



## **If Parents Don't Speak English Well, Will Their Kids Get Locked Up?**

### **Language Barriers and Disproportionate Minority Contact in the Juvenile Justice System**

#### **Executive Summary**

Without a parent's active participation in a juvenile delinquency case, officials often believe they have little choice but to prosecute and detain a juvenile, both to address the child's best interests and to preserve public safety. With a growing number of immigrants residing in the United States and a growing number of immigrant youth entering the juvenile justice system, there is an acute need to better understand the relationship between parents' ability to speak English and their ability to participate in the juvenile justice process on behalf of their child.

With support from the Annie E. Casey Foundation, the Vera Institute of Justice has begun to document how the language barriers faced by parents of court-involved youth contribute to the greater likelihood of their child being prosecuted for criminal offenses, detained while his/her case is pending, and, ultimately, being sentenced to prison. Given that many children of immigrants are of color, language barriers can also contribute to the disproportionate representation of minorities in the juvenile justice system.

Vera's interviews with stakeholders and a review of the literature found that

- parents who cannot read court documents that are only available in English may not show up for important meetings and hearings during which decisions to detain or incarcerate their child take place.
- a parent's limited English proficiency may prevent him/her from understanding the benefit of agreeing to "adjust" a child's case through an out-of-court agreement.
- a police officer may decide to leave a child overnight in a detention center because neither parent could speak English and respond to questions.

- a probation officer or health care clinician asked to determine whether a parent is capable of supervising a child may recommend that a minor be sentenced to a state-run correctional facility because an interpreter did not accurately translate the parent's responses.

Given the need for more extensive information about both the problem and about effective and practical responses to it, three opportunities suggest themselves.

- First, conduct research on court-involved youth and their limited English proficient parents to more concretely examine how language barriers may lead to increased arrests, prosecutions, detention, and incarceration. This research could lead to the development of an assessment instrument that can be used by juvenile justice stakeholders to make their systems more language accessible.
- Second, develop a national language access technical assistance project for juvenile justice agencies. This would leverage the expertise of practitioners in the field who are employing promising practices to overcome language barriers and minimize potentially harsh consequences for children in the system.
- Third, launch an interpreter bank demonstration project to provide high quality interpretation assistance during the critical moments where a language barrier may cause a youth to be incarcerated. Vera is currently in the early stages of planning such a project and is seeking support for the work.

Although a multi-pronged approach will yield the greatest impact, any of the above mentioned approaches will better equip the juvenile justice system, particularly stakeholders invested in system reform, in comprehensively reducing disproportionate minority contact.

## Introduction

Jurisdictions across the country are paying closer attention to the widespread overrepresentation of youth of color in the juvenile justice system. Some are starting to address how attributes such as the limited English proficiency of delinquent minors may lead to disproportionate contact with the justice system. However, the juvenile justice field has not yet examined how the limited English proficiency of *parents* of court-involved youth may also lead to this disproportionality.

The Vera Institute of Justice received funding from the Annie E. Casey Foundation to explore this topic, which is increasingly relevant as the number of immigrants residing in the United States continues to grow. Specifically, we examined how language barriers faced by parents can affect the decisions made in their child's case—from arrest through sentencing—and potentially lead to deeper system involvement. Staff of Vera's Center on Immigration and Justice and Center on Youth Justice conducted interviews with stakeholders in New York City's juvenile justice system and in juvenile justice systems across the nation and reviewed the existing literature on the impact of parental involvement on a juvenile's case during key decision-making points. (A description of Vera's research methodology can be found in Appendix I.)

Our findings have led us to identify three varied approaches that stakeholders can adopt to minimize the impact of language barriers on the detention and incarceration of youth of color. By supporting research on impacted populations, tailoring technical assistance to juvenile justice agencies, and developing an innovative interpreter bank demonstration project, the philanthropic community can help to reduce disproportionate minority contact (DMC), particularly among immigrant groups in the United States.

In this paper, we lay out the framework for understanding how language barriers can contribute to DMC. We identify the core findings of our research: the increased likelihood that a child may be prosecuted, detained or sentenced to incarceration due to parents' language barriers; the systemwide need for more bilingual staff and qualified interpreters in and out of the courtroom; and the importance of translating court documents that are sent to parents of court-involved minors. Lastly, we provide recommendations and strategies to reduce language barriers and describe the outcomes they can yield.

## Language Barriers and DMC

Disproportionate minority contact (DMC) has become a well-recognized umbrella term for the disproportionate representation of adults and youth of color in the criminal and juvenile justice systems.<sup>1</sup>

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*For more information, contact Susan Shah, Senior Planner, Vera Institute of Justice, (212) 376-4026, [sshah@vera.org](mailto:sshah@vera.org).*

Comprehensive and detailed data about DMC in the juvenile justice system is difficult to obtain, as statistics about racial groups disaggregated by ethnicity are scarce. However, the literature confirms that minority youth, especially African American and Latino youth,<sup>2</sup> are more likely to have contact with the juvenile justice system at all stages, from arrest to confinement.<sup>3</sup> Although African American youth comprise only 15 percent of the juvenile population, they make up 26 percent of juvenile arrests, 44 percent of the detained population, and 58 percent of youth placed in state correctional facilities.<sup>4</sup> The percentage of Latino juveniles in detention is almost 1.5 times as great as that in the youth population; in addition, the percentage in correctional facilities is nearly two times as great.<sup>5</sup>

