

# HOUSING JUSTICE

National Housing Law Project

Newsletter October 2010

## DOJ Issues Letter to Courts Regarding Duty to Provide Meaningful Language Access

The Department of Justice (DOJ) released a letter to all state courts on August 16, 2010 regarding their duty to provide meaningful access to people with limited English proficiency (LEP). Title VI of the Civil Rights Act, as well as the Omnibus Crime Control and Safe Streets Act of 1968, prohibit recipients of federal financial assistance from discriminating on the basis of national origin. The Supreme Court ruled in 1974 that failure to provide meaningful language access constitutes national origin discrimination under Title VI. In 2000, President Clinton issued Executive Order 13166, which ordered federal agencies to issue guidance for recipients of federal financial assistance regarding their duty to provide appropriate services for LEP individuals.

Language access in courtrooms is often critical. For survivors of domestic violence, it may be especially crucial, not only in obtaining a restraining order, but also in a variety of other situations such as child custody or eviction proceedings.

DOJ found that some courts have not fulfilled their obligation to provide meaningful language assistance. As a result, it issued the August 16 letter outlining ways in which state courts receiving federal financial assistance have failed to provide meaningful language access and the factors that DOJ will use in assessing whether states are in compliance with Title VI of the Civil Rights Act.

## Policies that Fail to Satisfy Title VI

The DOJ letter listed four specific policies or practices, engaged in by some courts, that fail to meet Title VI language access requirements. First, the letter describes how some courts limit interpreter assistance to certain types of cases (criminal, termination of parental rights, domestic violence proceedings). Further, some courts do

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### For More Information

The full text of the DOJ letter is available at [www.justice.gov/crt/lep/final\\_courts\\_ltr\\_081610.pdf](http://www.justice.gov/crt/lep/final_courts_ltr_081610.pdf)

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not provide interpreter assistance to non-party LEP individuals that are necessary to a case, or proceedings presided over by hearing officers, magistrates, masters, commissioners, arbitrators, mediators, and others. DOJ expects language access in all court proceedings, civil, criminal, or administrative.

Second, some courts charge one or more parties for the use of interpreter services. Even where the court provides for a fee waiver for indigent parties, such a charge can discourage parties from requesting language services and it creates an impermissible surcharge based on national origin. Therefore, the letter reiterates that interpreter services must be free of charge to LEP persons.

Third, the letter emphasizes that language

*(Continued on page 2)*

### IN THIS ISSUE

DOJ Issues Letter to Courts on Language Access  
Statistic of the Month

Housing Needs of Sexual Violence Survivors  
Jury Awards \$115,000 in Sexual Harassment Case

(Continued from page 1)

services should not be restricted solely to courtroom proceedings, as some courts do. Instead, language services must be available for all functions of the courthouse where interaction with LEP individuals occurs. These functions range

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*Dispensing justice fairly,  
efficiently, and accurately is a  
cornerstone of the judiciary.  
Policies and practices that deny  
LEP persons meaningful access to  
the courts undermine that  
cornerstone.*

*U.S. Department of Justice  
Civil Rights Division*

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from front desks and records rooms to alternative dispute resolution programs, anger management classes, and detention facilities. So long as there is public contact, the court must have a proper process in place for providing language services.

Finally, the DOJ letter identifies the failure to ensure effective communication with court-appointed or supervised personnel as an issue that courts must address to provide proper language access. The letter states that the court must ensure that individuals who are “employed, paid, or supervised by the courts, and who are required to communicate with LEP parties or other individuals as part of their case-related functions, must possess demonstrated bilingual skills or have support from professional interpreters.” Examples of these types of individuals may include defense attorneys, guardians ad litem, or court psychologists.

#### **Factors in Determining Compliance**

After identifying the ways in which some state courts that receive federal financial assistance have failed to meet their obligations to provide

meaningful language access, DOJ stresses that language services must be considered a basic component of a court’s operating expenses. Recognizing that each court has different financial resources and different language needs, the letter makes clear that it will consider a number of factors in determining the court’s compliance with Title VI, especially in the context of current fiscal constraints. The factors will consider, among other things, how much progress a court has made in providing language access, how it has dealt with fiscal constraints for other court operating expenses, and how significant an adverse impact deficient language access policies have on LEP persons.

#### **Conclusion**

DOJ’s letter represents a commitment by the agency to enforcing the promise of meaningful language access found in Title VI’s provisions prohibiting discrimination based on national origin. DOJ will closely monitor and review courts for compliance with Title VI language access requirements. DOJ is available to provide technical assistance and training to state courts on this issue. If survivors of domestic violence are unable to obtain adequate language service in their state court, and that court receives federal financial assistance, advocates should consider assisting them in filing complaints with DOJ’s Civil Rights Division. ■

#### **Statistic of the Month**

Of the approximately 25 million LEP individuals in the country, at least 13 million live in states that do not require their courts to provide interpreters to LEP individuals in most types of civil cases.

