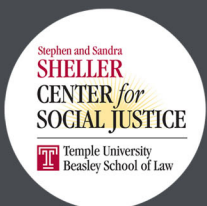


# UNFINISHED BUSINESS:

The Continuing Challenge for Limited English Proficient Individuals in Pennsylvania's Minor Courts



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### **Social Justice Lawyering Clinic, Sheller Center for Social Justice**

#### **Temple University Beasley School of Law**

The Social Justice Lawyering Clinic at the Stephen and Sandra Sheller Center for Social Justice is a student clinic at the Temple University Beasley School of Law. Students at the clinic learn first hand about social justice issues that directly impact local communities, through legal representation, community education, and policy advocacy.

### **Farmworker Legal Aid Clinic**

#### **Villanova University Charles Widger School of Law**

The Farmworker Legal Aid Clinic is a community lawyering clinic that represents low wage agricultural workers and their families, and also provides legal support for organizations working to empower immigrant workers and end systemic injuries impacting these communities. The goal of FLAC's legal work is to support mobilized workers to lead movements that will achieve lasting and sustainable social change.

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## ACRONYMS AND ABBREVIATIONS USED

AOPC: Administrative Office of Pennsylvania Courts

DCA: District Court Administrator

DOJ: Department of Justice

LAP: Language Access Plan

LEP: Limited English Proficient

MDJ: Magisterial District Justice

MET: Monitoring and Evaluation Team

MOU: Memorandum of Understanding

PFA: Protection from Abuse

UJS: Unified Judicial System

## EXECUTIVE SUMMARY

*Late on a Monday morning, a Spanish-speaking mother sat alone in court for her daughter's truancy hearing. Although this was her second appearance in front this judge, the court scrambled to find her an interpreter. After waiting on hold with a telephone service for one minute, the judge announced there was no one available and disconnected. A school representative offered to get a Spanish-speaking employee on his cell phone, but she did not answer his call. The judge asked an observing law student if she spoke Spanish. Finally, a bilingual speaker was found in the court's waiting area and brought into the courtroom. The judge did not ask this person about their qualifications but proceeded to allow her to interpret at the hearing.*

A Limited English Proficient (LEP) party should not have to rely on a non-professional interpreter by default. Federal and state laws require the use of interpreters at Pennsylvania criminal, civil, and administrative hearings involving an LEP party or witness. The Pennsylvania Interpreter Certification Law of 2006 further specifies that certified interpreters should be used during court proceedings. An LEP party's inability to properly understand the proceeding before them jeopardizes their ability to present evidence and make informed decisions about their case. As a result, a court's failure to adhere to the language services obligations could result in unfair outcomes to LEP parties and undermine Pennsylvania's judicial system as a whole.

In 2015, Temple's Sheller Center published a report about language services offered by various Magisterial District Justice (MDJ) courts across the state. The report concluded that MDJ courts did not consistently meet their language services obligations. It cited examples of courts using prisoners or prison staff to interpret at a criminal hearing and failing to provide free interpretation for civil hearings. Since that time, each judicial district has adopted a Language Access Plan (LAP), which states how the courts will

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provide language services. The Administrative Office of Pennsylvania Courts (AOPC) has also engaged in statewide training for MDJs.

Given these changes, we conducted this follow-up investigation to see whether MDJ court compliance in select areas had improved over the last couple of years. To do so, we went to nineteen different MDJ courts in Montgomery, Delaware, and Chester counties for approximately 70 hours of observation and inquiry. We observed a number of hearings with LEP parties, as well as interactions between court staff and LEP individuals. Further, we spoke with MDJ judges and staff about their court's policies for providing language services.

Our results show that the treatment of LEP individuals continues to vary widely between courts. Specifically, the majority of investigated courts failed to provide certified interpreters for civil hearings. Staff also did not consistently provide interpreters when speaking with LEP individuals at the front desk nor did they uniformly provide notice of the right to language services. A minority of courts, however, were observed to provide exemplary language services.

This inconsistency between courts meant an LEP individual's access to a court was dependent on the geographic location. We believe that these inconsistencies derive from several factors, including the lack of incentive to adhere to language service obligations, the lack of consistent procedures, and the influence of MDJ judges' personal commitment to the rights of LEP individuals overriding legal requirements.

As recommendations, we look towards the auspicious Unified Judicial System LAP issued by the Supreme Court in March of 2017. It details the steps that courts must take to provide quality language services. To further ensure that the LAP is effective in changing the non-compliance of MDJ courts, we offer some additional recommendations. They underline the need for: (1) effectively designing training for court staff and judges; (2) standardizing language services procedures; and (3) providing meaningful oversight and enforcement by the Supreme Court and AOPC.

## BACKGROUND

Federal law has long guaranteed Limited English Proficient (LEP) individuals language services in state judicial proceedings. In 2006, Pennsylvania enacted its own law, the Pennsylvania Interpreter Certification Law. Most recently, the 60 judicial districts and the Pennsylvania Supreme Court released language access plans that further delineate how these services should be provided.

### Legal Requirements

The right to an interpreter in court proceedings is a core element in ensuring the right to due process of law for LEP litigants, and is protected under both federal and state laws. Federal safeguards for LEP rights arise out of the Equal Protection Clause and Title VI of the Civil Rights Act of 1964. Title VI states that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”<sup>1</sup> In 1974, the U.S. Supreme Court clarified that Title VI protections against national origin discrimination prohibit conduct having a disproportionate effect on LEP individuals.<sup>2</sup>

The Department of Justice (DOJ) has issued guidance regarding Title VI that specifically addresses courts’ responsibilities to provide language services.<sup>3</sup> Because Pennsylvania Courts receive federal funding, they fall under Title VI’s requirements and must comply with DOJ’s prescriptions. These include providing free competent and timely interpretation and free translation of vital written materials.<sup>4</sup> Language services obligations exist in all court proceedings, whether criminal, civil, or administrative,<sup>5</sup> and are particularly necessary in courts that see a high number of unrepresented individuals.<sup>6</sup> These responsibilities also extend to services outside the courtroom, such as interactions with front desk staff, cashiers, and records rooms.<sup>7</sup> Courts are

responsible for providing notice of language services, which may be accomplished by posting translated signs and training staff to identify LEP individuals.<sup>8</sup>

Pennsylvania Courts have additional language services obligations under the "Pennsylvania Interpreter Certification Law."<sup>9</sup> This law passed in response to a Pennsylvania Supreme Court report on Racial and Gender Bias in the Justice System (Bias Report).<sup>10</sup> Invoking the due process clause, the Bias Report concluded that LEP parties faced substantial barriers in accessing courts and receiving a fair hearing.<sup>11</sup> The statute and implementing regulations, therefore, mandate when and how language services should be provided. The statute also establishes an interpreter certification program through the Administrative Office of Pennsylvania Courts (AOPC) and a preference for using such certified interpreters, in person, at all hearings.<sup>12</sup>

