

Spanish-dominant Speakers and Language Access in the Justice System

March 2025



Supported by the John D. and Catherine T.
MacArthur Foundation

This report was created with support from the John D. and Catherine T. MacArthur Foundation as part of the Safety and Justice Challenge, which seeks to reduce over-incarceration by changing the way America thinks about and uses jails.

Presented by

Nancy Rodriguez

Meghan M. Ballard

Melissa Martinez

Table of Contents

Introduction & Methodology..... 4

Findings 6

Recommendations for Improved Communication 12

Summary 13

Introduction & Methodology

The diversity of linguistic communities in the U.S. reflects the unique demographic, social, political, and economic forces driving migration to the U.S. There are an estimated 69.2 million people in the U.S. who speak a language other than English at home, and an estimated 26.5 million people who are limited English proficient (LEP), which means they have a limited ability to read, write, speak, or understand English.¹ Despite changes in migration patterns over the years, Spanish remains the most common non-English language spoken in homes in the U.S. In fact, there are an estimated 42 million people in the U.S. who speak Spanish at home, and of those, 39.87% (or 16.8 million) are considered LEP Spanish speakers.² Linguistic diversity is an asset for navigating increasing globalization, but can also present challenges for key institutions that are not prepared to serve individuals who speak a language other than English, including the criminal justice system (CJS).³ Over the years, the U.S. Department of Justice (USDOJ) has offered guidance to various dimensions of the CJS to combat national origin discrimination against LEP individuals and ensure their fair treatment within the CJS. Recently, the USDOJ launched a Law Enforcement Language Access Initiative that includes training sessions and webinars for law enforcement agencies on strategies for overcoming language barriers.⁴

Despite the need for language access services, such as in-person interpretation, telephone interpretation, and translated written material, the delivery of such services remains a challenge for the CJS.⁵ When language services are unavailable or inaccessible in the CJS, there can be adverse outcomes for LEP individuals (e.g., unlawful arrests) and CJS personnel (e.g., operational challenges). Importantly, law enforcement agencies, courts, and correctional institutions each represent systems with their own administrative resources and infrastructure. Accordingly, language access services are likely to differ across these systems due to factors such as the availability of personnel managing language access services (e.g., Language Access Coordinator), the presence of personnel providing language access services (e.g., bilingual or multilingual officers and staff), and the varying quality of those services. While state and federal guidelines emphasize the importance of serving the LEP population, there is limited data and research on LEP individuals' experiences with crime and their experiences with the CJS.⁶ In turn, little is known about language accessibility and language access services within the CJS.⁷

1. U.S. Census Bureau. (2022). *Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over*. American Community Survey, ACS 1-Year Estimates Detailed Tables, Table B16001. Retrieved August 16, 2024, from [https://data.census.gov/table/ACSDTY2022.B16001?q=Language Spoken at Home](https://data.census.gov/table/ACSDTY2022.B16001?q=Language%20Spoken%20at%20Home).

2. U.S. Census Bureau. (2022). *Language Spoken at Home*.

3. See USDOJ Limited English Proficiency (LEP) Guidance Enforcement of Title VI of the Civil Rights Act of 1964-National Origin Discrimination Against Persons with Limited English Proficiency: Policy Guidance (65 FR 50123) (2000). <https://www.federalregister.gov/documents/2000/08/16/00-20867/enforcement-of-title-vi-of-the-civil-rights-act-of-1964-national-origin-discrimination-against>; See Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (67 FR 41455) (2002). <https://www.federalregister.gov/documents/2002/06/18/02-15207/guidance-to-federal-financial-assistance-recipients-regarding-title-vi-prohibition-against-national>.

4. <https://copstrainingportal.org/project/overcoming-language-barriers-in-policing/>

5. Ballard, M., & Rodriguez, N. (2023). Police department websites and digital accessibility: A platform for achieving effective communication between limited English proficient communities and the police. *Policing and Society*, 33(2), 129-149. <https://doi.org/10.1080/10439463.2022.2071893>

6. Ballard, M. & Kubrin, C. (2023). Immigrant victimization: Centering language in theory, data and method. *Societies*, 13(4), 101-118. <https://doi.org/10.3390/soc13040101>

7. *Reducing Racial Inequality in Crime and Justice: Science, Practice, and Policy*. (2023) In B. Western, K.G. Muhammad, Y. Negussie, & E. Backes (Eds.) The National Academies Press.