New York State juvenile justice statistics mirror the nationwide phenomenon of DMC. In 2004, youth of color made up 25 percent of the total number of youth under 18 in the state (excluding New York City), but they accounted for:<sup>6</sup>

- nearly 30 percent of all arrests of youths,
- nearly 46 percent of juvenile delinquency (JD) non-secure pre-trial detention admissions,
- nearly 70 percent of all JD secure detention admissions, and
- more than 62 percent of all JD state placements.<sup>7</sup>

Disproportionate outcomes based on race and ethnicity are most pronounced during the first stages of juvenile justice processing.<sup>8</sup> Studies indicate that decisions made before sentencing (i.e., to arrest, prosecute, or detain) affect both the type and severity of a subsequent disposition.<sup>9</sup> If a youth experiences disparate treatment during preliminary decision-making points, s/he will consequently receive a harsher disposition. Others have found that race has a direct bearing on disposition.<sup>10</sup>

Researchers and practitioners believe that extralegal factors influencing decision making contribute to DMC. As some researchers note, “decisions about where to patrol and who to arrest, charge, and prosecute can widen the net for youth of color. Although there is probably no deliberate, knowing racism in the majority of cases, young people of color are represented in juvenile justice systems in numbers that cannot be accounted for by law violations alone.”<sup>11</sup> Extralegal factors are features of a child’s individual case that set it apart from other cases with a similar legal basis. They can include a youth’s race or ethnicity, family circumstances, residential neighborhood, or parental involvement.

At many key decision points in the juvenile justice system, officials—including police, probation officers, and judges—attempt to contact parents. The literature confirms that parental involvement is tremendously important at every decision-making point and during the different stages of juvenile processing. Juvenile justice policies generally reflect the belief that parents are integral to the juvenile justice process; they tend to draw upon a family’s stability and involvement in determining detention and

disposition outcomes.<sup>12</sup> A lack of parental involvement negatively impacts juvenile justice system officials' perceptions of the youth's family life and upbringing. Consequently, the presence of an "uncooperative" or "uninvolved" parent encourages officials to push for more stringent treatment of youth, such as preadjudicatory detention or an out-of-home placement disposition.<sup>13</sup>

Language barriers can present a serious obstacle to parental involvement in the juvenile justice system. Nearly 10 percent of the adult population residing in the United States is limited English proficient (LEP), i.e., speaks English "less than very well."<sup>14</sup> Generally, a person is considered LEP if his/her native language is not English and s/he has a limited ability to speak, read, write, or understand English. If the parents of a youth in the juvenile justice system are LEP, they are at great risk of being unable to understand the justice process and their roles and responsibilities in the process. Parents' inability to communicate due to language barriers can result in a failure to understand or cooperate with juvenile justice system officials and can be negatively perceived by judges and others. The troubling—and avoidable—result could be harsher outcomes for their children.<sup>15</sup>

Vera's exploratory research suggests that language barriers impede LEP parents from active and informed involvement at the critical decision-making points in the juvenile justice system. These impediments can contribute to the greater likelihood of youth of color being prosecuted for criminal offenses, detained while their cases are pending, and sentenced to prison. Juvenile justice systems that do not address the language access needs of LEP parents can lead to increased DMC.

## The Problem

In this section, we describe in greater detail how language barriers faced by parents may lead to a child entering, and then moving deeper into, the juvenile justice system in New York City. (See Appendix II for additional information about New York City's LEP population as well as a summary of the languages identified by our practitioners as being predominant in the juvenile justice system.)

The importance of parental involvement is apparent throughout the juvenile justice process in New York City. At the time of a child's arrest, parents are notified by the police and asked to come to the precinct to pick up their son/daughter. During the probation intake process, which typically follows arrest, New York makes eligibility for detention diversion programs contingent upon parents being present during the intake interview, among other factors. After a case is filed, court appearances are requested of parents. Once a case is before a judge, judges often consider a parent's appearance in court to be an important factor when determining whether a youth should be "placed" back into his/her community or

into a residential correctional facility. (For additional information about the various decision-making points in New York City's juvenile justice system, see Appendix III.)

### **A parent's limited English proficiency may lead to a youth's case being prosecuted rather than resolved out of court.**

Upon arrest, the inability of probation officers to communicate with LEP parents due to a language barrier may lead parents to decline the rare opportunity to end their child's engagement with the juvenile justice system before it actually begins. During the intake process, probation staff and prosecutors decide whether they should "adjust" a case, i.e., use an alternate process where the victim and accused youth agree to an out-of-court resolution. The benefits of agreement to an adjustment include the young person's case being taken out of the courts and avoiding further engagement with judges and other justice officials. Prosecutors we spoke with shared a belief that LEP parents may not understand the adjustment process because of a language barrier and cultural misconceptions of the process.<sup>16</sup> When an adjustment is declined, a child's case is then referred to court for formal legal processing, thus moving the child deeper into the justice system.

