

Enseñanzas

DE LA COMUNIDAD:

LESSONS FROM THE COMMUNITY

Draft - Preliminary Findings

Locked Up by Language

Across the country, Latino youth are dramatically overrepresented in the juvenile justice system, or are subject to **Disproportionate Minority Contact (DMC)**. DMC occurs when the number of minority youth in the justice system represents a higher percentage than their representation in the general population.

Consider:

- Latino youth are at least **2.3 times** more likely to be held in juvenile detention than white youth.¹
- Latino youth who are found guilty of drug offenses are admitted into custody at **13 times** the rate of white youth.²
- 21% of Latino youth are detained or committed in public facilities with only 12% in private facilities. This is compared to 45% of white youth in private facilities and 35% in public facilities. **This is the biggest inequity of any race/ethnicity.**

While these statistics already demonstrate a great disparity, they may not tell the whole story. These numbers are at best an estimate of Latino representation in the juvenile justice system because many data systems fail to disaggregate ethnicity from race, thus Latino youth are often counted as white or another race. This omission blurs the real impacts and numbers of Latinos who receive harsher and longer sentencing for the same crimes as their white peers.

In the mid 1990's the John D. and Catherine T. MacArthur Foundation began the *Models for Change* initiative – one that would reform the juvenile justice system by developing replicable, system-wide changes in states that could serve as models for reform in other jurisdictions.³

¹ Census of Juveniles in Residential Placement, Office of Juvenile Justice and Delinquency Prevention (OJJDP), 2003

² Juveniles Taken into Custody Research Program, OJJDP, 2003

³ Models for Change Overview, July 2006

In 2006, the National Council of La Raza (NCLR) formed the **Latino Juvenile Justice Network (LJJN)**, providing a Latino focus for the *Models for Change* project. There are LJJN's in the four key states chosen by the MacArthur Foundation: Washington, Illinois, Louisiana and Pennsylvania. Congreso de Latinos Unidos was selected as the lead convener for the state of Pennsylvania. Current research indicates that Pennsylvania, particularly Philadelphia, where the highest numbers of Latinos in the state reside, has a high incidence of DMC necessitating the advocacy and action of an LJJN that seeks solutions to this inequity.



According to the 2002 Human Rights Watch report, the index of over-representation⁴ for Latino youth in detention centers in Pennsylvania is 4.5.⁵ Latinos are again over-represented by an index of 5.9 for incarceration in adult penitentiaries.⁶ This trend can also be observed locally in Philadelphia, where the highest numbers of juvenile drug arrests

⁴ The index of over-representation is found by dividing a proportion of youth at a particular stage of the justice system by the proportion in the general juvenile population. An index of 1.0 indicates that the proportion of youth at that stage of the system is the same as the proportion of that group in the general population.

⁵ Nancy Walker, Francisco Villaruel. *¿Dónde está la Justicia?* (Institute for Children, Youth and Families: Michigan, 2002). Pg. 3

⁶ *ibid*

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for the city occurred in Kensington, an area that is heavily Latino.⁷

The LJJN Philadelphia has worked to address the root causes of DMC by partnering with local community-based organizations and community stakeholders to provide public education forums, organize advocacy campaigns from the local to the federal level, and learn about the processes of local systems that involve Latino youth in order to more effectively advocate for changes in these systems.



The LJJN's most recent advocacy campaign has been to research and address how language barriers can perpetuate the systematic overrepresentation of Latino youth in Philadelphia's juvenile justice system, specifically when youth have parents who identify as Limited English proficient (LEP). As an organization with more than 30 years of experience working in the Latino communities of Eastern North Philadelphia, Congreso has a history of working with youth and families involved in the court system. Acting as intermediaries for clients who do not speak English has often been a part of our work. Our experience and dedication to strengthening Latino

⁷ 2004 Community Report Card, Philadelphia Safe and Sound

communities uniquely positioned us to implement a research project that would closely examine the connection between language access issues and the over-representation of Latino youth in Philadelphia's juvenile justice system. The LJJN's advocacy initiatives were directly informed by the findings and needs identified in this research. While this executive summary outlines the major findings of this research, the next issue of Congreso's *Enseñanzas* will provide detailed results and recommendations of this research.