The provision of competent language services is beneficial for both LEP parties and the Pennsylvania judicial system. Language services ameliorate unfair burdens and facilitate equal access by ensuring that parties may participate in proceedings fully and without intimidation.<sup>13</sup> Withholding interpretation undermines the administration of justice by hindering the court's ability to accurately and objectively hear evidence.<sup>14</sup> A failure to comply with language services requirements also increases the risk of appeals, imposing costs on the state and creating delays in the courts, which could easily be avoided.<sup>15</sup>

### Previous Study of MDJ Courts

In 2015, Temple's Sheller Center for Social Justice released a report detailing language services provision in Pennsylvania Magisterial District Justice (MDJ) courts.<sup>16</sup> MDJ courts are "small claims" courts with a single presiding judge. In Pennsylvania, there are 517 MDJ courts operating throughout sixty-six counties.<sup>17</sup> These courts have jurisdiction over summary offenses, landlord/tenant matters, small civil claims, emergency Protection from Abuse (PFA) Orders, and most criminal arraignments.<sup>18</sup>



The Sheller Report was the first language services study on the Pennsylvania Courts since the release of the Bias Report and the passage of the Pennsylvania Interpreter Certification Law.<sup>19</sup> The Sheller Report concluded that MDJ courts did not consistently meet their language services obligations.<sup>20</sup> It highlighted several areas in need of improvement. These included the widespread use of non-certified interpreters, inadequate notice of the right to an interpreter, and the failure to provide free interpretation for civil hearings and front desk communications.<sup>21</sup> The Sheller Report recommended that these findings be considered during the AOPC's approval of local judicial districts' Language Access Plans (LAPs).

### Language Access Plans

Each judicial district prepared and released its LAP in 2015, with the purpose of guaranteeing equal access to courts. These plans were released through an AOPC initiative to improve language access<sup>22</sup> and dictated how staff and judges should identify and communicate with LEP individuals.<sup>23</sup> Each LAP directed MDJ courts to use certified, in-person interpreters for hearings and bilingual staff or telephonic interpreters for front desk communications.<sup>24</sup> They instructed staff to identify LEP individuals by using "I speak cards" and hanging language identification posters.<sup>25</sup> The LAPs also announced that "periodic training" would be provided to new court staff and "employees who have frequent contact with the public."<sup>26</sup> At the time the LAPs were issued, AOPC engaged in language services training with all 517 MDJ Judges and made presentations to court administrators about the requirements of the Pennsylvania Interpreter Certification Law.<sup>27</sup>

In 2017, the Supreme Court of Pennsylvania issued a statewide LAP. This LAP sought to bring all Pennsylvania courts into compliance with federal and state standards by further specifying courts' language services obligations, assessing courts' current accessibility, and identifying the steps needed to reach compliance.<sup>28</sup> Because the LAP is an established policy of the Pennsylvania Supreme Court, it is binding upon courts within Pennsylvania's Unified Judicial System (UJS).<sup>29</sup> Additionally, in 2017 the UJS

signed a Memorandum of Understanding (MOU) with DOJ, in which it committed to promptly implementing the statewide LAP.<sup>30</sup> The MOU was the result of two earlier administrative complaints filed with DOJ concerning the failure to provide interpreters to LEP individuals in civil proceedings.<sup>31</sup>

The statewide LAP sets forth several requirements to ensure equal access for LEP individuals. The plan requires that courts provide timely, qualified interpretation in all court proceedings<sup>32</sup> and the translation of vital court forms and documents, all at no cost to the party.<sup>33</sup> Under the statewide LAP, court staff are responsible for identifying an individual's need for language services and providing notice of the availability of these services.<sup>34</sup> In particular, the LAP notes, "[t]he need for early notice is heightened with regard to Magisterial District Court hearings, where the majority of litigants are unrepresented and, without [advance notice], likely will not know they can ask for an interpreter until they arrive at court."<sup>35</sup> The LAP concludes by establishing regular, mandatory training of judges and staff and routine monitoring of language services complaint. The statewide LAP indicates that adherence to these requirements is essential for ensuring that LEP individuals may fully participate in judicial proceedings.<sup>36</sup>

## Current Study of MDJ Courts

Our study sought to determine whether MDJ practices have improved since the 2015 Sheller Report. Given the new LAPs issued by each judicial district, we specifically wanted follow up and see how MDJ courts were addressing language services. The current study pursued an in-depth investigation through court observation and inquiry, instead of repeating the broader telephone survey of court staff that was done in 2015. Although this limited the current study to a smaller number of courts, it provided a more detailed understanding of the experiences of LEP individuals in MDJ courts.

We focused on nineteen MDJ courts: six in Chester County, five in Delaware County, and eight in Montgomery County. We chose counties in Pennsylvania with a relatively

high percentage of LEP individuals. In each of these counties the percentage of LEP individuals was approximately 12–13%, with Spanish being the most commonly spoken language other than English. Within each county, by using census data, we focused on MDJ courts serving areas with the highest percentage of residents who speak languages other than English at home. In Chester County, 49.5% of Kennett Square’s population was LEP, in Montgomery County 23.7% of Norristown’s population was LEP, and in Delaware County, 23.4% of Upper Darby’s population was LEP.<sup>37</sup>

We visited each court at least once and made repeated visits to multiple courts. Overall, we spent approximately 70 hours conducting in-court investigation. During these visits, we sought to capture information on language services by observing MDJ hearings and staff operations and speaking with court staff and judges. In particular, we observed the manner of interpretation provided during staff interactions and hearings, procedures used with these interpreters, the method of notifying parties of language services, and the use of translated documents. Information that we were unable to obtain from observations was collected through conversations with court staff and judges. This information included training frequency, the interpreter request process, and general opinions about language services. Many clerks and judges were open to speaking with us and only a handful of staff refused to respond to our inquiries.

We supplemented our court visits by gathering information through community stakeholder inquiries. Stakeholders are organizations that work with LEP communities and interact with MDJ courts. These included government offices, domestic violence organizations, victims service centers, housing organizations, and community-based groups. We obtained stakeholder feedback through phone and e-mail. In addition to contextualizing MDJ procedures for language services, stakeholder feedback was valuable for confirming many of our observations as recurring trends.