### **There is an increased likelihood that a young person will be detained or even sentenced to incarceration due to unaddressed language barriers with his/her parent.**

Probation officials' inability to effectively communicate with an LEP parent during the initial intake process can lead to misunderstandings about parents' willingness to have the child return home and, more importantly, their ability to sufficiently supervise the child. In court, judges rely on the information gathered and synthesized by other agencies to make detention decisions. Any discrepancies in that information or its representation can have a detrimental effect on the liberty of a child. During the sentencing phase, linguistic and cultural misinterpretations can lead to justice officials erroneously concluding that the child's home is not fit for supervision and that his/her parents cannot successfully support and supervise the child in the community.

#### Detention decision making

The literature confirms that decisions to detain while a young person's disposition or sentence is pending are affected by perceptions of family circumstances.<sup>17</sup> If parents do not understand the purpose of the detention hearing and the importance of their ability to supervise their child, they may appear uncooperative and thereby increase the likelihood of a detention recommendation for their child.<sup>18</sup> This is

because probation officers and judges, the primary system officials charged with determining whether a child's liberty should be restricted due to delinquent behavior, are most concerned with what is in the best of interests of the child and what will ensure that the child's community is not put in jeopardy. Clearly, a parent's ability and willingness to supervise the child are important. During our interviews, we heard that a parent's limited English proficiency can (1) cause decision makers to believe that the parent cannot control the youth and/or (2) prevent decision makers from getting adequate information to confirm that the parent wants to supervise the youth. Both of these scenarios can ultimately lead to the decision to detain the child while his/her case is before the courts.

Detaining a minor while a case is before the courts has serious consequences. Pre-sentencing detention, caused at least in part by language barriers, can lead to a disposition to incarcerate the youth in a correctional facility.<sup>19</sup> Research indicates that if a child is detained before adjudication, s/he is more likely to face a formal judicial disposition.<sup>20</sup> The juvenile justice practitioners we interviewed confirmed that, in practice, this has been happening in New York City and across the nation.

Beyond the initial decision about whether to detain a child, language barriers can impact the type of detention setting selected for the youth. In New York City, judges choose between non-secure, limited-secure, and secure detention facilities. Non-secure detention facilities more closely resemble group homes, where community-based organizations and parents supervise youth. Group homes are small, and youth are permitted to wear their own clothes and move freely without restriction. In limited-secure and secure detention facilities, youth are locked up in cells and are heavily restrained. Again, judges need to be able to confirm that a young person is able to be adequately supervised while the case is pending and that the child's home is "stable."<sup>21</sup> If LEP parents cannot adequately confirm that their son/daughter will be sufficiently supervised because there is inadequate provision of language assistance, it is less likely that their child will be granted non-secure detention.

### Disposition decision making.

The research confirms that juvenile justice sentencing decisions, like detention decisions, often take into account a parent's ability to adequately supervise his/her child. Specifically, decision makers will opt for harsher dispositions if they believe that a young person's parents are uninvolved or uninterested in their child's circumstances.<sup>22</sup>

In New York City, the Department of Probation and the New York City Health and Hospitals Corporation, the city's public hospital system, typically present sentencing recommendations to the judge. Similar to the detention phase, sentencing recommendations can vary between a community-based

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sentence and residential “placement” in a correctional facility. Judges are considering what is best for the child and what will minimize risk to the community. Probation staff charged with developing recommendations conduct visits to the youth’s home and school. We heard that access to bilingual staff and interpreters is at times difficult in the field, and that interviewers therefore may not get to speak with LEP parents and confirm their ability and willingness to supervise their son/daughter.

For the second report, described as a mental health evaluation, clinicians conduct interviews in their offices. Notices requesting parents’ participation in the interview are only available in English and Spanish. Agency staff conducting the interviews expressed concern that LEP parents who speak languages other than English may not understand that they need to participate in this *second* interview and therefore may not come. Furthermore, defense attorneys and juvenile justice advocates believed that a documented lack of parental engagement in this interview could lead a clinician to believe that the parent cannot support the best interests of his/her child and therefore the child needs to be incarcerated so as to receive the support he/she needs. A juvenile justice official explained, “If they cannot communicate with the family...they may not release a child because the *house is not ready* [to receive the child].”

### **New York City’s juvenile justice system is not currently well equipped to overcome language barriers.**

Agencies and organizations working in New York City’s juvenile justice system are using promising approaches for overcoming language barriers with parents of court-involved youth; however, there appear to be numerous under-addressed language access needs within the system. To ensure that youth of color are not being disproportionately arrested, detained, and placed, important reforms need to be made within New York City’s juvenile justice system.<sup>23</sup>

#### **Agencies need more bilingual staff and qualified interpreters**

*Out-of-court communications.* Prosecutors, defense attorneys, and probation staff noted that there is a shortage of competent and qualified bilingual staff and interpreters available to assist with communications with LEP parents. There is a dearth of Spanish speakers in the agencies and a great need for staff and interpreters who speak languages other than Spanish. Bilingual staff whom we interviewed said that they often felt overworked and at times had to decline requests for assistance because they did not have enough time to carry out their own responsibilities. In New York City, staff from juvenile justice agencies believed that the lack of a bilingual pay differential further inhibited bilingual employees’ ability



and willingness to assist in communications with LEP individuals. Bilingual staff whom we interviewed noted that they did not have adequate training to carry out their responsibilities in a language other than English. Specifically, they were not skilled in highly technical communications, due to a lack of subject matter expertise and/or knowledge of translations of specialized terminology.