Introduction & Methodology

To expand research on the system-impacted LEP population, we build off on an initial language access project funded by the MacArthur Foundation.⁸ In this policy brief, we present an analysis of original data on the experiences of 85 system-impacted Spanish-dominant speaking individuals who live or have lived in the southwestern region of the U.S. We present summaries of their shared experiences and perceptions around accessing language access services across the CJS. Our goal is to elevate the voices of system-impacted LEP individuals and develop a deeper understanding of the needs of this population within the context of the CJS.

Researchers collaborated with community organizations that serve LEP individuals across various jurisdictions to disseminate information about the study and recruit individuals to participate in confidential interviews.⁹ These interviews focused on interviewees' experiences navigating the CJS system as someone who themselves, or their loved ones, could have benefited from the assistance of language services. Organizations distributed information through their mailing lists and also passed out flyers during their community meetings. The target population was Spanish-dominant individuals considered system-impacted.¹⁰ A total of 85 individuals were interviewed over the course of nine months from January to September 2023.

The interviews were semi-structured and tapped into individual experiences with various types of language services (e.g., bilingual employees, remote language services, translated signage and legal forms, court interpreters, and multilingual self-help services), perceptions of language access services, and current gaps in service access and delivery. A quarter of the interviews (25%) were conducted in person and the rest were conducted telephonically. Interviews were approximately 60 minutes in length and conducted monolingually in Spanish. In addition to convenience sampling, as described above, interviewees were also recruited using snowball sampling. After each interview, participants were compensated \$50 for their involvement and asked to refer anyone they thought met the target population.

8. Rodriguez, N. & Ballard, M. (2023). *Establishing, implementing, and maintaining a language access program.* https://safetyandjusticechallenge.org/wp-content/uploads/2023/05/UCI22_LA_Policy_brief_Revised.pdf

9. Cities included Los Angeles, CA, San Francisco, CA, El Paso, TX, Philadelphia, PA, and New Orleans, LA.

10. System-impacted individuals included persons who had been directly or indirectly impacted by the justice system due to an arrest, detention/confinement, or conviction of a crime. In our study, this included immigration violations.

Findings

We first report several characteristics of the sample (see Table 1). The average age of individuals in the sample was 45 years old, with men (49.4%) and women (50.6%) evenly represented. The self-reported categories of race and ethnicity by interviewees were Latino (45.9%), Hispanic (29.4%), and Mexican (24.7%). The majority of individuals in our sample were not born in the U.S. (96.5%), with most reporting Mexico as their nation of origin (78.8%). Over three-quarters of the sample have resided in the U.S. for 11 years or more (81.2%). Most individuals self-reported low levels of education and income. Two-thirds of the sample (64.7%) reported their highest level of formal education completed as some high school or less.

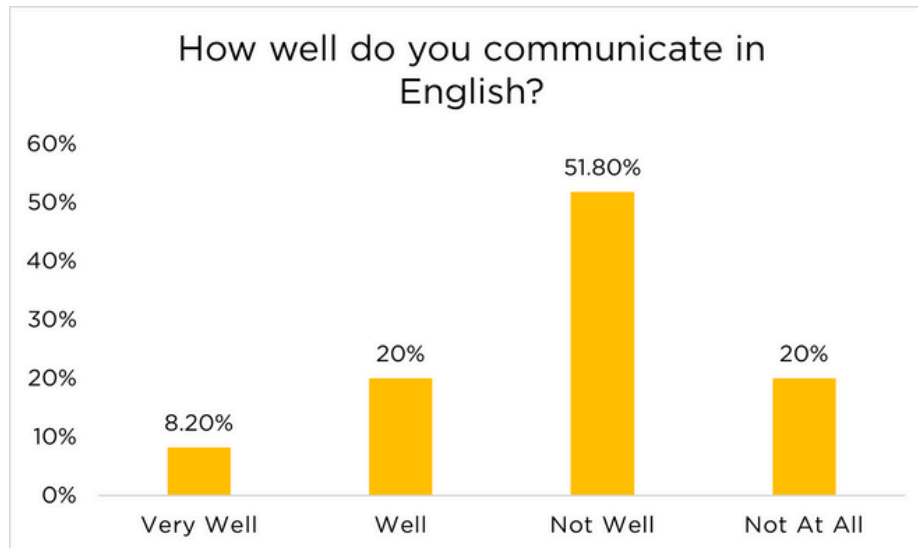
A third of the sample (31.8%) reported an annual income of under \$10,000. All individuals in the sample reported that Spanish was their native and/or primary language with varying degrees of English proficiency. The sample also included interviewees who were recent arrivals to the U.S. and awaiting asylum case reviews. As illustrated in Figure 1, over two-thirds of the individuals in the sample are considered LEP as they reported speaking English "not well" (51.8%) or "not at all" (20%) (see Figure 1).