Since this investigation applied to a small number of MDJ courts, it cannot be generalized to the practices in all 517 of Pennsylvania’s MDJ courts. However, our frequent presence in the courthouses we visited provides a detailed picture of those MDJ court operations. As court observers, we were able to see first hand how LEP

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individuals were treated by both judges and court staff. Additionally, judges and staff generally spoke candidly during our court inquiries and often referenced specific cases, providing valuable insights into the court's policies and practices. Although our conclusions are limited to the particular courts that we observed, we believe that our study raises important questions about the provision of language services in all MDJ courts across Pennsylvania.

## 2017 STUDY RESULTS

Due to the inconsistent provision of language services, LEP individuals continue to face barriers to justice when accessing MDJ courts. Our in-depth investigation yielded valuable insights about the variation with which language services are provided between MDJ courts. In this section, we will first present our factual findings from observation and inquiry. We will then analyze these results by discussing what we believe is behind the failure to comply with language services obligations.

### Investigation

Our investigation gathered information about the language services provided by the court at each point of an LEP individual's MDJ court experience. This experience includes an individual's hearing, conversations with court staff, and the physical layout of the courthouse itself. We also sought information about how courts notify individuals of the right to an interpreter, identify LEP parties, and receive training in language services.

### INTERPRETATION IN HEARINGS

Overall, whether courts provided interpreters at hearings varies widely between both courts and hearing types. The law does not distinguish between civil, criminal, or administrative hearings for the right to an interpreter.<sup>38</sup> Professional certified interpreters must be provided in person for all hearings, unless a certified interpreter is not available.<sup>39</sup> If a certified interpreter is unavailable, a court should first attempt to secure an in-person qualified interpreter; if one is not available, a court may, under certain limited conditions, use remote interpretation, which includes telephonic interpreter services.<sup>40</sup> Under no circumstances may a court rely on a family member, social worker, law enforcement officer, witness, or other interested party to interpret.<sup>41</sup>

Interpreters must be provided, at no cost,<sup>42</sup> to any person whose participation in a court matter is appropriate.<sup>43</sup>

Courts have additional procedures that must be followed when proceeding with an interpreter. All interpreters must be placed under oath,<sup>44</sup> and non-certified interpreters must be subject to voir dire to verify their qualifications.<sup>45</sup> A party may waive his or her right to a court provided interpreter, but a waiver must be made in writing and the judge must use an interpreter to ascertain that the waiver was knowing, voluntary, and intelligent.<sup>46</sup>

### Interpretation Costs

All MDJ courts stated that they do not charge litigants for interpretation when it is provided in both civil and criminal cases. However, several courts expressed concerns about the costs this imposes on the county. One clerk in Montgomery County stated that cost concerns led to the judicial district policy restricting the use of in-person certified interpreters in civil cases. This clerk further stated her court must receive prior approval from the administrative office before it may provide an in-person certified interpreter for a civil case.

### Criminal Hearings

Nearly all MDJ courts provided in-person certified interpreters for criminal hearings. The two exceptions relied on telephonic interpreters for criminal arraignments conducted by video. These two courts stated that they ensured that in-person interpreters were present for any subsequent hearings within the courthouse. While most courts requested certified interpreters as needed for criminal hearings, one Chester County court with a high number of Spanish-speaking defendants stated that a certified Spanish interpreter is present every day criminal arraignments are heard.

### Civil Hearings

MDJ courts routinely failed to provide certified interpreters in civil hearings. While every court stated that certified interpreters could be provided, this was often conditioned upon the LEP individual requesting the interpreter in advance. As a result, the use of

certified interpreters in civil hearings appeared to be an exceptional occurrence. One judge, for example, explained that her court had no independent obligation to provide a certified interpreter in civil hearings because there was no liberty interest at stake. Many MDJ courts were unable to articulate a consistent procedure for providing interpreters, and most relied on whatever immediate interpretation means were available. Over the course of this investigation, we saw a variety of means used. These means included defaulting to telephonic interpreter services, using friends or family members of the LEP party, and proceeding with no interpreter at all.

Most MDJ courts will only provide a certified interpreter if the LEP individual had requested one prior to the hearing. This practice is particularly concerning because most LEP parties do not know that they must make this request. As discussed below, most courts do not provide parties with adequate advance notice of their right to an interpreter or the process for requesting one. Additionally, many courts rely on a party to self-identify as LEP, although in our observations we rarely witnessed LEP litigants assert their right to an interpreter.

Telephonic interpreter services, which do not generally provide court-certified interpretation, were routinely used in lieu of a certified in-person interpreter. A third of the judges interviewed stated that they routinely used telephonic services for interpretation in civil hearings. Several judges stated that they preferred these services over a certified in-person interpreter. In contrast, several judges stated that they would never use telephonic services in a civil hearing, instead relying on non-certified individuals present in the courthouse.

Even when a court's stated policy was to use the telephonic interpreter service, it was not consistently used in civil hearings. MDJ judges often relied on non-certified individuals accompanying a party, although one judge occasionally used her non-certified Spanish-speaking clerk to interpret. These non-certified individuals ranged from a party's attorney, employer, friend or family member, and even included minor children. One Montgomery County Judge explained that she used minor children to interpret for their parents during truancy hearings because the telephonic service is "a

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hassle.” This Judge was also observed announcing that a telephonic interpreter was “unavailable” after waiting for less than a minute. Interpretation was then provided by an individual pulled from the court’s waiting area. Another Montgomery County Judge maintained that his hearings were fair provided that some form of language assistance was provided, regardless of whether it was the party’s child or neighbor.

Two courts were observed denying language services when needed. One Montgomery County Clerk was overheard informing an LEP party that she had to provide her own interpreter for an upcoming hearing. When the party asked if that interpreter had to be certified, she was told “no.” A staff member at a legal service agency in Montgomery County confirmed that an LEP party’s request for an interpreter was sometimes denied upfront. Another Montgomery County Judge was observed conducting a hearing for an LEP party with no interpreter. Although the party stated that he only spoke English “a little,” the judge proceeded in English without offering language services. When the party did not respond after being told his case was dismissed, the judge said “bueno!” and gave him a thumbs up.

#### Interpreter Procedures

MDJ courts varied in how closely courtroom interpreter procedures were followed, such as the interpreter oath, voir dire, and waiver. In approximately two-thirds of investigated courts where we were able to observe hearings, the judges placed an interpreter under oath before proceeding with a hearing, while the remaining third did not. The quality of interpreter oaths also varied. While two judges used laminated cards containing the oath provided by Pennsylvania regulations, another was observed pointing at an interpreter and announcing, “you’re under oath.” Not a single non-certified interpreter was observed to be voir dired, and only one Judge stated an intent to conduct voir dire where required. Additionally, only one Judge was observed obtaining a waiver when proceeding without an interpreter; however, this waiver was made orally and without an interpreter. Furthermore, one Montgomery County Judge stated that there was no obligation to follow these procedures in civil cases because they were “informal” proceedings with an appeal option.