Due to a shortage of qualified and available bilingual staff and interpreters, juvenile justice advocates and attorneys observed that key decision makers—from police to judges—use untrained civilians, even children, as interpreters. In addition, police officers and other agency staff reported having to resort to interpretation assistance from bilingual school personnel; bilingual siblings of arrested or truant youth; community members “off the street;” or civilians in the agency’s waiting room. Concerns about the quality of the assistance being provided by these individuals were raised by almost all of the stakeholders Vera interviewed. Specifically, they shared concerns about untrained individuals producing inaccurate and biased translations, particularly when the ad hoc interpreter has a personal stake in what is being said (e.g., a youth who is asked to interpret for his/her parents). A New York City juvenile justice official explained, “We do not use the youth as translators because they translate what is convenient.”

High-level juvenile justice officials concerned with the negative effects of not having enough bilingual staff or interpreters on staff expressed a keen interest in using technology—such as the remote simultaneous interpreting technology being used in New York City public hospitals—to increase their interpreter capacity and improve the quality of communication with children and their parents.

*Court communications.* Although courts have a pool of trained staff and contract per-diem interpreters, court personnel believe that there remains an unmet need for interpreters in family court. Due to a systemwide shortage of court interpreters, even among those who speak Spanish, judges and attorneys noted that cases have started without an interpreter, been significantly delayed, or even adjourned to a later date. One judge, lamenting the shortage of interpreters, recalled, “it’s not uncommon to wait 20-60 minutes for a Spanish interpreter. Sometimes, we will have to adjourn a case.” Defense attorneys cautioned against adjourning a case because of the numerous consequences that could arise: a youth can be detained for a longer period of time; a parent or caregiver may have to take unpaid time off work; and witnesses may lose motivation to appear in court. Defense attorneys and advocates believed that judges, when noting that a parent failed to show up to court, do not always take into account the number of adjournments and the burden on parents to continually take time off work or other responsibilities.

In addition, prosecutors and defense attorneys told us that the shortage of interpreters in the courtroom has severely impacted interpreters' ability to assist them outside the courtroom. Although interpreters' primary responsibility is to the courts, they can be invaluable in helping attorneys explain to parents what happened in court and what will happen next. However, interpreters are increasingly being made less available because of a greater demand for their services. We heard from one bilingual court officer that he ended up providing important case and legal information to LEP parents because of the lack of other interpreting services.

Quality concerns with court interpretation were raised by several of the juvenile justice stakeholders we spoke with. Specifically, we heard of instances where an interpreter did not interpret everything that was said by the LEP person. An attorney we interviewed noted, "It's so common to hear sentences interpreted into one-word responses." Moreover, attorneys greatly fear that poor interpretations have led some judges to hand down harsher dispositions based on an inaccurate belief that parents were unfit to supervise their child. We heard about instances where a victim's family member alerted prosecutors that the interpretation was incorrect. Court interpreters we spoke with explained that the poor quality was in part due to the management pressures placed on interpreters to interpret quickly, even if at the expense of accuracy. A prosecutor explained, "So many cases are waiting for interpreters. Court interpreters are stretched too thin. They are literally running from part [courtroom] to part [courtroom]." Another reason cited by judges and attorneys is the lack of training and supervision of non-staff (i.e., per-diem and contract) interpreters. Finally, some stakeholders raised concerns about court interpreters who had diminished capacity to interpret. One judge said, "For the less common languages, there are elderly interpreters that don't hear very well...A lot of them wear hearing aids, and we have to shout for them to hear us."

Consistently, we were told about there being a system wide need for training of juvenile delinquency judges, court personnel, attorneys, and other decision makers on language access. Specifically, training on working with interpreters was suggested.

### Few vital documents are translated into Spanish or other languages

Attorneys and advocates stated that many vital documents that are currently only available in English should be translated into Spanish and other common languages. These include the Family Court Appearance Ticket, any documents issued by the court, including adjournment notices, as well as any interview requests for mental health and other dispositional evaluations. The Vera Institute recently

translated the following documents for the New York City Law Department Queens Family Court Division: the HIPAA authorization release form; the cover letter that accompanies a subpoena notice to appear in court; the rescheduling notice to appear in court; and the victim contact letter. These documents should be circulated to offices in other boroughs and appropriately modified for accuracy.

During our interviews we learned that the New York City Family Court's web site is translated into Spanish.<sup>24</sup> Though this is a resource, our review of the web site revealed that the information currently available in Spanish is about civil proceedings. Little information about juvenile delinquency proceedings is available in English or Spanish.

