

PUBLIC HEARING TRANSCRIPTS

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TRANSCRIPTS OF THE
PENNSYLVANIA SUPREME
COURT COMMITTEE ON
RACIAL AND GENDER BIAS
IN THE JUSTICE SYSTEM

PHILADELPHIA
WILKES-BARRE
HARRISBURG



**Philadelphia
Public Hearing
Transcript**

ORIGINAL

IN RE:

SUPREME COURT OF PENNSYLVANIA
COMMITTEE ON RACIAL AND GENDER BIAS
IN THE JUSTICE SYSTEM

- - -
WEDNESDAY, DECEMBER 6, 2000
- - -

Second Regional Public Hearing in the above-captioned matter held in the Free Library of Philadelphia, 19th and Vine Street, Philadelphia, Pennsylvania, commencing at 1:10 p.m., on the above date, before Kimberly A. Hussey, Certified Shorthand Reporter.

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A P P E A R A N C E S :

COMMITTEE MEMBERS

ATTORNEY NICHOLAS CAFARDI, CHAIRMAN
HONORABLE IDA CHEN
HONORABLE NELSON DIAZ
PROFESSOR PHOEBE A. HADDON
ATTORNEY BURTON D. MORRIS
ATTORNEY CHARISSE R. LILLIE
ATTORNEY LYNN MARKS
ATTORNEY ANDRE DENNIS
LISETTE M. McCORMICK, EXECUTIVE DIRECTOR
JANE LOUIK, ASSOCIATE DIRECTOR

Public Hearing Witnesses
Philadelphia Hearing December 6, 2000
TESTIMONY REGARDING LANGUAGE ACCESS ISSUES

Hearing Philadelphia 12/6/00

Page Nos. 91-113

1. Witness: **Iraida Afanador**

2. Organization: Lighthouse

Type organization:

Serving children in youth in the North Kensington area,
providing all aspects of social and legal services.

Hearing Philadelphia 12/6/00

Page Nos. 125-134

1. Witness: **Im Ja P. Choi**

2. Organization: Women's Development Institute International

Type organization:

Provide cultural educational programs for the community.

Hearing Philadelphia 12/6/00

Page Nos. 135-149 & Written

1. Witness: **Arthur Read**

2. Organization: Friends of Farmworkers, Inc.

Type organization:

A statewide legal services program for farmworkers,
providing representation of non-English speaking persons
in a variety of administrative and judicial forums.

Hearing Philadelphia 12/6/00

Page Nos. 233-243

1. Witness: **Paul Uyehara**

2. Organization: Community Legal Services

Type organization:

A nonprofit legal service provider for low-
income residents of the Philadelphia region.

Hearing Philadelphia 12/6/00

Page Nos. 311-313

1. Witness: **Ellen Greenlee**

2. Organization: Public Defender

Type organization: represent indigent criminal defendants

1 PROFESSOR DAVID BALDUS: -- because
2 some people maintain that there is no
3 discrimination law on general principles and
4 others maintain that it's inevitable.

5 CHAIRMAN NICHOLAS CAFARDI: Okay.
6 Thank you very, very much for that --

7 PROFESSOR DAVID BALDUS: You're
8 welcome.

9 CHAIRMAN NICHOLAS CAFARDI: -- for
10 that enlightening testimony. You did great
11 work with your articles. I'm sure we'll be
12 in touch.

13 PROFESSOR DAVID BALDUS: Very well.
14 Thank you very much.

15 - - -

16 (Witness excused.)

17 - - -

18 CHAIRMAN NICHOLAS CAFARDI: At this
19 point, we need a slight break for the court
20 reporter.

21 (Brief recess.)

22 CHAIRMAN NICHOLAS CAFARDI: Please
23 begin.

24 IRAIDA AFANADOR: Mr. Chairman,

1 members of this distinguished panel, I would
2 like to thank you on behalf of the Latino
3 community.