Laura Abel, Language Access in State Courts, Brennan Center for Justice (July 4, 2009), available at [www.brennancenter.org/content/resource/language\\_access\\_in\\_state\\_courts/](http://www.brennancenter.org/content/resource/language_access_in_state_courts/)

## Report Explores Housing Needs of Sexual Violence Survivors

A coalition of organizations that advocate on behalf of sexual assault survivors has released a report regarding victims' housing needs titled "Housing and Sexual Violence." The report surveyed individuals at a variety of organizations that serve sexual assault survivors, including rape crisis centers, sexual assault coalitions, mental health providers, law enforcement, legal services providers, medical providers, and housing providers. The goals of the survey were to obtain data that would further the understanding of the intersections between sexual violence, housing, and homelessness; help to identify the needs of victims and advocates around housing issues; and help to inform policy and programmatic strategies.

### Sexual Violence and Housing Instability

Several of the findings illustrate the link between sexual violence and housing instability. One-third of respondents reported that up to 20% of survivors struggle to find or keep housing because of sexual violence. Over one-third of respondents reported that up to 20% of survivors became homeless as a result of sexual violence. Additionally, 20% of respondents reported that between 61% and 80% of victims were sexually assaulted where they were living.

### Elderly and Disabled Survivors

Several respondents provided qualitative information on the housing barriers faced by survivors with disabilities and elderly survivors. Respondents noted that survivors with disabilities are vulnerable to assaults by live-in caregivers and lack access to culturally responsive and accessible shelter. Respondents reported that elderly survivors are often on fixed incomes, limiting their ability to relocate after sexual violence has occurred. Respondents also reported a shortage of affordable housing that is suitable for older adults.

### Survivors in Subsidized Housing

The report also surveyed respondents about survivors living in subsidized housing. The report found that 12% of respondents reported that between 81% and 100% of survivors were unable to relocate after sexual violence occurred. The most commonly identified barriers for survivors living in subsidized housing included wanting to move because the perpetrator lived in close proximity; wanting to move because the sexual assault occurred in or near the subsidized unit; long waiting lists for subsidized housing; and risk of sexual violence because of unsafe living conditions.

### Advocacy Needed

Respondents were also surveyed regarding the types of assistance that could help address the housing needs of sexual assault survivors. The majority of respondents reported a need for legal advocacy or representation for survivors on housing matters; advocacy and counseling tools related to housing and sexual violence; outreach and public education tools related to housing and sexual violence; and screening tools to help identify the housing needs of sexual violence victims.

### Policy Responses

Survey respondents identified several policy areas that they felt were important to the anti-sexual violence movement. One policy area respondents identified was protecting sexual assault survivors from evictions, terminations or denials of housing based on their status as victims. Another policy area identified was giving sexual violence survivors priority status when they apply to subsidized housing, as well as creating mechanisms for immediate transfers within subsidized housing. Respondents also identified a lack of funding for emergency shelter for sexual violence survivors as a major policy need.

To view the full Housing and Sexual Violence report, visit [www.nsvrc.org](http://www.nsvrc.org). ■

## Jury Awards \$115,000 to Tenants Who Were Sexually Harassed

A federal jury in Detroit has awarded a \$115,000 verdict against a property manager for sexually harassing female tenants. The jury in *United States of America v. Peterson*, No. 09cv10333 (E.D. Mich. Aug. 6, 2010), also found that the property owner and his company were liable for the harassment.

The lawsuit alleged that property manager Glenn Johnson subjected female tenants to discrimination on the basis of sex, including severe and pervasive sexual harassment, in violation of the federal Fair Housing Act. The lawsuit also alleged that property owners Washtenaw County Commissioner Ronnie Peterson and First Pitch Properties, LLC were vicariously liable for Johnson's conduct.

### Trial Evidence

During the trial, the Department of Justice (DOJ) presented evidence that Johnson subjected six women to harassment ranging from sexual comments and advances to requiring sexual favors in exchange for their tenancy. One woman testified that Johnson refused to give her keys to her apartment until she agreed to have sex with him. Another woman testified that she had sex with Johnson at least 20 times because he threatened her with eviction. All of the victims were single mothers who were on the verge of homelessness.

DOJ also presented evidence that Peterson, the owner of the properties, knew that Johnson was sexually harassing tenants but did nothing to stop it. One woman testified that she complained to Peterson about the harassment, yet Johnson continued to manage properties for Peterson for nearly two more years.

DOJ plans to file a post-trial motion seeking civil penalties against the defendants as well as injunctive relief. The case was referred to DOJ by the Fair Housing Center of Southeastern Michigan. ■



## Assisting Survivors of Domestic Violence in Applying for Housing



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### New Resource Available Online

National Housing Law Project is pleased to announce the publication of "Assisting Survivors of Domestic Violence in Applying for Housing." The manual provides a comprehensive review of domestic violence survivors' rights in applying for housing. It is available for download at <http://nhlp.org/resourcecenter?tid=96>

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