However, before launching into the research findings in Philadelphia, it is necessary to understand the history and social context of language access issues and how they relate to issues of juvenile justice and civil rights in general.

A Brief History of Language Access

For hundreds of years families have come to the United States from other countries. First and second generations usually retain their native tongue. However, as time passes, later generations begin to adopt some aspects of American culture and traditions, and of course, language.

Under the **Civil Rights Act of 1964 (Title VI)** recipients of federal funding are forbidden from "restricting an individual in any way of any advantage or privilege enjoyed by other receiving any service, financial aid, or other benefit under the program"⁸ **This provision by law guarantees persons living in the United States meaningful language access in all federally funded systems, including schools and courts.**

⁸ Duong, Tueyt, and Jamaal, Sam ed. *Language Rights: AN integration agenda for Immigrant Communities: Briefing Book* (The Mexican American Legal Defense and Educational Fund and The Asian American Justice Center, 2007) Pg. 10

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However, many times translation services that are required by law are not available or are not taken advantage of by those who need interpretation. Often, it is children or young people who end up translating for their parents or older relatives as they often pick up new languages more quickly. And while this system of “Unofficial Translation” is in many ways more comfortable and can seem easier for parents, it can lead to a host of problems when adults and youth need to interact with public service systems. It is at this intersection of public systems and language access where the LJJN focused our research.

Recognizing the importance of parental involvement in juvenile cases, and given the level of “unofficial translation” that occurs in our community – despite federal mandates guaranteeing interpretation services – the LJJN’s research explored how Spanish speaking parents participate in the public school and Family Court systems – two places that have significant decision making roles in the lives of Latino youth who become engaged in the juvenile justice system. The following questions guided much of the research design.

- Unaddressed disciplinary problems in the public school system can escalate and lead to a referral that ultimately “enrolls” youth in the system. To what extent are LEP parents able to communicate with schools to address more minor disciplinary issues; are preventable language barriers connecting youth to the juvenile justice system?
- VERA’s groundbreaking study showed that there is a relationship between parent participation, language barriers, and harsher sentencing.⁹ Parental involvement plays a critical role during court proceedings, and the

⁹http://www.migrationinformation.org/integration/language_portal/files/VeraInstituteJustice_CONCEPT_PAPER.pdf

inability of a parent to communicate with a juvenile’s representative or with the judge can negatively impact decisions made on their behalf. Once a young person is already involved in the juvenile justice system, do their parents have adequate access to bi-lingual resources or interpreters in court?

Methodology

To investigate possible answers to these questions, from October 2007 to June 2008 Sam George, a Stoneleigh Junior Research Fellow who came to Congreso via the United Way of Southeastern Pennsylvania partnered with the LJJN to conduct over 30 interviews with key players in the juvenile justice system, including the Chief of Juvenile Probation, court interpreters, and probation officers. He also interviewed case managers and Spanish speaking families who have had experiences in the Philadelphia juvenile justice system. Sam shadowed caseworkers in Latino neighborhoods to gain a better understanding of the overall system so that he could appropriately evaluate where gaps in services are occurring.

Summary of Research Findings

A close examination of language access resources available to LEP parents in the School District of Philadelphia and the Philadelphia division of Family Court revealed that both institutions have some language access infrastructure in place. However, in both cases, our research indicates that the infrastructure is not meeting the needs of the communities they are intended to serve. The reasons for this appear to be twofold:

- **Available resources (interpretation, translated documents) are not adequately publicized,** such that communities who would make use of

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translated documents or interpreters do not know that these materials are available. Without knowing their availability, they do not request them.