4 My name is Iraida Afanador. I'm the
5 associate executive director of the
6 Lighthouse. I have been working in the
7 Latino community for over 25 years. I worked
8 at Women Organized Against Rape under the
9 leadership of Miss Lynn Marks as the sexual
10 assault advocate with Family Court for five
11 years. I was a paralegal at Community Legal
12 Services with domestic relations. I am a
13 member of the panel called SCAN which is the
14 acronym for Sensitive and Cultural
15 Sensitivity Now for the courts in Camden
16 County.

17 My perspective today is from the
18 Latino perspective as a woman, as a Latina,
19 as an advocate, as a victim, so I'm giving
20 you a little different perspective.

21 It is my contention that the
22 disenfranchisement of minorities, in
23 particular, Latina women and children, and
24 the poor in systems that evaluate people

1 almost exclusively by their verbal skills and
2 their ability to articulate white middle
3 class values is well embedded in our judicial
4 system.

5 More importantly, as it relates to
6 non-English speaking children and women, in
7 particular Latino and Asian and now with the
8 emergence of Arabic background, it further
9 perpetuates their victimization by making
10 them feel isolated and vulnerable. They and
11 their families develop mistrust for the
12 judicial system.

13 It has been my experience as an
14 advocate that the court work group further
15 victimizes non-English speaking children and
16 women of color as well as their families by
17 looking at where they live in terms of
18 geographical locale as well as their
19 life-style, cultural images and ideologies of
20 specific race and class groups. It also
21 determines whether or not the child and women
22 are believable, thus credible, and can
23 determine actually whether a case is
24 prosecutable.

1 So when I look at whether or not
2 decision making is fair and impartial on
3 substantive matters, such as the treatment of
4 sexually-abused victims, I have to assert
5 that it is not due to the language and
6 culture aspects as well as geographical
7 locale of the victim. It also answers the
8 question as to whether neutral practices
9 nonetheless have significant racially,
10 ethnically or gender bias. I assert that it
11 does. I assert that with juvenile and family
12 courts hearing more cases of child sexual
13 abuse, rape and domestic violence, and with
14 potential life-saving and life-threatening
15 decisions being made, the importance of
16 sensitive and informed courts have become
17 more critical. Careful, unbiased judicial
18 decisions will certainly produce respect for
19 the judicial system by minorities and people
20 of color.

21 More importantly, I believe that
22 there need to be changes in judicial
23 organizational policies in order to expand
24 and equalize the citizens' access to law.

1 I applaud the efforts of this
2 committee and hope that this is just the
3 beginning of judicial equity for all.

4 I also have some recommendations. In
5 my experience, working with Women Organized
6 Against Rape as well as with CLS, I have
7 noticed -- and I also do translations as well
8 with court systems. I noticed that the
9 non-English speaking victims, their
10 statements were misconstrued, sometimes their
11 victimization was not actually presented well
12 because sometimes with the interpretation,
13 the lack of proper interpretation, and the
14 inability of the child victim witness
15 especially to even verbalize, let alone try
16 to say what really happened, we lose the
17 translation.

18 So I'm recommending -- I don't know
19 if this is still happening because I've been
20 out of touch with the system, but I'm
21 certainly recommending that victims have
22 their statements pre-recorded, recorded and
23 in their native language in order to get the
24 full spectrum of what the crime intent was,

1 and thereafter transcribe it in English as
2 well as have the interpreter translate in the
3 courtroom.

4 We also need to look at the
5 employability practices of the legal work
6 group. Are you hiring from the communities
7 that you serve? Are you utilizing community
8 newspapers and organizations as well as for
9 employment resources? Are you looking into
10 the Latino community to hire qualified people
11 that can actually do the job?

12 I've heard all day testimony as to
13 African Americans, as to minorities, as to
14 people of color, but I did not hear, not
15 once, a mention of Latinos and the
16 disenfranchisement of Latinos and the lack of
17 administrative and judicial Latinos in the
18 court work group as well as the judicial
19 process.