## INTERPRETATION AT THE FRONT DESK

LEP individuals faced significant barriers in interacting with front desk staff in many MDJ courts. Language services must be provided for administrative matters in MDJ courts, such as front desk interactions with court staff.<sup>47</sup> These services should be provided through bilingual staff members or telephonic interpreter services.<sup>48</sup> Additionally, vital court forms available at the front desk, such as complaints, notices of rights, and waivers of services, should be translated into frequently encountered languages.<sup>49</sup> Translations of many common forms are provided by AOPC and listed in the judicial district LAPs.<sup>50</sup>

Few MDJ courts relied on bilingual staff. Of the courts visited, four currently employed bilingual Spanish speakers and one employed a bilingual Italian speaker. While two courts in Montgomery County previously employed Spanish speaking clerks, they did not replace these employees with bilingual Spanish speakers. Moreover, a bilingual staff member did not guarantee that an LEP party received language services. During one observation, an English-speaking clerk assisted a Spanish speaker in setting up a payment plan for fees using her friend as an interpreter even though a Spanish speaker on staff was also available.

Approximately half of MDJ courts visited failed to provide telephonic interpreter services when confronted with an LEP individual, even if such services were available. While each court visited had a contract for telephonic interpreter services for front desk staff use, several clerks admitted that they did not know how to use the phone service. Another five courts admitted that they did not use the phone service, but rather preferred to use an LEP individual's family or friend. If a family or friend were unavailable, staff would attempt to communicate without any interpreter at all. Additionally, we observed three courts that claimed to use telephonic interpretation but instead of using the service muddled through interactions with LEP individuals.

Few courts could provide translated court forms upon request. Several clerks stated that they knew translated forms existed but were unable to find them. If court forms

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were available at all, only Spanish translations were available. The most common translated court form was the “vital signs” form, essentially an intake document which records demographic information. Other translated forms available included Protection from Abuse (PFA) forms, Attorney Waivers, Preliminary Hearing Waivers, and Public Defender Applications. However, for the few courts that did have translated court forms available, each court could usually provide only one or two of these forms. For instance, although several Chester County courts provided otherwise exemplary front desk services, a long-term domestic violence advocate in Chester County stated that she had never seen a Spanish PFA form available.<sup>51</sup>

### WITHIN THE COURTHOUSE

The majority of MDJ courts visited had neither visible posters nor translated signage to help LEP individuals. To ensure meaningful access, courts must translate notices and signs that appear throughout the courthouse.<sup>52</sup> This includes both informative signage, such as the Pennsylvania Judicial System's “Your Right to an Interpreter” poster, and directional signage.<sup>53</sup> The “Your Right to an Interpreter” poster notifies LEP parties of their right to a free interpreter in forty-four languages.<sup>54</sup> It instructs parties to point to their language so that an interpreter may be called for them.<sup>55</sup>

While most courts displayed the “Your Right to an Interpreter” poster, these posters were frequently inaccessible for use at the front desk or obscured. Delaware County Courts were a notable exception, hanging copies of the poster on nearly every wall and window in the courthouse.

Seven courts had the “Your Right to an Interpreter” posters in locations that prevented its use during an LEP individual's interaction with court staff. In some courthouses, the sign was posted on bulletin boards containing general information. These bulletin boards were in alcoves or entry vestibules that were not visible from the court's front desk. In other courthouses, the signs were posted on a wall in the court staff's work area behind a glass barrier and did not face the waiting area. Moreover, these posters were sometimes obscured by other signs and papers. In several instances, we were

unable to find the sign during our first visit to the courthouse. Four courts visited did not have the “Your Right to an Interpreter” poster at all.

Additionally, only two courts visited had translated directional signage. These signs were found in Chester County in courts that covered areas with significantly high percentages of Spanish-speaking residents. Although several Montgomery County Courts also had high numbers of Spanish-speaking residents, they had no translated directional signs posted.

### IDENTIFYING LANGUAGE NEEDS

MDJ courts largely relied on individuals to self-identify as LEP. MDJ courts must provide notice that language services will be provided to LEP parties free of charge.<sup>56</sup> Notice must be in a language the party understands, and may be provided through the conspicuous posting of “Your Right to an Interpreter” posters.<sup>57</sup> Effective notice should allow an LEP party to self-identify his or her need for language services in a court proceeding.<sup>58</sup> In addition, courts also have obligations to identify LEP individuals in need of language assistance.<sup>59</sup> In making this identification, courts are instructed to consider whether an individual has sufficient English proficiency to understand technical legal terms.<sup>60</sup> Once a party has been identified as LEP, language services must be provided in a timely manner.<sup>61</sup>

In terms of written notice, some MDJ courts advertised the availability of language services by posting the “Your Right to an Interpreter” poster. As stated above, the effectiveness of such notice varied based on the visibility and accessibility of the poster. One court in Montgomery County had hearing notices that contained a statement in Spanish advising parties to call the court and request an interpreter. However, the Judge complained that this notice was ineffective because his English-speaking staff were unable to communicate with Spanish-speakers when they called on the telephone. Another Montgomery County Judge stated that documents parties received prior to their hearing contained a language services notice. Yet the staff at this Court were unable to identify what these documents were.

For several courts, staff were unable to identify how LEP parties were informed of their right to an interpreter, although one clerk assumed that this was, where applicable, the arresting officer's duty. Multiple other courts stated vaguely that "the [LEP] community knows" they must request an interpreter. One stakeholder in Montgomery County stated that her community-based organization had, in fact, begun offering legal rights trainings about language services because local courts made no effort to notify parties of their rights.<sup>62</sup>

Courts demonstrated inconsistent standards in terms of their own procedure for identifying whether a party needed an interpreter. Staff in multiple courts stated that they would only provide language services if it was clear that the party did not understand any English. Another court stated that it offered interpretation if staff felt it was necessary, but did not articulate how this assessment was made. One Montgomery County Judge stated that interpretation needs would be assessed by asking how long a party had resided in the United States. We observed this Judge conducting a hearing without an interpreter because the LEP party had been a resident for eleven years. In contrast, another Montgomery County Judge was observed stopping a hearing to offer a certified interpreter after a represented party struggled to make statements in English.