## **The Solutions: Recommendations for Next Steps**

Vera's initial exploration into this new issue for the juvenile justice field presents a significant opportunity for funders to invest in activities that will prevent instances where immigrant parents are estranged from the juvenile justice system and their children are, as a result, locked up. Investment in such activities will allow funders to remove language barriers, ensure juvenile justice, and increase immigrant access to vital supports and services. We have identified three potential strategies to further understand this topic of concern and reduce DMC by dismantling language barriers:

- Research on impacted populations that more specifically and concretely answers how language barriers may lead to increased arrests, detention, and incarceration; and, through this targeted research, the development of an objective assessment tool that can be used by juvenile justice stakeholders seeking to make their systems more accessible to non-English speakers.
- A technical assistance project that leverages the expertise of practitioners who are employing promising practices to overcome language barriers and minimize potentially harsh consequences for children in the system.
- A demonstration project that provides high quality interpretation assistance during the critical moments in the juvenile justice process—both in and out of the courtroom—where language barriers may cause youth to be incarcerated.

### **Conduct research on impacted populations**

Although our exploratory research has documented instances where language barriers can contribute to DMC, additional research is necessary to fully understand the impact of language barriers on DMC within

a jurisdiction. To provide the juvenile justice field with a more developed understanding of this topic, Vera recommends additional research to examine qualitatively and quantitatively how language barriers affect court and system processing for youth.

Specifically, Vera proposes to conduct a quantitative investigation in New York City to determine whether youth with LEP parents experience different outcomes at various points in the juvenile justice process compared to other youth. To do this, Vera will collect court data for two cohorts of cases that are before the courts: cases in which an interpreter was used and cases in which no interpreter was used. By following these cohorts and comparing court experiences and outcomes we should be able to answer these important types of questions:

- Are youth with LEP parents remanded to detention at higher rates?
- Do youth with LEP parents stay in detention for longer periods of time?
- Do youth with LEP parents experience longer court processing times?
- Do youth with LEP parents receive more punitive sentences, by either type or length of sentence?

Our research findings will allow the juvenile justice field to go beyond anecdotes and refer to quantifiable evidence supporting a connection between language barriers and disproportionate minority contact. Our findings will be a powerful vehicle for advancing the conversation and educating the field. This research could also lead to the development of a juvenile justice language access assessment tool, which could be used by agencies to conduct an internal audit of their strengths and weaknesses in overcoming language barriers, particularly with LEP parents of system-involved youth. An empirical analysis will allow Vera researchers to identify critical points where language barriers contribute to disparate treatment of youth and increase DMC. The tool could be piloted with a cadre of agencies, both in and outside of New York City, and refined as required. Specific juvenile justice stakeholders that could benefit from such a tool include the police, probation, prosecutors, defense bar, and courts. The assessment tool could then lead to a comprehensive language access planning effort that is conducted in combination with technical assistance. Additionally, the tool could be used to diagnose a system's DMC-related needs and priorities.

## **Deliver customized technical assistance**

Vera recognizes that there is a great opportunity to build a peer network of juvenile justice practitioners around the country to share knowledge of promising practices and support the creation of practical tools and standards. There is a growing number of jurisdictions that are engaged in juvenile justice system

reform (whether small-scale or large-scale). Vera recommends that jurisdictions receive technical assistance as part of a national effort to focus on overcoming language barriers as a method for reducing DMC in the juvenile justice system.

Vera's Associates model, whereby technical assistance is delivered by Vera staff and juvenile justice practitioners in tandem, allows practitioners to learn from their peers. Vera delivers peer-to-peer consulting through a cadre of "associates." The associates are not full-time consultants but active practitioners, politicians, and academics from across the United States who take time away from their jobs to participate as Vera associates. Our initial exploratory activities have confirmed that a few of Vera's current government agency partners could be further cultivated to serve as associates in the language access context. Additionally, Vera will recruit and orient other practitioners who are addressing language barriers in their own jurisdictions and can inform emerging conversations in other venues.

Vera will select three juvenile justice agencies or systems to work with during the first year of the project. Agencies that have already engaged in a formal reform effort in collaboration with community practitioners, particularly those serving or representing immigrant communities, would be particularly attractive partners. This would ensure that community members have a key voice in identifying the language service needs of the community and developing strategies for overcoming language barriers. The following criteria would be considered in choosing the juvenile justice agency or system partners:

- significant LEP population and/or significant language barrier challenge,
- a commitment to reaching out to relevant stakeholders to form a language access working group, and
- a commitment to working with Vera to implement strategies for overcoming language barriers.

Recognizing that justice agencies throughout the country have different needs with regards to language, we would try to represent this diversity in choosing the three sites. For instance, some juvenile justice systems may interact with families that speak dozens of languages, while others interact with families that speak primarily English and Spanish. Some counties have immigrant populations concentrated in discrete areas, others have dispersed immigrant populations. We would also make an effort to choose agencies that vary geographically and by size and budget.

Technical assistance could focus on improving a jurisdiction's capacity to:

- identify prior languages and conduct an internal assessment of language access resources and capacity.
- develop an agencywide language access policy, which includes a protocol for obtaining language assistance and ensuring quality service.