20 I commend Judge Diaz for inviting me
21 here. We go way back, way, way back.

22 I think we also need to look at --
23 one of the things that I noticed with the
24 prosecutors in my experience with the

1 courtroom was that where the children were
2 from, geographical locale. And there are
3 studies being done. My background is
4 sociology and criminal justice with graduate
5 studies in public policy, so I noticed over
6 the course of the years that if they were
7 from North Philadelphia -- say, for instance
8 if they were black or Latino and from North
9 Philadelphia and if they were women, the
10 prosecutor immediately dismissed it -- and
11 Lynn knows this for a fact and that was one
12 of the struggles that we had back then -- and
13 said, well, you know, they're not going to
14 come, they're not going to show, they're from
15 North Philly. The probability of that case
16 going to trial was very slim, if none at
17 best.

18 So I think we really need to look at
19 reformulating how the convictability
20 standards are used through policy changes. I
21 think that would be another possibility
22 because of the demographic locale and the
23 ideologies that young prosecutors bring to
24 the table in stating that because a person is

1 from North Philly or from Germantown, if
2 they're African American or Latino, if
3 they're Hispanic and they don't speak well,
4 you know, we really are not going to convict.

5 And to be honest with you, we all
6 know that prosecutors are in the business of
7 convicting, and if they see that a conviction
8 is not a hundred percent, the chances of that
9 victim further being victimized by the
10 judicial system is a hundred percent. And I
11 urge all of us to look at this issue with the
12 prosecutors and the work group in the
13 courtroom, as well as public defenders.

14 I think that about says it. Is there
15 any questions?

16 CHAIRMAN NICHOLAS CAFARDI: Are there
17 any questions for Miss Afanador?

18 JANE LOUIK: Thank you very much for
19 coming today. I found your remarks very
20 interesting. But I wanted to ask you very
21 specifically, you make mention -- on the last
22 page of your testimony, you make reference to
23 judicial organizational policies. Do you
24 have anything specifically for us?

1 IRAIDA AFANADOR: Well, certainly one
2 of them is certainly the reformation of
3 convictability standards. I think we really
4 need to look at the convictability standards
5 that prosecutors are utilizing and their
6 supervisors when it comes to prosecuting
7 women of color or children as it relates to
8 the geographics and also the language issues.

9 JANE LOUIK: Thank you.

10 CHAIRMAN NICHOLAS CAFARDI: Lynn
11 Marks, please.

12 ATTORNEY LYNN MARKS: Thank you for
13 your thoughtful testimony. Most of what you
14 focused in on, the need for a change in the
15 various practices, are there areas in the law
16 that you think also need to be changed?

17 IRAIDA AFANADOR: Oh, well, I think
18 there are certainly areas with child victims.
19 Here we are in the year 2000. I've been
20 doing this for over 25 years, and just last
21 week I had a case at the Lighthouse -- we
22 deal with children in youth, ages two to
23 twenty-one. And while I'm the associate
24 executive director, I'm also very much into

1 the day care that we have. And a family
2 victim did come to me and a mother said to
3 me, you know, my child, my five-year-old
4 child was molested by my neighbor. I went
5 through the process, called WOAR, called the
6 Sex Crimes Unit, did everything that I know I
7 had to do. We spoke to the ADA's office and
8 they thought it wasn't a credible -- a
9 credible case because the child -- and the
10 Sex Crimes Unit in the police department
11 still needs changes as well. I think they're
12 burnt out. I think they're overworked. I
13 think there's too much paperwork. I think
14 that there -- the whole revolving door
15 process is still there, and I don't know how
16 to change that. I think you all would be
17 best at looking at that. But I think that
18 what's going on is that victims are being
19 herded in like cattle and not really being
20 looked at as individuals, as human beings.