- **The resources provided fall short of the real need.** Due to low demand, systems providers feel that their services are adequate and that they are meeting the need of the LEP population. However, as stated above, the lack of publicity for these services means that most LEP persons are unaware that services for translation/interpretation are available and do not request them. Therefore, the real need is much greater than the perceived need by service providers.

Language Access in Philadelphia Public Schools

Parents communicate with schools via written communications, parent-teacher interactions, and parent-administration interactions. For LEP parents, each of these methods of communication can become nerve-wracking, frustrating and confusing experiences due to issues of language access.

Written Communications:

These are the primary means of communication between the school's administrators and parents. As one bi-lingual case manager explained in an interview, "Throughout Philadelphia, the primary means of communication between schools and parents comes in the form of letters from the school to the youth's residence. The availability of such letters – or to interpretation of these letters – is critical, because they contain important information such as student evaluations, or notice of disciplinary action, such as truancy. Sending them in English to Spanish-only parents is equivalent to not sending them at all."

The School District has an office of Language, Culture, and the Arts (OLCA) that translates all

official district documents into the city's eight most widely represented languages. An OLCA Language Access Coordinator stated that it is the School District's policy to provide translation for non-English speaking parents, but he also acknowledges that the system is far from perfect, "Distribution has been a problem; it can be hard to pinpoint who needs what." The OLCA office only translates letters from the School District headquarters "believing that for the most part, internal letters should be translated at the school level before they are sent home."

I can have some letters translated into Spanish because we have Spanish speakers on staff...But what am I supposed to do about the handful of Chinese people in this school? I can't translate a letter into Mandarin or Cantonese, and neither can anyone else here.

While it would be ideal to provide translated forms of all school communications, the principal of Thomas Edison High School explained that this is simply not feasible. "I can have some letters translated into Spanish because we have Spanish speakers on staff, or I can translate them myself. But what am I supposed to do about the handful of Chinese people in this school? I can't translate a letter into Mandarin or Cantonese, and neither can anyone else here." In an effort to address language issues of this kind, schools sometimes do make an effort to hire bilingual staff to communicate with parents when their areas have significant representation from a particular population. However, despite these efforts many schools are unable to adequately address language needs with such an informal system.

While Edison is able to provide some translation due to their bilingual staff, on a school-by-school

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basis, there is no guarantee that letters sent home to parents about a student's disruptive behavior in class on a given day, an unexcused absence, missed assignments, or that another indicator of worrisome behavior will be sent home in a language other than English. As these kinds of individual notices accumulate and parents are not able to intervene due to lack of understanding of the situation, a student could eventually be referred to a case manager or to DHS and truancy court, where a student begins to develop a "record."

Parent-Teacher and Parent-Administration Interactions

The OLCA office has developed the Bi-Lingual Para-professional position, whose role is to develop relationships with non-English speaking communities in the school's area and to be a support for LEP parents in communicating with teachers and administrators.

In theory this position would do wonders for schools with significant non-English speaking populations. Interviews with members of The Southeast Asian Mutual Assistance Associations Coalition (SEAMAAC), and Juntos, two community organizing groups that work with Southeast Asian and Latino immigrant populations in Philadelphia, quickly found that community members feel this position is sorely understaffed, and the bi-lingual para-professionals are spread so thin that they do not have the opportunity to "know" the communities they are working in. Due to this lack of availability parents often do not have the opportunity to make use of their services on a frequent enough basis.

The rapidly growing Latino South Philadelphia area¹⁰ is an especially pronounced example of

these findings. The quick and recent growth of this population seems to have left the School District unprepared and unable to accommodate their linguistic needs.

In the South Philadelphia area, seven district schools are more than 10% Latino and the numbers are growing. Nonetheless, all of the schools in South Philadelphia continue to share just four Spanish-speaking interpreters. **As a result, a Spanish-speaking mother at Kirkbride Middle School – which is 18.1% Latino¹¹ – may have to wait up to six days to communicate with her child's school.** Because many parents in this community work long and sometimes unconventional hours, one interpreter once a week is ineffective.