- utilize resources effectively, especially contract interpreters and translators.
- identify key documents to be translated into priority languages and conducting linguistically and culturally appropriate translations.

### **Launch a juvenile justice interpreter bank demonstration project in New York City**

To address the interpreter capacity and interpretation quality concerns identified in this paper, Vera will partner with New York City's juvenile justice system to launch an innovative, yet practical demonstration project: a pooled resource juvenile justice interpreter bank. The interpreter bank will provide high quality interpretation services for New York City's juvenile justice system and will thereby mitigate the injustices and inefficiencies that arise due to language barriers. This new initiative will build upon several years of Vera's collaboration with New York City criminal and juvenile justice agencies.

The primary service of the interpreter bank will be oral interpretation services in the languages most prevalent in New York City's juvenile justice system. Interpreting services will be delivered by qualified and trained bilingual New Yorkers either in person or over the phone. The interpreters will be based out of a centrally located office that has appropriate technology for scheduling and telephonic interpreting and will be assigned to specific interpreting jobs by a supervisor. A key feature of the demonstration project is that interpreters will not be confined to working with the courts, but instead will be mobile and can assist with a wide variety of communications conducted by numerous juvenile justice agencies.

Through a single, coordinated scheme, the demonstration project will increase the availability of qualified and trained interpreters for New York City juvenile justice agencies. The demonstration project will require start up funding for the initial period of operation, with the goal of being largely supported by the combined resources of New York City's justice agencies through a standardized fee-for-service structure. Ultimately, this service would be a model for other jurisdictions.

Vera's work began more than 40 years ago with a demonstration project that led to bail reform nationwide, and in New York City, the demonstration project eventually led Vera to create an independent nonprofit organization to screen everyone who is arrested and detained. Over the decades, Vera has continued to be a pioneer: developing unexpected yet practical and affordable solutions to some of the toughest problems in the administration of justice and thereby making justice systems fairer and more effective for everyone. A large piece of our efforts involve teaching government partners about national best practices and offering facilitated training sessions to develop consensus-based policy change.

## **Conclusion**

Vera's preliminary research indicates that language barriers contribute to disproportionate minority contact by impeding parental involvement at critical decision-making points in the juvenile justice system. Youth of color whose parents do not speak English well may be entering and becoming more deeply involved in the juvenile justice system as result of systemic gaps in providing language access. With additional research, targeted technical assistance, and innovative pilot projects, Vera can aid juvenile justice stakeholders in effectively filling these gaps and reducing racial disproportionality.

## Appendix I: Our Research Methodology

To better understand how language barriers contribute to the disproportionate involvement of immigrant youth within the juvenile justice system, the Vera Institute carried out two primary research activities. First, Vera staff conducted a comprehensive national literature review on (1) the nature of parental involvement that is required during the various decision points and the effect of parental involvement on a juvenile's rehabilitation and (2) disproportionate minority contact (DMC) and the role of the family. The literature overwhelmingly confirmed the importance of parental involvement throughout a juvenile delinquency case, from arrest to disposition (sentencing). Likewise, the literature confirmed a connection between DMC and parental involvement. The literature explained that when justice officials consider "extralegal" factors, such as familial support and ability to supervise the child, disproportionate outcomes among children with the same legal basis of their delinquency arise.

The information gathered from the literature review was synthesized to develop the interview questions. Our interview tool, which formed a general framework for questioning during our interviews, included the following questions:

### Background

- Describe your present position.
  - How long have you held it?
  - What did you do before?
- How often is your agency encountering immigrant youth in the course of this work, and what is the nature of these encounters?
- Which ethnic groups and languages are you encountering?
- How have demographics changed in your jurisdiction in recent years?

### Points of Intervention

- In which situations do you have contact with parents or family members of the youth?
- How frequently are you encountering youth or parents/families of youth who do not speak English?
- What information do you request of them during these contact points, and what information do you provide to them?



## **Parental involvement**

- How important is parental contact to a juvenile's case?
- How often are you unable to contact parents, and what are some of the reasons parents do not become involved?
- What are the consequences of lack of parental involvement to [insert point of contact]?
- How does this impact the youth's case?

## **Overcoming language barriers**

- How is your agency/organization handling language barriers that arise during [insert point of contact]?
- Do you have bilingual staff? In which languages? How are they used?
- Do you have documents translated into other languages? Which languages? Which documents?
- In your opinion, what would be the best way to deal with language barriers when they occur?
- How is your agency/organization handling language barriers that come during [insert second point of contact, if applicable]?

## **Cultural and immigration-related barriers**

- Besides language barriers, what are the challenges your agency faces when you are working with an immigrant youth or family? (Cultural barriers, fear of immigration enforcement, deportation, detention, etc.)

## **Data collection**

- What demographic data does your agency collect about juveniles?
- Do you collect data on languages spoken by the juvenile? By the parent?
- Does any of the data you collect reflect on disparities in sentencing between immigrant and non-immigrant children?
- Can you share this data with us?
- Are you aware of any initiatives or projects that are underway to address language barriers in the juvenile justice system? If yes, what are they?