Hearings often must be continued because an interpreter is unavailable. Only three courts stated that this happened infrequently. More than half of the judges interviewed stated that this was because an interpreter was not requested ahead of time. A domestic violence advocate in Chester County confirmed that "the number one problem" was cases being continued because an interpreter was not requested, resulting in unnecessary anxiety among victims.<sup>63</sup> Additionally, two service providers in Montgomery County stated that even when an interpreter was requested in advance, the interpreter would not be present for the initial hearing.<sup>64</sup> We also observed several hearings in Montgomery County that were on their second or third date for a hearing because of a lack of an interpreter. Furthermore, full dockets caused continuances to postpone cases for over a month at a time.

## TRAINING

Judge and staff training on language services varied between counties. Court staff must receive training in language services obligations and the procedures for requesting language services.<sup>65</sup> In speaking with judges and staff, language services training varied by county. All Delaware County Courts, for example, reported training in language services obligations. Court staff in several Montgomery County Courts, however, reported receiving none.

## Findings

Because of inconsistent adherence to language services obligations, whether an LEP party can meaningfully participate in a court matter is highly dependent on which court that party must appear in. While some courts have made commendable advances in their commitment to language services, they remain a minority. Compliant courts are instead overshadowed by the shortcomings of many courts. Notably, the quality of service provided by a court appears to bear no relation to the percentage of LEP residents in a district. For instance, while Chester County districts with large Latino populations are attentive to language services obligations, several Montgomery County courts with large Latino populations neglect these responsibilities.

MDJ courts lack consistent practices for providing interpreters in civil proceedings. Of all the information solicited during this investigation, the manner of interpretation provided in civil hearings had the highest variation. Most judges indicated that they relied on multiple methods of interpretation for civil hearings, several of which are prohibited under state and federal law. While nearly every court guaranteed a free certified interpreter in a criminal hearing, the majority of courts relied on non-certified or non-professional interpreters in civil hearings. Several required that parties provide their own interpreter. Moreover, judges that proceeded with non-certified interpreters failed to voir dire that interpreter.

Court staff also poorly utilized language services when communicating with LEP individuals. Although each court contracted with a telephonic interpreter service for front desk use, staff would fail to use this service. While some courts retained bilingual staff, these staff persons did not always wait on LEP individuals who spoke the same non-English language.

The posting location of the "Your Right to an Interpreter" sometimes prohibited its use, preventing LEP individuals from advocating for their language needs. Although most courts expected LEP parties to request an interpreter for their hearing, insufficient notice precluded LEP individuals from asserting this right. Many courts did not otherwise have their own procedure for identifying LEP individuals. This lack of notice and procedure likely contributed to the high rate of continuances that resulted from an interpreter not having been requested.

Although many MDJ courts continue to provide inadequate language services, several provide exemplary access. This includes the numerous and visible posting of the "Your Right to an Interpreter" poster in Delaware County Courts and the hiring of bilingual staff in two Chester County Courts. Moreover, nearly all courts have made significant improvements regarding the provision of interpreters in criminal cases and providing interpreters free of charge.

## Discussion

What is most striking about our study is that inconsistencies between MDJ courts have persisted after the Sheller Report in 2015, the issuance of judicial district LAPs, and the training of MDJs and judicial district language access coordinators conducted and organized by AOPC. Given the compliance with language services requirements by some courts and the violation by others, we analyze the potential sources of these inconsistencies.

### **MDJ COURTS CURRENTLY FACE LIMITED ACCOUNTABILITY FOR LAP IMPLEMENTATION**

Although each judicial district's LAP expresses clear requirements for providing language services, these plans have not been consistently adhered to by MDJ courts. While each LAP states a preference for certified interpreters in all hearings and the use telephonic interpreter services at the front desk, we observed many MDJ courts violating state law and their own LAPs. These same LAPs provide a list of translated documents that should be available, although many of these could not be provided when requested.

This failure to adhere to the judicial district LAP appears to result from a lack of support, oversight, and enforcement, particularly at the local level. For instance, staff in Montgomery County reported that they did not receive language services training and were frequently observed departing from the judicial district's own LAP stated procedures. Conversely, Delaware County staff received training and showed a stronger commitment to language services. No one from these judicial districts appears to be monitoring whether the LAP is being followed in any of the MDJ courts. Finally, while each LAP presents a grievance procedure for LEP individuals who have been denied language services, it does not otherwise identify any enforcement mechanisms for holding MDJ courts accountable. There are no apparent repercussions for non-compliant courts. As a result, MDJ courts face little external local pressure to comply with their judicial district's LAP.

### **LACK OF CONSISTENT PROCEDURES FOR PROVIDING LANGUAGE SERVICES**

MDJ court practices frequently departed from their stated language services policies. The most common example concerned front desk staff interactions. While several courts stated that their policy was to use telephonic interpretation for front desk interactions, they were observed using friends or family of the party to interpret or muddling through without an interpreter. This discrepancy extended into hearings as well, where one court stated that its policy was to use telephonic interpreter services in

civil hearings but then relied on non-professional interpreters in every hearing observed.

Some MDJ courts also demonstrated a disconnect between the judge's and staff's understanding of court policies. During several inquiries, a judge's understanding of his or her staff's practice with LEP individuals was not consistent with staff statements. For instance, while a judge stated that his staff used a telephonic interpreter service at the front desk, the staff stated that they used family and friends to interpret.

Departing from a court's policy, as a matter of practice, appeared to be a matter of habit and convenience. While a court might have a stated policy, they lacked consistent procedures for how to accomplish this policy. Lack of familiarity with the telephonic service, for example, hindered use of that service. Several judges also complained that the telephonic interpreter service was inconvenient and time consuming. Furthermore, when many LEP individuals arrived in MDJ courts with a family or friend who may speak some English, MDJ courts concluded that it was more efficient to rely on that person. Without the development of consistent procedures for staff and judges to follow, MDJ courts will be more likely to depart from their stated policies based on staff or judge comfort.

### **JUDGES IN MDJ COURTS INFLUENCE COURTHOUSE POLICY AND PRACTICE**

A judge's personal commitment to and understanding of language services directly contributed to the quality of language services provided in his courthouse. Judges that expressed concerns about an LEP individual's understanding of court matters were significantly more likely to require a certified interpreter in a civil case, conduct a voir dire, or request a waiver for proceeding without an interpreter. Conversely, those who expressed indifference or animosity towards LEP parties were more likely to pursue unorthodox interpretation methods, or none at all. A judge's noncompliance often influenced the court staff's practices. One Montgomery County Judge, for example, who candidly discussed the court's reliance on family members during hearings stated that he also instructed his staff to use children to interpret at the front desk. Another



Chester County judge shared his belief that some litigants will falsely claim to be LEP until he mentions the deportation agency, displaying bias towards the credibility of LEP litigants that could impact their access to interpretation throughout the court.