While the Latino community in South Philadelphia continues to grow, language access options have actually decreased, ostensibly due to budget cuts. Budget cuts in the 2006 fiscal year reduced the number of bilingual para-professionals district wide from 78 to 58, despite the growing LEP population in the city. A few years ago, Nebinger High School in South Philadelphia was 8% Latino, and employed two interpreters three times a week. The Latino population has since doubled, but Nebinger currently has only one interpreter, once a week.

To meet the language access needs of the Philadelphia community, the OLCA office has also established **two language hotlines** that each have services in the eight major district languages.

- The first line is an automated menu where parents can leave messages with any concerns, questions or complaints, and wait to

www.hsp.org/files/latinophiladelphiaataglance.pdf. Accessed July 8, 2008

¹¹ https://sdp-webprod.phila.k12.pa.us/school_profiles/servlet/, Accessed June 23, 2008

¹⁰ "Latino Philadelphia," The Bach Institute for Ethnic Studies of the Historical Society of Pennsylvania.

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receive a return phone call. This is a relatively simple but useful service. However, when called, callers had to navigate through an English language menu and “press 2 for Spanish.” This is clearly a rather ineffective tool for non-English speakers.

- The second language line exists for parents and teachers to help bridge language differences. For perhaps obvious reasons, conference calling in a per diem interpreter is rather impersonal and not ideal when sensitive issues are on hand. However, it is a good source for immediate language access, and particularly in schools where there are few other language access options. Unfortunately, few parents or teachers interviewed had heard of the number.

Academic institutions must provide every opportunity for parents to be involved, informed and able to intervene at the first instance of a child’s truancy or misbehavior. This includes making sure that channels of communication are available from qualified sources. Early intervention can prevent many students from being involved in the juvenile justice system. It is critical that language barriers do not impede opportunities for early intervention.

It is important to note that the services that OLCA and the School District of Philadelphia attempt to provide are, in theory, excellent, but research quickly demonstrated that the day-to-day reality of the programs fall short of expectations, such that language barriers are still a problem for Spanish speaking communities.

If Latinos, who are the largest language minority in Philadelphia, encounter such significant barriers in communicating with their children’s academic institutions, what of the other seven major languages represented in the Philadelphia School District?

Language Access in Philadelphia’s Family Court

The relationship between DMC and of language access is incredibly apparent in Philadelphia’s Family Court. The availability of accurate interpretation is of the utmost importance for parents to understand and participate in the proceedings. It is well known among service providers and professionals who work with youth involved in the justice system that judges are heavily influenced through interactions with parents. If it appears to the judge that the youth’s parents are “uninvolved,” youth may often receive harsher sentences, such as being sent to out of home placement. It is critical that language not be a barrier during such critical decision making points.

The LJJN’s research at the Family Court in Philadelphia has found that unofficial translation at Family Court is the norm, rather than the exception. It has also found a major disconnect between what services are available and what services are actually accessible to families as related to interpretation.

- Unofficial Translation is the Norm

Family Court hears cases in which youth have been charged with a criminal act. At this critical juncture it is vital that parents are able to understand court proceedings and provide input as to the status of their child. LEP parents face particular challenges in the court setting and translation should be readily available to assist them and their children in understanding the court proceedings.

Interviews with court interpreters emphatically warned against the practice of unofficial interpretation, which occurs when anyone other

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than a court appointed interpreter provides interpretation for a youth or guardian during the hearing. Unofficial interpreters are often case managers, family members, neighbors, and at times, the youth him or herself. Court interpreters were clear that not only is unofficial interpretation *illegal*, but it can also be dangerous because they “don’t have the proper legal authority to interpret for the court. If you are not instructed on proper protocol and terminology, unofficial interpretation can actually be detrimental courtroom proceedings.” This is supported by the PA Supreme Court, which stated that **“when unskilled interpreters appear in court, the LEP party is likely to comprehend only part of what is occurring. The interpreter may fail to interpret some portion of the case, may fail to summarize what is being said, or may interpret erroneously.”**

However, when case managers – who frequently provide interpretation for clients – were asked about this practice, they stated quite clearly **“I have never seen a translator at Family Court. Every time I’ve been there, either the youth or case manager translates for the parent.”** While we are aware of the existence of one court interpreter, over the course of the research, the researcher was never had the opportunity to witness an interpreter translate for a juvenile or parent.