Table 1. Demographics of Interviewees (N= 85)

Measures	%
Gender	
Male	49.4
Female	50.6
Age (mean)	45.2
Race/Ethnicity	
Latino	45.9
Hispanic	29.4
Mexican	24.7
Born in US	
Yes	3.5
No	96.5
Years in the U.S.	
10 years or less	18.8
11 years or more	81.2
Highest Level of Education	
Less than high school	64.7
High school or more	35.3
Annual Income	
Less than \$10,000	31.8
\$10,000- \$19,999	11.8
\$20,000- \$29,999	11.8
\$30,000 or higher	44.6

Findings

Figure 1. English Proficiency



Interviewees reported various experiences with local, state and federal justice systems. The most represented experiences were interviewees convicted for crimes and deported to their native countries upon release from prison, stopped for traffic violations, and/or family members of loved ones navigating the CJS.

Awareness of Language Access Right

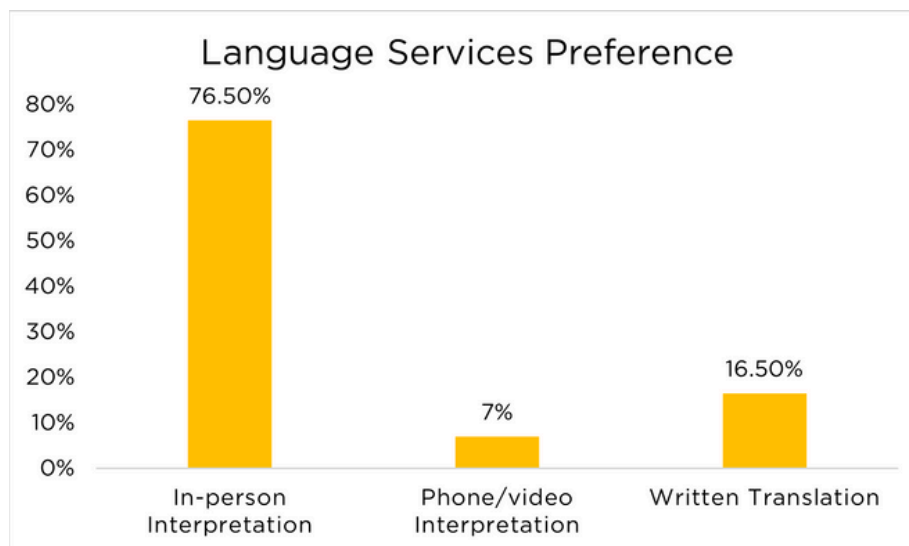
Interviewees were asked whether they were aware that LEP individuals had a right to language access services in the CJS. Less than half of the interviewees (41.2%) reported being aware of this legal right. Among those who were aware of this legal obligation, they reported learning this from friends and family and their own experience interacting with the CJS (e.g., "My kids told me", "I learned from going to court", and "I learned while in jail.")

Preferred Language Access Services

Although many jurisdictions and systems make various services available for LEP individuals, there is little insight on the preferred services of system-impacted LEP individuals. Figure 2 illustrates the preferences as reported by interviewees. Overwhelmingly, most interviewees (76.5%) reported preferring in-person interpretation, followed by written interpretation (16.5%), and phone or video interpretation (7%). In-person interpretation was preferred because individuals could ask questions about the process and legal terminology being relayed to them.

Findings

Figure 2. Language Services Preference



Most Recent Justice System Contact

Interviewees were asked to recount their most recent contact with the CJS and discuss how they communicated with CJS personnel. Below we present a thematic summary of their experiences.