## Anecdotes/recommendations

- Can you share an anecdote that shows how parents' inability to communicate due to language barriers affected their child's case?
- What recommendations do you have for reducing language barriers between staff and parents, in your location and elsewhere?
- Who else do you recommend we speak with about this topic?

Vera selected a cross-section of juvenile justice stakeholders in New York City and in other jurisdictions for the interviews. We aimed to include practitioners who had first-hand experience in working with parents of court-involved youth as part of a juvenile justice “process” or “decision-making point.” Due to time limitations, however, we were not able to always get “on the ground,” perceptions from stakeholders because they were in management/oversight positions. Follow-up research with front line staff should build off the initial round interviews nicely, given that senior officials have participated in the project.

Over the course of the three months, Vera staff interviewed 19 juvenile justice stakeholders in New York City, representing:

- Community-based alternative to detention providers
- Family Court administration staff
- Family Court interpreters
- Family Court judges
- Family Court juvenile delinquency prosecutors
- Family Court officers
- Juvenile defense bar
- Juvenile justice advocates
- Juvenile justice mental health clinicians
- Probation staff
- Youth police officers

Additionally, Vera staff interviewed the juvenile justice stakeholders working in the following jurisdictions:

- Berks County, Pennsylvania
- Clark County, Nevada

- Cook County, Illinois
- Marin County, California
- Multnomah County, Oregon
- Santa Cruz County, California
- San Francisco County, California
- Travis County, Texas

Finally, we met with two existing working groups of juvenile justice professionals—juvenile delinquency prosecutors in Queens County, New York City, and the New York City Department of Youth and Community Development’s Court-Involved Youth Workgroup (including representatives from New York City’s Departments of Juvenile Justice, Probation, and Administration for Children’s Services)—to gather more in-depth information from justice officials about our research topic. By presenting our research questions to a group of stakeholders who are currently charged with addressing juvenile delinquency issues and allowing stakeholders to discuss their perceptions among themselves, Vera researchers obtained more specific and nuanced responses.

## Appendix II: The Languages of New York City's Juvenile Justice System

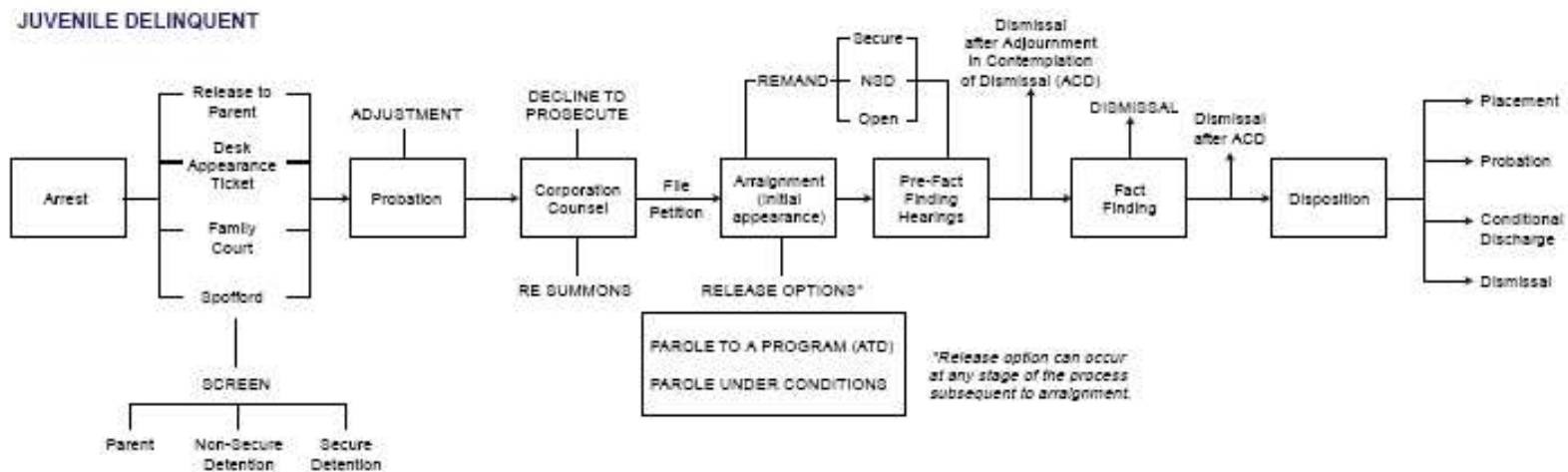
As is the case across the nation, the immigrant population has grown rapidly in the past several decades, bringing more and more newcomers to the country who do not speak English well. In New York State alone, more than 4.9 million people speak a language other than English at home. Approximately half of these individuals are limited English proficient (LEP), or speak English less than very well. In New York City, where over 130 languages are spoken, more than 2 million people (about one-fourth of the city's total population) are LEP. Although school-age youth have access to English education, parents who rely on English as a Second Language classes to learn the language often encounter long waiting lists for enrollment or no classes offered at a convenient time or location.<sup>25</sup>

New York City juvenile justice stakeholders we interviewed reported encountering LEP parents who speak the following languages:

Albanian	Fukienese	Punjabi
Arabic	Fulani	Russian
Bengali	Greek	Spanish
Bosnian	Hebrew	Tagalog
Cantonese	Hindi	Tibetan
Croatian	Korean	Urdu
Farsi	Mandarin	Vietnamese
French	Pashto	Yiddish
French Creole	Polish	

## Appendix III: Overview of New York City's juvenile justice system<sup>26</sup>

### Overview of Juvenile Justice System Processing



## Endnotes

<sup>1</sup> Federal attention to DMC began in 1988, when Congress amended the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 to require states to address what was then defined as disproportionate minority *confinement* of juveniles. In 2002, Congress extended the mandate to a more expansive focus on disproportionate minority *contact*.