Many caseworkers were able to attest to having been the interpreters at Family Court hearings. **While translation by caseworkers is done with the client’s (and family’s) best interests in mind, this can be severely detrimental to court proceedings, and places an undue burden on caseworkers.** In some cases, the communications between the judge and case manager are even more important than communications between parents and the judge. Judges often look to caseworkers or managers to present the most balanced and objective assessment of the youth’s situation. The caseworker’s job is essentially to represent the

family and argue for the best resolution for everyone involved. In cases involving LEP parents, case workers must interpret from the judge to the parents, from parents to the judge, make sure the youth involved is following the proceedings, and still fulfill his or her role as a representative and advocate.

A Public Defender stated in an interview that **“At Family Court, if the attorney does not ask the parents if they need interpretation, no interpreter will be provide. I don’t think many attorneys realize that they need to do this.”** This leaves parents uninvolved; they are present merely as spectators, rather than as vital contributors to their child’s case as is the case when the parents are English speakers and can easily interact with the judge.

In short, unofficial interpretation can detract from the quality of representation and communication for LEP families, and lead to harsher sentencing for Latino youth, perpetuating DMC.

- There is a major disconnect between what is available and what is accessible to families as it relates to language interpretation services in Family Court.

The Family Court of Philadelphia provides one full time interpreter for families that need interpretive services in Spanish. Interviews with this court staff suggest that one interpreter to serve the court is more than adequate. In fact, he stated that at times, there was little work to be had. In the interview, he mentioned that he occasionally brings a book to work in case it is a slow day. When asked when interpretation services might be an issue, one employee replied that access to services would only be an issue if the interpreter were “out sick,” or if a case manager had not made prior arrangements for interpretive services when needed.

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In the same interview, the interpreter clearly stated that **interpretation services at Family Court are first come, first serve**. Scheduling interpretation ahead of time does not guarantee that interpretation will be available when a case is called. If interpretation is not available, the client's case will be put on hold until the interpreter becomes available later that day, or as occasionally happens, the case will be re-listed and the family would need to miss another day of work for the case, which is not an option for some families. The interpreter did not feel that this would be a cause for concern. The interpreter described the process for determining who requires interpretation: "The court crier will ask the family on the way to the courtroom if they need interpretation," he explained. According to observational research in Family Court over a period of months, and supported by many bilingual case managers, this process rarely identifies who needs interpretation.

As one public defender put it, "At Family Court, a full time interpreter is always available, but **people need to know to ask for the service**. **If people don't ask, the interpreter won't be called into court.**" He also noted that one of the problems with requesting interpretation is the delay, saying "you may need to wait an hour or more for the interpreter. Sometimes when you stop the hearing to make the request, eyes will roll, or you will hear sighs from the pit staff, but who cares? It's that important."

Without interpretation services, non-English speaking parents become silent observers as their children move through the judicial system. "**I've had mothers leave the courtroom and ask me [in Spanish], 'Where did they take my son?'**" commented one bilingual probation officer. "These parents are present in the court room but

they are not represented and often do not understand what the judge has ruled."

Interpretation for parents from a qualified professional in Family Court is of the utmost importance. Qualified Interpretation can reduce DMC by opening avenues of communication between judges and parents, allowing the judge to fully understand the domestic quality of life [is that a phrase?] for a young person. It allows parents to fully understand important decisions being made surrounding the welfare of their child. Unofficial interpretation from family, friends or caseworkers puts an undue burden on professionals attempting to act in the best interests of the family, and also leaves families open to unintentional misinterpretation and confusion, all of which can be detrimental to a youth's proceedings, perpetuating DMC for Latino youth.