21 So we need to step back from being
22 the legalese, and we need to step back from
23 the legal language and bring it more closer
24 to the level of the children, of the women,

1 of the non-legal speaking person so that
2 there's some sort of sensitivity involved.

3 I think, you know, we all get caught
4 up in the jargon and we forget that there's a
5 human being standing next to us that's been
6 victimized. So I don't know exactly what to
7 do, but certainly there's a step in that
8 direction.

9 ATTORNEY LYNN MARKS: Thank you.

10 CHAIRMAN NICHOLAS CAFARDI: Judge
11 Diaz.

12 JUDGE NELSON DIAZ: Could you tell us
13 a little about the Lighthouse? I think that
14 would be helpful for people to know what the
15 Lighthouse is because everybody assumes that
16 it's some organization and there's only one
17 ethnic background or another.

18 IRAIDA AFANADOR: Yes. The
19 Lighthouse has been in existence for over 126
20 years, serving children in youth for over 126
21 years in the North Kensington area.
22 Traditionally, it serves -- the population is
23 now 90 percent Hispanic, I'd say two percent
24 Asian American and one percent African

1 American and the rest -- no, actually more
2 African American and the rest are white.

3 It has never had, in the existence of
4 the Lighthouse, a Hispanic executive
5 director, much less a Hispanic associate
6 executive director, and today we can proudly
7 say that we do have that.

8 I think our communities are -- our
9 Latino communities are always
10 disenfranchised, are under-represented in the
11 legal system, in the social system that we
12 have, as well as social services that
13 actually traditionally represent our
14 communities. And these are one of the areas
15 of concern that I've had and I'd like to
16 study that further and find out why is it
17 that we as Latinos are not served and are not
18 taken seriously even though we have academic
19 skills and even though we have the
20 background.

21 All I hear is, well, there's not
22 enough qualified Latinos to serve on legal
23 systems, on social service systems, and I
24 tend to differ with that. I just think that

1 the marketing of that population is lacking.

2 JUDGE NELSON DIAZ: The other
3 question I had is the population that you're
4 now serving, you categorized it. Could you
5 categorize it further as immigrant versus
6 non-immigrant?

7 IRAIDA AFANADOR: Well, yeah, and
8 that's an interesting thing. I've been
9 working since I was 18 -- and I'm 45 and I
10 don't mind saying it -- with Latino
11 populations. I've seen a change in the
12 demographics of the Latino community.
13 Certainly there is a change in the
14 demographics. Before, it was a hundred
15 percent Puerto Rican and Cuban or fifty
16 percent Cuban and Puerto Rican.

17 The demographics are now immigrants,
18 Latin Americans, South Americans, Dominicans,
19 and when they come through the judicial
20 system, you're talking about immigrants that
21 possibly might not have legal status, so the
22 possibility of them coming forward to the
23 court systems and even talking and telling
24 their stories are even worse. So we're

1 seeing a trend where we're moving 20 years
2 back in terms of the Latino population. With
3 all of the efforts that we've done, that
4 Judge Diaz and all of the other leaders have
5 done, we're seeing that the trend is moving
6 back to -- the value systems are what we
7 considered in the 17th Century. The women at
8 best in terms of gender bias, boy, you're
9 talking a hundred percent gender bias because
10 the woman, if victimized, will not come
11 forward. And no matter how many groups, like
12 Women Organized Against Rape, and other
13 agencies come together and say you have to
14 testify, they're afraid. They're afraid of
15 their husbands, of their significant others,
16 they're afraid of what the system might look
17 at them as.

18 And as we heard here testimony after
19 testimony, the gender bias is still alive and
20 well in these United States unfortunately.

21 So imagine a victim who is
22 disenfranchised like a Latino woman from
23 Santo Domingo who has no educational
24 background, who is at home raising her

1 children, and all of the sudden has been
2 victimized by a husband, by a significant
3 other or neighbor or a perpetrator unknown to
4 her. She will not come forward. And neither
5 will she come forward when there is incest or
6 child molestation of that child. It's kept
7 in the family.

