpreter

"Just had one of the more unnerving experiences of my career interpreting in court: my client was arrested by ICE leaving his set-over hearing...right under his attorney's nose! The 3 guys sitting in the bench across the aisle were undercover ICE men. As soon as we went out the courtroom door, they asked defendant his name and if he spoke English, looking to me to...interpret? Yo, chiton [Me? no way!]. The defendant stated his name and they stated he was under arrest as the lead official flashed his badge. His defense attorney still didn't realize what was going on before they hustled him into the elevator, then one official ducked back out to tell the attorney 'he'll be here for the hearing'. Gone." [excerpted from a court interpreter listserv post made in January of 2016.]

— Wendell Amstutz, Oregon Court Certified Spanish Interpreter

### Requested Council Action

As CLAS Program Manager, Kelly Mills asked that one or two Council members join a small work group to assist in preparing written guidance for interpreters as to the appropriate ways to assist the court in ensuring court proceedings are accessible to LEP parties in the current immigration enforcement climate.

### Conclusions

At this time, the Council recommended that Kelly Mills request further input from interpreting service stakeholders (including members of the Council) to deliver interpreter guidance and to collaborate with the Offices of Public Defense Services and Metropolitan Public Defender Services to ensure that eligible public defense clients receive quality representation, including court language services. She may then bring the results back to the Council for further action.

<b>Report from the NCREF Conference</b>	<b>Judges Eva Temple &amp; Adrienne Nelson</b>
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<b>Discussion</b>	Link to the conference agenda: <a href="http://www.national-consortium.org/Conference/2017-Conference/Schedule.aspx">http://www.national-consortium.org/Conference/2017-Conference/Schedule.aspx</a>
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Judges Temple and Nelson and Ed Alletto represented OJD at the National Consortium on Racial and Ethnic Fairness Conference in St. Louis May 14<sup>th</sup> – 17<sup>th</sup>.

The team presented ODJ’s 2016 Status Report on racial, ethnic, inclusion and fairness activities:



2016 Oregon Status Report for NCREFC.p

The 2 best presentations at the conference were:

- How to Use Data Wisely to Make Our Criminal Justice System More Just — Veronica S. Smith, founder of [data2insight](#)  
 People and organizations are drowning in data and starved for wisdom. They need to use information to increase understanding of what programs or services are working and not working for whom, to what degree, when and where. Then they can make evidence-based decisions that will increase desired impact. Also, evidence-based conversations with stakeholders, shareholders, potential funders, participants and customers are essential for learning and continuous improvement.
- Structural Racism — John Powell, Executive Director of the [Haas Institute for a Fair and Inclusive Society at UC Berkeley](#)  
 The law is individualistic, but most unfair outcomes are not caused by individuals. Institutions that are structurally racialized produce racialized outcomes. In order to eliminate racialized outcomes, we must look at the systems and patterns of structural racism.

During the conference, the team arranged a consultation with Patti Tobias, NCSC Principal Court Management Consultant. Patti met with Justice Baldwin and Kelly Mills 3 years ago and did some research that contributed to the establishment of OSCCIF. She offered to do the same this year. It was agreed that OSCCIF would formulate 5 to 10 inclusion and fairness research questions or issues and Patti would report back on how other states have answered those questions or dealt with those issues.

The team makes three recommendations:

- OJD should send a team (from OSCCIF) to the NCREF conference every year and at least one member of the team should have attended a past NCREF conference.
- Each OSCCIF subcommittee should formulate 2 to 3 research questions or issues to be submitted to Patti Tobias.
- John Powell & Veronica Smith should be considered to present at an OSCCIF meeting.

<b>Report on Multnomah Listening Sessions</b>	<b>Judge Adrienne Nelson</b>
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<b>Discussion</b>	<div style="display: flex; justify-content: space-around; align-items: flex-start;"> <div style="text-align: center;">               Multnomah County Circuit Court Listening           </div> <div style="text-align: center;">               PerceptionsOfJustice Toolkit.pdf           </div> </div>
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# OSCCIF Calendar

<b>Event</b>	<b>Date &amp; Time</b>	<b>Location</b>	<b>Contact</b>
<i>Justice for All</i> planning process webinar	July 31st 4:00 pm EDT	Online	Shelley Spacek Miller, <a href="mailto:sspacek@ncsc.org">sspacek@ncsc.org</a>
OSCCIF Fall Meeting	Fri. 9/15/2017 1:00 pm to 4:00 pm	Bend (details to be determined)	<a href="#">Ed Alletto</a> , OSCCIF Staff
OSCCIF Winter Meeting	Fri. 12/15/2017 1:00 pm to 4:00 pm	TBD	<a href="#">Ed Alletto</a> , OSCCIF Staff
OSCCIF Spring Meeting - 2018	Fri. 3/16/2018 1:00 pm to 4:00 pm	TBD	<a href="#">Ed Alletto</a> , OSCCIF Staff
OSCCIF Summer Meeting - 2018	Fri. 6/15/2018 1:00 pm to 4:00 pm	TBD	<a href="#">Ed Alletto</a> , OSCCIF Staff
OSCCIF Fall Meeting - 2018	Fri. 9/21/2018 1:00 pm to 4:00 pm	TBD	<a href="#">Ed Alletto</a> , OSCCIF Staff
OSCCIF Winter Meeting - 2018	Fri. 12/14/2018 1:00 pm to 4:00 pm	TBD	<a href="#">Ed Alletto</a> , OSCCIF Staff
Members are encouraged to forward information about relevant events to Ed so he can share them with the Council and add them to the calendar.			