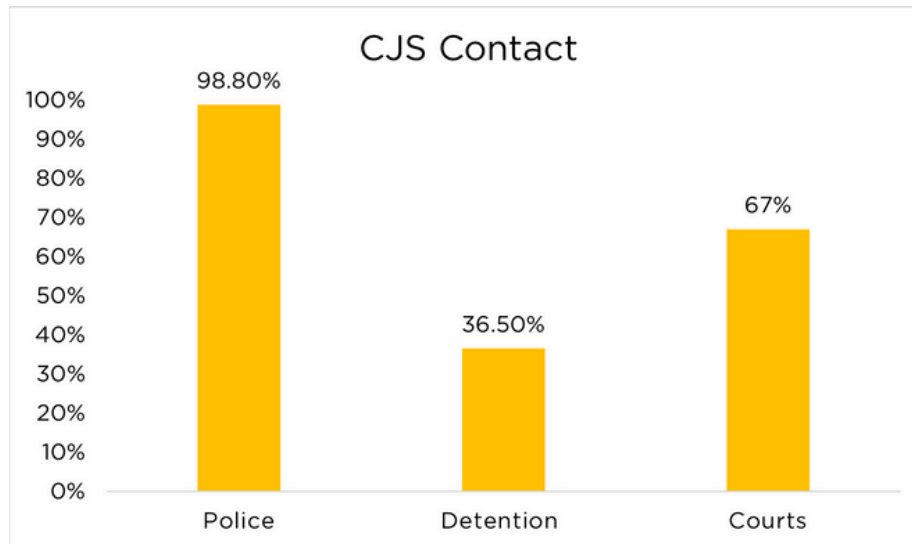
Most Recent Law Enforcement Encounter

Nearly every interviewee (98.8%) reported interactions with law enforcement. In fact, nearly half (44%) of the interviewees had four or more prior interactions with law enforcement. During their most recent interaction, traffic stops (44%) and calls for service (25%) represent the primary reasons for law enforcement contact. Roughly a third of interviewees (29.4%) said that someone helped them communicate with law enforcement during their most recent interaction.

More than two-thirds of interviewees (68%) who received help with communication reported that the communication was easy or extremely easy. Only 12% of interviewees reported that communication was difficult or extremely difficult. Among interviewees who reported receiving help, they received assistance from officers who were either bilingual, or from their children and strangers in the area. Among the interviewees who reported not receiving help to communicate with the law enforcement, less than half (40.7%) reported that communication was easy or extremely easy. Interviewees who reported not receiving help said they "knew enough English" to communicate with officers who did not speak Spanish. Despite their attempts to communicate in English with the police, slightly more than thirty percent of interviewees (30.5%) reported that communication was difficult or extremely difficult.

Findings

Figure 3. CJS Experience of Spanish-dominant Speakers



Most Recent Incarceration Experience

More than a third of the interviewees (36.5%) reported having spent time in jail, prison, or an immigration detention center in the U.S.¹¹ During their most recent incarceration experience, jail detention and ICE detention were the most recent types of incarceration experiences.¹² More than half of all interviewees (51.6%) reported being detained for more than 24 hours. The proportion of interviewees who reported getting help to communicate with corrections staff was higher than those who engaged with the police. A little more than sixty percent of interviewees (61.3%) said that someone helped them communicate with corrections staff during their incarceration.

More than half of those who received help with communication reported that communication was easy or extremely easy (58.3%). A little less than seventeen percent of interviewees (16.7%) reported that communication was difficult or extremely difficult. A few interviewees reported receiving help from corrections staff who spoke Spanish or they were provided with a phone/video interpreter to communicate with corrections staff. Among those interviewees who were confined and who did not get help with communication, almost two-thirds of the interviewees (61.1%) reported that communication was difficult or extremely difficult. Interviewees reported, once again, knowing enough English to communicate with correctional officers and staff.