Judges' varying attitudes towards LEP parties likely led to inconsistent MDJ court responses to the 2015 Sheller Report and judicial district LAPs. Several judges cited the 2015 Sheller Report as the catalyst for reforming their policies for serving LEP parties, and one Chester County Judge expressed embarrassment about the content of the Sheller Report. However, other judges have persisted in providing inadequate language services. The same Montgomery County Judge who instructs his staff to rely on child interpreters spoke disparagingly about past language services studies, stating that they were reports conducted by a "bunch of tree huggers," implying that they had no influence over his courtroom practices.

Several Judges also demonstrated an inadequate understanding of the policy rationales for providing language services. One judge expressed the right to language services as relating to a fair trial and insinuated that because the court often ruled in favor of the LEP parties, there was a fair outcome. Another judge stated that language services were not required in "informal" civil hearings because the party had the right to an appeal and there was "no risk of a loss of liberty." It is likely that similar misunderstandings contribute to the lack of adherence to the law requiring interpreters in MDJ civil hearings.

## RECOMMENDATIONS

This report's findings indicate several recommendations for increasing compliance by the MDJ courts with the law by: (1) training court staff and judges; (2) standardizing language services procedures; and (3) providing greater oversight and enforcement by the Supreme Court and AOPC.

### Train Court Staff and Judges

Our findings underline the importance of training court staff and judges more frequently and thoroughly on language services obligations. The statewide LAP fortunately sets forth in detail the timing and content of training judges, judicial district language access coordinators, and court staff.<sup>66</sup> In particular, two aspects of this training should be emphasized.

First, judges and court staff must develop a more thorough understanding that federal and state laws require these services and that the provision of language services is a civil rights and due process obligation.<sup>67</sup> Not only is this clarification important for those who are unaware of why such services need to be provided to LEP individuals in the first instance but it can also begin to change attitudes or culture surrounding this issue. In other words, language services are not simply voluntary acts bestowed on LEP individuals through the kindness of the courts, but rather are a requirement for the courts so that they do not engage in national origin discrimination and ensure due process. The idea that such requirements are legally required is significant to overcoming court culture that was often inhospitable to LEP individuals because many MDJ courts visited during this study perceived that language services inhibit the efficiency of court operations.

Second, judges and court staff should be trained not only on the legal and policy requirements but also on the practical ways in which these requirements can be implemented. The UJS LAP highlights many of these practices as a component of the

required trainings.<sup>68</sup> Court staff, for example, should be trained on how to use telephonic interpretation services and how to visibly post and use the “Your Right to an Interpreter” posters. As set forth in the next section, the more standardization of these procedures, the more easily judges and court staff can comply with language services obligations. Training specifically on such procedures could help overcome the instinct to engage in practices that prioritized habit or convenience over language services obligations.

## Standardize Language Access Procedures

The Pennsylvania Courts must standardize the processes for providing language services at every point of interaction with an LEP individual. During court observations, we noticed no set protocol within or across MDJ courts for providing advance notice of the right to language services, addressing LEP individuals at the front desk, requesting a certified interpreter, or addressing LEP individuals in the courtroom. This lack of set protocol created both confusion and unfamiliarity, which contributed to the view of language services rights as an inconvenience.

The statewide LAP significantly standardizes procedures for providing advance notice to LEP individuals about language services. Our study found that the lack of advance notice by LEP parties that they had a right to a certified interpreter in civil hearings created significant barriers to accessing language services. It is absolutely crucial that the MDJ courts adhere to a uniform method for advance notice while utilizing multiple forms of notice, such as hearing and subpoena notices, posters, websites, and “I Speak” cards.<sup>69</sup> The statewide LAP recommends such advance notice and also provides that judicial districts should perform outreach to LEP communities,<sup>70</sup> in cooperation with local community-based organizations. Community stakeholders are an essential ally to widely disseminate accurate information regarding the rights of LEP individuals.

According to the statewide LAP, AOPC will also develop a bench card for judges that includes protocols for assessing the language proficiency of a party or witness, the interpreter waiver, and the voir dire for non-certified interpreters.<sup>71</sup> With training, these

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bench cards will help judges navigate the appropriate courtroom procedures when confronted with an LEP individuals. By effectively standardizing the procedure in the courtroom, they take the guess work for judges out of how to comply with language service obligations.

Judicial districts similarly need to standardize procedures for effectively advising LEP litigants of their rights and responding to requests for interpretation. We observed not only a large variation in how court staff interacted with LEP individuals but also in how they addressed their need for language services at a hearing. In other words, where should posters be hung so that they are visible and can be used by LEP individuals? What are the steps that court staff take to use the "I Speak" cards with an LEP individual? What sort of protocol should court staff follow when an LEP individual calls to request an interpreter based on the information received by effective advance notice? Court staff will require protocols, akin to the judicial bench cards, to effectively and consistently respond to LEP individuals. While the UJS LAP does state that AOPC will investigate possible statewide systems for receiving and processing requests, our findings underline the importance of developing an automated statewide system for uniformly receiving and processing requests for interpretation.

## Monitoring and Enforcement

Our findings also indicate the need for monitoring and enforcement of compliance with language services obligations. The statewide LAP creates a Monitoring and Evaluation Team (MET) to track implementation, assess progress, and review complaint and feedback information received by AOPC.<sup>72</sup> The MOU between UJS and DOJ further provides DOJ with the ability to participate in the MET and obtain reporting information from AOPC.<sup>73</sup> This monitoring will be a welcome step forwards from what we observed with the judicial district LAPs, where there appeared to be no accountability for MDJ courts to implement the judicial district LAPs. Several questions, however, remain.

First, it is unclear whether self-reporting through data collection and feedback, in addition to complaint information, will be a sufficient basis for conducting effective

monitoring. While we learned that courtroom observation is resource intensive, our study particularly revealed the necessity of observing practices, which frequently departed from stated policies. Further, it is unclear to what extent the complaint process will be effectively utilized by the LEP population and other interested community members. The current grievance procedures for complaining about language services are not meaningfully advertised to LEP litigants, as they are frequently not posted in the courthouses or are posted in locations that are difficult to access. Such procedures should also be accessible to local stakeholders to file anonymously. Even with the implementation of an effective grievance system, LEPs may choose not to complain either because they fear retaliation or they feel that such complaints would be futile.<sup>74</sup> The MET, therefore, should utilize independent evaluators to monitor MDJ court compliance.