8 And so we need to go back --
9 unfortunately we as leaders, as Hispanic
10 leaders, as Latino leaders, as judicial
11 leaders, need to go back and look at this and
12 say, wow, there is a different demographic
13 trend within our community, and we need to be
14 a little bit more sensitive.

15 So all of the trainings, all the
16 education, all the sensitivity trainings that
17 we did to judges and prosecutors and police
18 officers are not working anymore because of
19 the change of demographics.

20 CHAIRMAN NICHOLAS CAFARDI: Any other
21 questions?

22 Yes, Attorney Morris.

23 ATTORNEY BURTON MORRIS: From what
24 you described of the activities of the

1 Lighthouse, it appears then you get involved
2 as an advocate in custody matters also and
3 protection from abuse?

4 IRAIDA AFANADOR: Protection from
5 abuse, custody matters, child sexual assault,
6 juvenile delinquency, prevention services,
7 adult training, ESL classes, all aspects from
8 social services to legal.

9 ATTORNEY BURTON MORRIS: We heard
10 some testimony in Pittsburgh last week from
11 an advocate agency, an advocacy agency, that
12 focused on areas of custody and protection
13 from abuse, and gave us some insight into
14 some disparities in the treatment of women in
15 custody cases where children obviously are
16 involved in some of the PFA situations. And
17 I wonder if your experience here in
18 Philadelphia is similar to that. You don't
19 have to be too wordy about it. Just to give
20 you one example of it, there was the idea
21 that often in a PFA situation, there's the
22 feeling, well, it's really a custody case
23 wearing the clothing of a PFA, and in the
24 interest of always keeping the family

1 together, there seems to be some bias in
2 dealing with the real interests of the case
3 and of the female involved in the matter. I
4 just wonder what your experience here might
5 be.

6 IRAIDA AFANADOR: My experience with
7 child custody when I worked as a paralegal
8 with domestic relations was that with Latina
9 women seeking custody, that's something
10 unheard of, you just don't do it. It's just
11 not in the tradition.

12 So, unfortunately, when a woman is
13 abused -- and the other issue is shelter. We
14 don't go to shelters, we don't seek the
15 traditional domestic violence shelters.
16 Congress is doing a wonderful job in trying
17 to dispel that myth, but it still is very
18 pervasive and it exists. So with custody
19 hearings, women will not seek legal custody
20 of their children.

21 Time and time again, I'll hear -- we
22 had a case not too long ago of a Mexican
23 American woman who just happened to fall on
24 our door steps with a little baby, and our

1 executive director, Millie, saw her and she
2 said is everything okay, what's wrong with
3 you? Her husband had smacked her and dropped
4 her off, literally just threw her on the
5 streets with her child. She had nowhere to
6 go, and all she wanted to do was use the
7 bathroom. So Millie detained her and myself
8 and the director of Youth Services spoke to
9 her. And I got her -- I said to her, you
10 know, what's going on, why are you still
11 being abused and why don't you seek custody.
12 She says no, no, no, if I do that, they're
13 going to deport him back to Mexico.

14 So this is the fear -- the fear of
15 using the legal system is very real to those
16 who are not Puerto Rican, who are citizens of
17 the United States or who are seeking legal
18 residency or even who do have legal residency
19 and feel that they have no rights. So the
20 child custody issue is not an issue with the
21 Latino community, especially with the
22 demographics of Dominicans, Mexicans and
23 Central and South Americans because they
24 don't think that utilizing -- they don't

1 trust the legal system first of all because
2 they have seen what it has done to them or to
3 their families. And coming from countries of
4 political problems, they're very leary of the
5 judicial system because they're not sure if
6 we're going to do to them what was done to
7 them in Ecuador or in Nicaragua and other
8 issues.