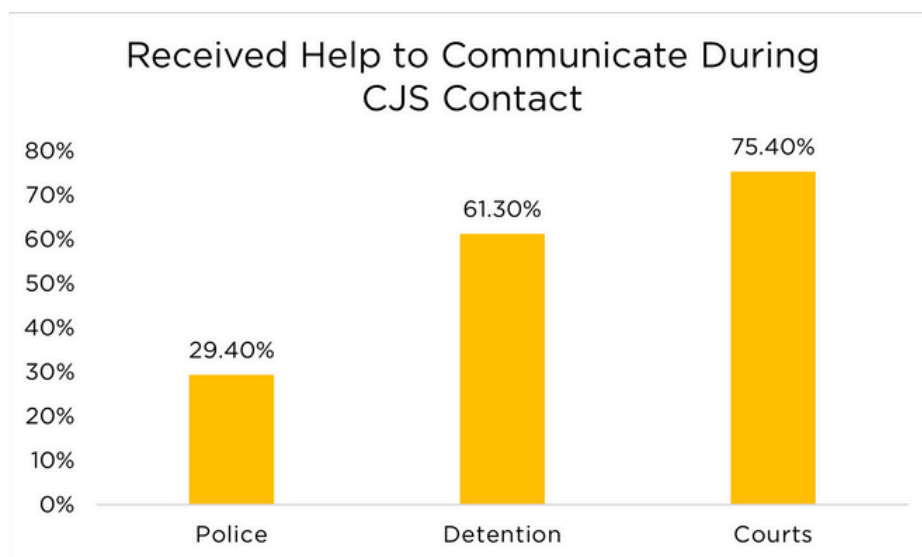
11. It is important to note that county jails and state prisons that receive federal funding are legally required to adhere to different language access mandates compared to federal prisons and immigration detention facilities. This distinction arises because of the difference between facilities that are federally funded (e.g., Title VI) and those that are federally operated (e.g., EO 13166). However, our research is not focused on exploring these distinctions but rather aims to provide a high-level overview of the overall landscape of language access issues in the CJS.

12. In this brief, unless otherwise specified, our detention label covers all of the listed scenarios.

Findings

During their incarceration, most interviewees reported receiving written legal documents (e.g., incident report, court docket information). Although the majority (69.2%) received translated written materials in a language they understood, some did not understand the content of the documents. Of those who did not receive translated documents, they reported trying to understand the English only written legal documents by asking a family member, friend, or another detainee for assistance, as well as bilingual correctional staff who helped them translate the material and/or generally understand the content of the documents.

Figure 4. Assistance Communicating with CJS Personnel



Most Recent Court Experience

Approximately two-thirds of the sample (67%) had experience with the court system. During their most recent court experience, the primary reason for their appearance was for a traffic citation. Approximately, three-quarters of interviewees (75.4%) reported that they received help communicating with court officials. Sixty percent of interviewees (60.5%) who received help with communication reported that communication with court officials was easy or extremely easy, while a fifth reported that communication was difficult or extremely difficult (21%). Interviewees overwhelmingly reported professional court interpreters as the main form of communication assistance. Among those who did not receive language assistance, over a third of interviewees (35.7%) reported that communication was easy or extremely easy.

An additional 42.8% of interviewees reported that communication was difficult or extremely difficult. Interviewees reported that they were either able to communicate in English, had access to a court interpreter, or received assistance with communication from court personnel. A little more than a third of interviewees reported receiving translated written court documents prior to attending court (36.7%) and during their court appearance (30.8%). Among interviewees who did not receive translated court documents, the majority relied on family, friends, and strangers to help them understand the content of material. The remainder indicated getting help from an official interpreter, their lawyer, court official, or attempted to understand the content on their own.

Findings

Language Brokering

A key finding of our study was the prevalent reliance on family and friends to communicate with CJS personnel. Interviewees reported an average of 6.3 individuals they could rely on to help them communicate with English-speaking CJS personnel. This suggests that most interviewees are not linguistically isolated insofar as they have access to multiple people who can act as informal interpreters during encounters with CJS personnel. However, the use of informal interpreters is generally not recommended in language access guidance, especially in the context of the CJS, due to concerns about accuracy and confidentiality.

The most common sources of informal interpreters reported were children and family members. Interviewees described various situations in which they turned to loved ones for help with understanding CJS processes, answering questions from CJS personnel, or sight translating legal documents. Despite their own need for assistance, some interviewees also reported serving as interpreters for others. Their experiences as language brokers across various systems are detailed below.

Nearly twenty percent of interviewees (20%) reported serving as interpreters for family or friends during a law enforcement encounter. When asked about their most recent experience interpreting, interviewees indicated being called by family members or friends who were being detained and questioned by law enforcement. One participant stated, "A friend was stopped, and she called me to help her so I went. My English is bad but better than hers." Others reported being with individuals who were being questioned by law enforcement and they assisted with communicating with officers. The remainder reported being in the vicinity of an incident and either volunteered to help interpret for the parties or were asked by persons to assist in communicating with officers.

A smaller proportion of individuals reported helping others communicate with officers or officials in correctional settings (10.6%) and the courts (3.5%). During their most recent experience interpreting in a correctional facility, interviewees were asked by other detainees for assistance in communicating with staff. Other interviewees reported being asked by corrections and treatment staff for assistance with communication with detainees, including in two cases where individuals who were themselves detained assisted other detainees in need of medical attention. For the few interviewees who reported assisting others in court, they reported either volunteering to interpret for people they were with (i.e., family member and friend) or strangers they encountered while in the courthouse.