Second, there is no mechanism for enforcement within the MET to address courts that are out of compliance. It appears that the lack of accountability with any consequences is, in part, responsible for the inconsistencies we observed both across and within counties. Federal law provides for enforcement mechanisms, including court-ordered enforcement, administrative enforcement, and ultimately the withholding of federal funds.<sup>75</sup> The Pennsylvania Supreme Court has the power to prescribe rules governing court procedure and conduct, and the AOPC has the authority to oversee court operations through the District Court Administrator, and could even recommend sanctions for MDJ courts that are out of compliance.<sup>76</sup> Such sanctions, however, need not be monetary. They might include providing non-compliant courts with an “order” specifying changes they must make by a certain deadline, identifying non-compliant courts on a public website, and disciplining judges who commit particularly egregious violations.

## ENDNOTES

<sup>1</sup> 42 U.S.C. § 2000d.

<sup>2</sup> *Lau v. Nichols*, 414 U.S. 563 (1974).

<sup>3</sup> Guidance to Fed. Fin. Assistance Recipients Regarding Title VI Prohibition Against Nat'l Origin Discrimination Affecting Ltd. English Proficient Pers., 67 Fed. Reg. 41455 (Dep't of Justice June 18, 2002) [hereinafter DOJ Guidance].

<sup>4</sup> *Id.* at 41461, 41463.

<sup>5</sup> *Id.* at 41471, 41459 n.5; Letter from Thomas E. Perez, Assistant Att'y Gen., Dep't of Justice, to State Court Adm'rs & Chief Justices 2 (Aug. 16, 2010) [hereinafter Perez Letter].

<sup>6</sup> DOJ Guidance, *supra* note 3, at 41471.

<sup>7</sup> Perez Letter, *supra* note 5, at 3.

<sup>8</sup> DOJ Guidance, *supra* note 3, at 41465.

<sup>9</sup> 42 PA. CONS. STAT. §§ 4401–17 (2006).

<sup>10</sup> Arthur N. Read, *Pennsylvania Courts Issue Rules Implementing 2006 PA Interpreter Certification Law*, UPON FURTHER REV. (June 8, 2010), <http://uponfurtherreview.philadelphiabar.org/page/Article?articleID=84b4b924-df84-41e3-8114-2229df9ee803>.

<sup>11</sup> FINAL REP. OF THE PA. SUP. CT. COMMITTEE ON RACIAL & GENDER BIAS IN THE JUD. SYS. 18, 20 (2003), [www.pa-interbranchcommission.com/\\_pdfs/FinalReport.pdf](http://www.pa-interbranchcommission.com/_pdfs/FinalReport.pdf).

<sup>12</sup> 42 PA. CONS. STAT. §§ 4401–17.

<sup>13</sup> THE UNIFIED JUD. SYS. OF PA. LANGUAGE ACCESS PLAN 2 (March 2017), <http://www.pacourts.us/assets/files/setting-5486/file-5972.pdf?cb=11e5cd> [hereinafter STATE LAP]; Fernanda Santos, *As the Demand for Court Interpreters Climbs, State Budget Conflicts Grow as Well*, N.Y. TIMES, June 15, 2014, at A14.

<sup>14</sup> U.S. DEP'T OF JUSTICE, CIVIL RIGHTS DIV., LANGUAGE ACCESS IN STATE COURTS 1 (2016), <https://www.justice.gov/crt/file/892036/download>.

<sup>15</sup> Santos, *supra* note 13.

<sup>16</sup> STEPHEN & SANDRA SELLER CTR. FOR SOC. JUSTICE, BARRIERS TO JUSTICE: LTD. ENGLISH PROFICIENT INDIVIDUALS & PA.'S MINOR COURTS (2015),

<https://www2.law.temple.edu/csj/files/lep-recommendations-report.pdf> [hereinafter BARRIERS TO JUSTICE].

<sup>17</sup> *Learn*, THE UNIFIED JUD. SYS. OF PA., <http://www.pacourts.us/learn/> (2017).

<sup>18</sup> 42 PA. CONS. STAT. § 1515(a).

<sup>19</sup> BARRIERS TO JUSTICE, *supra* note 16, at 1.

<sup>20</sup> *Id.* at 20.

<sup>21</sup> *Id.* at 4, 6, 8, 10.

<sup>22</sup> STATE LAP, *supra* note 13, at 3.

<sup>23</sup> 15TH JUD. DISTRICT LANGUAGE ACCESS PLAN §§ II(C), III(A)–(B) (2015), <http://www.chesco.org/2922/Language-Access-Plan> [hereinafter CHESTER CTY. LAP]; 32ND JUD. DISTRICT LANGUAGE ACCESS PLAN 3–4 (2015), <http://www.co.delaware.pa.us/courts/pdf/15LAPProgramPlan08192015Sign.pdf> [hereinafter DELAWARE CTY. LAP]; 38TH JUD. DISTRICT LANGUAGE ACCESS PLAN 2–4 (2015), <http://www.montcopa.org/DocumentCenter/View/8757> [hereinafter MONTGOMERY CTY. LAP].

<sup>24</sup> CHESTER CTY. LAP, *supra* note 23, at § III(A); DELAWARE CTY. LAP, *supra* note 23, at 3–4; MONTGOMERY CTY. LAP, *supra* note 23, at 3–4.

<sup>25</sup> DELAWARE CTY. LAP, *supra* note 23, at 3; MONTGOMERY CTY. LAP, *supra* note 23, at 2–3.

<sup>26</sup> CHESTER CTY. LAP, *supra* note 23, at § IV; DELAWARE CTY. LAP, *supra* note 23, at 6; MONTGOMERY CTY. LAP, *supra* note 23, at 5.

<sup>27</sup> E-mail from Mary Vilter, Coordinator for Court Access, Admin. Office of Pa. Courts to Jennifer Lee, Assistant Clinical Professor of Law, Temple Univ. Beasley Sch. of Law (Jan. 23, 2015, 16:25 EST) (on file with author). *See also*, State LAP, *supra* note 13, at 36.

<sup>28</sup> STATE LAP, *supra* note 13, at 3.

<sup>29</sup> Memorandum of Understanding Between the United States and the Unified Judicial Sys. of Pa., Dep’t of Justice Nos. 171–64–17 & 171–64–18, 3 (Apr. 24, 2017) (available at <https://www.justice.gov/crt/page/file/959891/download>) [hereinafter MOU].

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 1.

<sup>32</sup> STATE LAP, *supra* note 13, at 6, 10.

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<sup>33</sup> *Id.* at 14–16.

<sup>34</sup> *Id.* at 25–31.

<sup>35</sup> *Id.* at 25.