<sup>2</sup> It should be noted that youth categorized as African American or black in the justice system may also be Latino and/or immigrants. There is a dearth of disaggregated data by ethnicity, nationality, and immigration status.

<sup>3</sup> D. Huizinga, T. Thornberry, K. Knight, & P. Lovegrove, *Disproportionate Minority Contact in the Juvenile Justice System: A Study of Differential Minority Arrest/Referral to Court in Three Cities* (Washington, DC: Office of Juvenile Justice Delinquency Prevention, 2007; prepared under grant number 2005-JK-FX-0001), 3.

<sup>4</sup> E. Poe-Yamagata & M.A. Jones, "And Justice for Some," *Kentucky Children's Rights Journal* 8 (2000): 22.

<sup>5</sup> J.A. Cox & J. Bell, "Addressing Disproportionate Representation of Youth of Color in the Juvenile Justice System," *Journal of the Center for Families, Children, and the Courts* 3 (2001): 32.

<sup>6</sup> Vera Institute of Justice, *Widening the Lens: A Panoramic View of Juvenile Justice in New York State: System Indicators for State and Local Planning* (New York: Vera Institute of Justice, 2006). Available at [http://www.vera.org/publication\\_pdf/381\\_734.pdf](http://www.vera.org/publication_pdf/381_734.pdf).

<sup>7</sup> These are state custody placements only. Local custody placements are not included here due to lack of race data.

<sup>8</sup> E. Poe-Yamagata & M.A. Jones, "And Justice for Some," *Kentucky Children's Rights Journal* 8 (2000): 22.

<sup>9</sup> Armstrong & Rodriguez, 2005, 522.

<sup>10</sup> J. Miller, J. Lin, & D. Gennaoui, "Examining Bounded Rationality in Judges' Dispositional Decisions," unpublished (New York: Vera Institute of Justice), 2.

<sup>11</sup> Cox & Bell, 2001, 31.

<sup>12</sup> D.M. Bishop & C.E. Frazier, "Race Effects in Juvenile Justice Decision-Making: Findings of a Statewide Analysis," *Journal of Criminal Law and Criminology* 86 (1996): 407.

<sup>13</sup> *Ibid.*, 409.

<sup>14</sup> Hyon B. Shin, "Language Use and English-Speaking Ability: 2000," Census 2000 Brief (Washington, DC: U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau, 2003).

<sup>15</sup> *Ibid.*

<sup>16</sup> Although this paper focuses on language barriers, we acknowledge that barriers due to cultural differences and an immigrant's imported perceptions of the juvenile justice system often accompany limited English proficiency.

<sup>17</sup> Armstrong & Rodriguez, 2005, 532.

<sup>18</sup> Cox & Bell, 2001, 35.

<sup>19</sup> C. E. Frazier & J.C. Cochran, "Detention of Juveniles: Its Effects on Subsequent Juvenile Court Processing Decisions," *Youth & Society* 17 (1986): 289.

<sup>20</sup> C. E. Frazier & D.M. Bishop, "The Pretrial Detention of Juveniles and its Impact on Case Dispositions," *Journal of Criminal Law & Criminology* 76 (1985): 1145-1147; Armstrong & Rodriguez, 2005, 524; O'Neill, 2002, 49.

<sup>21</sup> Juvenile Justice Project of the Correctional Association of New York, 2002, 4.

<sup>22</sup> K. Henning, "It Takes a Lawyer to Raise a Child?: Allocating Responsibilities Among Parents, Children and Lawyers in Delinquency Cases," *Nevada Law Journal* 6 (2006): 844.

<sup>23</sup> While our discussion focuses only on perceptions of New York City practitioners, many of the themes and issues highlighted were raised by national juvenile justice practitioners.

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<sup>24</sup> See [http://www.nycourts.gov/courts/nyc/family/index\\_sp.shtml](http://www.nycourts.gov/courts/nyc/family/index_sp.shtml).

<sup>25</sup> Center for an Urban Future, *Lost in Translation: Cities In Nearly Every Corner of New York State Have Been Experiencing a Sharp Rise in Immigrants, But State-run ESOL Programs Aren't Keeping Pace With the Growing Demand*, 2006. Available at [http://www.nycfuture.org/images\\_pdfs/pdfs/LostInTranslation.pdf](http://www.nycfuture.org/images_pdfs/pdfs/LostInTranslation.pdf).

<sup>26</sup> M. Faruquee, *Rethinking Juvenile Detention in New York City* (New York: Juvenile Justice Project of the Correctional Association of New York, 2002).