Interviewees who reported interpreting for others often expressed having mixed feelings about their language broker roles. Some recognized the limitations of their proficiency with the English language (e.g., "Some words are hard to translate") and the stakes associated with their assistance (e.g., miscommunication that could adversely impact the LEP individual). Many interviewees reported being nervous helping with communication because their English skills were limited yet, in the same breadth, they noted they tried their best to assist. The perception of CJS personnel impacted how they viewed their role in these situations. This was most often conveyed by interviewees who were assisting others during law enforcement encounters. For example, an interviewee pointed out that "Police are usually not very patient when you are translating [and they] seemed they just wanted to go." Others were confident and proud in their role, expressing "I was confident, and it felt nice that I could help."

Recommendations for Improved Communication

Interviews with Spanish-dominant speakers also captured their perceptions on the need for language access services and recommendations for improving service effectiveness. Approximately 90% of interviewees strongly agreed that there is a need for more bilingual police officers, corrections and treatment staff, court staff, and court interpreters. Interviewees were asked to report what could have improved communication with CJS personnel. Three dominant themes remerged from their responses: the need for more qualified interpreters, more bilingual CJS personnel, and a desire for improved English proficiency.

More Qualified Interpreters

Interviewees expressed the need for more qualified interpreters who could make communication easier for them during law enforcement encounters, confinement, and court proceedings. Interviewees consistently expressed concern with the quality of interpretation services and their own trust in the accuracy of the interpretation. One interviewee stated, "We need better translators because some don't translate well, I had doubts. They tell you whatever they feel like saying." Interviewees relayed their own difficulty in trusting interpreters ("It was still hard because I had to trust they were telling me the truth."), which was especially concerning among interviewees with higher levels of English proficiency ("Words are changed in translation"). In one case, an interviewee reported that his daughter, who was bilingual, accompanied him to court and relayed that the translator was "Saying some things differently." This resulted in his distrust of the court interpreter.

More Bilingual CJS Personnel and Enhance Treatment of Individuals

Overwhelmingly, interviewees called for more bilingual or multilingual officers and staff. More than half of interviewees reported that bilingual CJS personnel would have helped their communication during police encounters (61%), detention (52.4%) and court proceedings (52.2%). One interviewee specified that communicating monolingually with bilingual CJS personnel, such as bilingual police officers, is easier because "Translators get too technical or are not clear enough." Interviewees stressed the importance of having Spanish-speaking officers and staff who can relay what is happening procedurally (e.g., "Someone to tell me in Spanish why I was detained and what happens next") or give guidance on the logistics of legal proceedings (e.g., "What papers am I signing?").

Interviewees expressed that the treatment from CJS personnel, especially police officers and corrections staff impacted communication. Certainly, language barriers impact procedural justice and can undermine the legitimacy of the CJS as a whole. A quarter of interviewees (25%) expressed a desire for better general treatment from the law enforcement officers and corrections staff (e.g., "It didn't matter that [the officer] spoke Spanish because their aggressive tone frightened me and messed with the communication."). For interviewees who were detained, being treated as humans worthy of respect and dignity was paramount.

Improved English Proficiency

Another common theme among interviewees' responses was their desire to improve their English proficiency so that they could more easily communicate directly with CJS personnel in English. This was expressed by interviewees regardless of their ability to communicate in English. Interviewees also expressed that they were embarrassed and felt shame at not being able to effectively communicate with CJS personnel. They discussed deferring to processes and actions despite not knowing the implications or doing their best to draw on their limited English to communicate. Importantly, English proficiency would allow interviewees to be active participants in their encounters with CJS personnel, rather than feeling like passive bystanders ("I may not like what you are doing, but I understand it.").

Summary

In conclusion, this policy brief builds on prior research supported by the MacArthur Foundation to further investigate the experiences of Spanish-dominant individuals affected by the CJS. By examining the perspectives of 85 system-impacted Spanish-dominant speaking individuals, we highlight key issues related to language access services, including preferred methods of communication, challenges faced in interactions with CJS personnel, and the complex role of language brokers that many individuals in our sample felt compelled to assume during interactions with the CJS. With this policy brief we aim to amplify the voices of the system-impacted LEP population and provide actionable insights to enhance language accessibility in the CJS.