<sup>36</sup> *Id.* at 2.

<sup>37</sup> *Quick Facts Pennsylvania*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/table/POP815215/42> (enter town names into location bar to view specific location information) (last visited May 26, 2017).

<sup>38</sup> DOJ Guidance, *supra* note 3, at 41471, 41459 n.5; Perez Letter, *supra* note 5, at 2.

<sup>39</sup> 42 PA. CONS. STAT. § 4412(a); 204 PA. CODE § 221.203(a).

<sup>40</sup> 42 PA. CONS. STAT. § 4412(b); 204 PA. CODE § 221.203(b), § 221.104(b).

<sup>41</sup> 204 PA. CODE § 221.203(e).

<sup>42</sup> 204 PA. CODE § 221.107(b)–(c); Perez Letter, *supra* note 5, at 2.

<sup>43</sup> 204 PA. CODE § 221.107(c), § 221.203(d) (regarding witnesses and family members of principal parties); Perez Letter, *supra* note 5, at 2.

<sup>44</sup> 42 PA. CONS. STAT. § 4414; 204 PA. CODE § 221.106.

<sup>45</sup> 204 PA. CODE §§ 221.203(b)(1)(i), 221.104(b).

<sup>46</sup> 204 PA. CODE § 221.105.

<sup>47</sup> Perez Letter, *supra* note 5, at 3.

<sup>48</sup> CHESTER CTY. LAP, *supra* note 23, at § III(B); DELAWARE CTY. LAP, *supra* note 23, at 4; MONTGOMERY CTY. LAP, *supra* note 23, at 4.

<sup>49</sup> DOJ Guidance, *supra* note 3, at 41463.

<sup>50</sup> CHESTER CTY. LAP, *supra* note 23, at § III(C); DELAWARE CTY. LAP, *supra* note 23, at 5; MONTGOMERY CTY. LAP, *supra* note 23, at 4.

<sup>51</sup> Telephone Interview with Advocate, Domestic Violence Ctr. of Chester Cty. (Mar. 21, 2017) (name withheld by request). Application forms for both civil and criminal protection orders are available on the UJS website in over ten languages, although the instructions are only available in English and Spanish. Unified Judicial System of Pennsylvania, Bilingual Forms, <http://www.pacourts.us/forms/bilingual-forms> (last visited June 21, 2017).

<sup>52</sup> DOJ Guidance, *supra* note 3, at 41465; U.S. DEP'T OF JUSTICE, CIVIL RIGHTS DIV., LANGUAGE ACCESS PLANNING AND TECHNICAL ASSISTANCE TOOL FOR COURTS 14 (2014), [https://www.lep.gov/resources/courts/022814\\_Planning\\_Tool/February\\_2014\\_Langu](https://www.lep.gov/resources/courts/022814_Planning_Tool/February_2014_Langu)



age\_Access\_Planning\_and\_Technical\_Assistance\_Tool\_for\_Courts\_508\_Version.pdf [hereinafter DOJ TOOLKIT].

<sup>53</sup> DOJ Guidance, *supra* note 3, at 41465; DOJ TOOLKIT, *supra* note 52, at 14.

<sup>54</sup> Unified Judicial System of Pennsylvania, Your Right to An Interpreter (2015) (available at <https://clsphila.org/sites/default/files/get-help/Interpreter%20Poster%20-%20final0315.pdf>).

<sup>55</sup> *Id.*

<sup>56</sup> DOJ Guidance, *supra* note 3, at 41465.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 41464–65.

<sup>60</sup> *Id.* at 41471.

<sup>61</sup> *Id.* at 41461.

<sup>62</sup> Interview with Rita Paez, Exec. Dir. Centro Cultural Latinos Unidos, Inc., in Pottstown, Pa. (Mar. 30, 2017).

<sup>63</sup> Telephone Interview with Graziella Sanga, Advocate, Domestic Violence Ctr. of Chester Cty. (Mar. 24, 2017).

<sup>64</sup> E-mail Survey Response from Erin Slight, Direct Servs. Supervisor, Victim Servs. Ctr. of Montgomery Cty. to Dana Sleeper, Student, Villanova Univ. Charles Widger Sch. of Law (Mar. 20, 2017, 13:50 EST) (on file with author); E-mail Survey Response from Nelly Jiménez-Arévalo, Exec. Dir., Accion Comunal Latinoamericana de Montgomery Cty. to Lisa Burns, Student, Temple Univ. Beasley Sch. of Law (Mar. 27, 2017, 20:56 EST).

<sup>65</sup> DOJ Guidance, *supra* note 3, at 41465.

<sup>66</sup> STATE LAP, *supra* note 13, at 37–41.

<sup>67</sup> *Id.* at 37, 39, 40.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 26–29.

<sup>70</sup> *Id.* at 43–44.

<sup>71</sup> *Id.* at 38.

<sup>72</sup> *Id.* at 45.

<sup>73</sup> MOU, *supra* note 29, at 3.

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<sup>74</sup> E-mail Survey Response from Margarita Contreras, Soc. Servs. Dir., Accion Comunal Latinoamericana de Montgomery Cty. to Lisa Burns, Student Temple Univ. Beasley Sch. Of Law (Mar. 28, 2017 08:39 EST); U.S. DEP'T OF JUSTICE, CIVIL RIGHTS DIV., COMMON LANGUAGE ACCESS QUESTIONS, TECHNICAL ASSISTANCE, AND GUIDANCE FOR FEDERALLY CONDUCTED AND FEDERALLY ASSISTED PROGRAMS 6 (2011), [https://www.lep.gov/resources/081511\\_Language\\_Access\\_CAQ\\_TA\\_Guidance.pdf](https://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf). See, ANNETTE BERNHARDT ET AL., BROKEN LAWS, UNPROTECTED WORKERS: VIOLATIONS OF EMPLOYMENT & LABOR LAWS IN AMERICA'S CITIES 3 (2009), [https://nelp.3cdn.net/e470538bfa5a7e7a46\\_2um6br7o3.pdf](https://nelp.3cdn.net/e470538bfa5a7e7a46_2um6br7o3.pdf).

<sup>75</sup> 28 C.F.R. § 50.3 (2014).

<sup>76</sup> P.A. CONST. art. V, §10 ("The Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts..."); Pa. R. Jud. Admin. 505 ("The Administrative Office shall have the power and its duties shall be: (1) To review the operation and efficiency of the system and of all offices related to and serving the system and, when necessary, to report to the Supreme Court or the Judicial Council with respect thereto. (2) To formulate and submit to the Supreme Court recommendations for the improvement of the system and offices related to and serving the system...").

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