The problems in Family Court are much the same as those in the public schools of Philadelphia. Although systems are technically in place, they are under serving our communities. What resources are available are virtually unknown to case managers, much less to community members and parents, all of which leave the door open to unofficial interpreters who do their best to bridge the language gaps.

Recommendations

- [For Systems Providing Language Access Services](#)

It is not enough to implement systems that provide interpretation or translate written documents for LEP communities. These systems are useless if they are not made widely available to the people that need them. The LJJN recommends that Philadelphia public schools and the Family Court division launch a campaign to publicize their available services to LEP communities.

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Offices providing interpretation and translation should collaborate with community based organizations and other service providers who can refer clients and community members to these services.

Once use has increased, systems should conduct a survey among LEP citizens to ascertain the services needed both in type and quantity.

- For Community Based Organizations working with LEP Communities

Make sure that clients know their rights to Language Access.

Incorporate education into regular interactions, hold “Know Your Rights” workshops (www.congreso.net/advocacy) that reach out to the surrounding area, and encourage clients not only to know their rights, but to **feel comfortable exercising them.**

Distribute Queue cards¹² that contain information in English and Spanish, reminding the individual of their right to meaningful language access. These cards should (where possible) provide individuals with a phone number to call for accessing official interpretation services. It can be used with legal authorities, in schools, and in courtrooms to ensure that these officials also understand the rights of LEP citizens.

Advocate for Improvements.

When citizens begin to request interpretation as is their right, if inadequacies are revealed, organize with other community based organizations and community members to highlight these deficiencies to systems. Provide solutions, and if

¹² www.congreso.net/advocacy

necessary, inform media and local legislators who could have an impact on these problems.

Conclusion

In short, the fight for qualified, adequate interpretation and translation is about fair and equal access, a basic right granted to persons residing in the United States of America, regardless of race, ethnicity, or other attribute. The current results of research into the availability of resources for LEP parents in Philadelphia public schools or the division of Family show that although resources are technically in place, in type and quantity and quality, they fall short of the needs identified by community members, case managers, and officials who interact with persons who would utilize these resources, were they made readily accessible.

The Spanish language is spoken in the home by millions of Latinos around the country. It is indeed, America’s “second language.” Despite the overwhelming presence of Spanish in our day-to-day lives in this country, Latino parents are still unable to communicate with government systems that make major decisions regarding the welfare of their children.

What is perhaps of the most concern is that if Latinos, who are the largest minority in the country, find that language barriers can contribute to the overrepresentation of our youth in the juvenile justice system and can deny parents involvement in their child’s development, what of the millions of other Americans who speak languages less prevalent than Spanish? How do language barriers affect these communities?

The federal government has ruled that a responsibility exists for federally funded systems to provide meaningful language access to LEP

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individuals. Legislation is only the first step, if anything, this research clearly shows that the systems created to fulfill these mandates are a wholly different matter and require much more careful, perspicacious implementation than Philadelphia has experienced thus far.

While some critics may say that one approach to addressing the language access issue would be for every immigrant parent to learn English, we must also recognize that if a person does not know English, it is their civil right to have access to translation services, particularly at critical junctures in their lives or in the lives of their children. It is not realistic to assume that every government employee be fluent in multiple languages, or that every written document produced by a service provider be written in multiple languages. The line between what should be translated and what is not necessary is definitively gray. Nonetheless, the fact remains that it is unacceptable for parents to be denied agency, voice, and the ability to participate in decisions that can have impact their child over the course of his or her lifetime. The onus is upon these systems to ensure that they have made every possible effort to remove language barriers at these decision-making junctures, such that they have not wrongly or too harshly sentenced a juvenile.

In summation, the study in Philadelphia, will hopefully act as a case study that can support the growing recognition of language access needs nationwide. We hope that the full *Enseñanzas* will further act as a testament for how advocacy and action can and will effect systems change as we continue our advocacy campaign around this issue.