9 So child custody issues,
10 unfortunately, you're not going to see too
11 many cases being brought forward to this
12 system because of the images of the judicial
13 system being this hard hand and also being
14 deported and further victimized and not
15 understanding the culture.

16 ATTORNEY BURTON MORRIS: But do you
17 have any experience of cases that do get into
18 the system?

19 IRAIDA AFANADOR: Back then, again,
20 the cases that we used to get at CLS, if they
21 were Latino, they would drop the cases. They
22 really would. Unfortunately, they would drop
23 the cases even though we would want to have
24 counseling for them. And I was a die hard at

1 trying to get them. You know, you're being
2 victimized, you know, get custody of your
3 child, seek legal avenues that can protect
4 you so that if the child's father decides to
5 one day take them out of the school, you have
6 legal protection, and they don't.

7 CHAIRMAN NICHOLAS CAFARDI: Miss
8 Haddon.

9 PROFESSOR PHOEBE HADDON: I realize
10 that you're working on past experience in
11 talking about some of these issues, but I
12 would really encourage you that if you know
13 of other people who might like to submit
14 written testimony about the issues that
15 burden that other folks have talked about, to
16 do so.

17 And I want to say that in
18 relationship to your comments about our using
19 the words women of color and not mentioning
20 Latino, it was in an effort to be inclusive,
21 not exclusive.

22 IRAIDA AFANADOR: Sure.

23 PROFESSOR PHOEBE HADDON: But it
24 causes some real problems for us that we

1 really need to think about in terms of our
2 choice of terminology, but also to think
3 about the cultural -- not just immigrant
4 versus citizenship, but the cultural
5 traditions that you talked about that really
6 impact on our thinking about issues of
7 equality.

8 And so I would really encourage you
9 to invite other Latino and Latina folks who
10 are involved in custody issues, but also
11 other issues, to write in and tell us about
12 the things that we really ought to be
13 concerned about in terms of cultural
14 sensitivity as well.

15 IRAIDA AFANADOR: I have many cases
16 from the Lighthouse actually because we have
17 a large women's group. The majority of our
18 constituents are women, Latina women
19 actually, so -- and they're always coming
20 with issues of custody, citizenship,
21 victimization.

22 So I think what needs to happen here
23 also is while it is good -- well and good to
24 look at the legal professional people here

1 talking about their experiences, I think we
2 really need to look at the victims and we
3 really need to look at the constituents that
4 we serve and have testimonies from them and
5 real stories from them and their experiences
6 as to what happened in the legal system
7 because we know what happened and we can
8 elaborate on that.

9 But I think it becomes an impact --
10 it's very impactful when you have an actual
11 Latina victim or Latino victim because there
12 are also males who are victims as well. Even
13 in custody hearings there are males, so I see
14 both sides. You know, my advocacy is for
15 Latinos whether they be males or females.

16 PROFESSOR PHOEBE HADDON: Well, our
17 effort is to just not get this kind of
18 information through public hearings. We want
19 to work through organizations. And part of
20 our purpose for having a public hearing is to
21 invite anyone who is testifying to go back
22 and get some other information --

23 IRAIDA AFANADOR: Oh, I will.

24 PROFESSOR PHOEBE HADDON: -- and send

1 it to us.

2 IRAIDA AFANADOR: I will. Thank you.

3 ATTORNEY LYNN MARKS: We would also
4 be willing to take confidential testimony, so --

5 IRAIDA AFANADOR: That would be
6 wonderful, I think that would be best.

7 DIRECTOR LISETTE McCORMICK: That and
8 we also are interested in perhaps having
9 something like a small round-table discussion
10 where women will not feel intimidated or
11 uncomfortable.

12 IRAIDA AFANADOR: That's right.

13 DIRECTOR LISETTE McCORMICK: So we
14 will be in touch with you.

15 IRAIDA AFANADOR: Thank you. Anybody
16 else?

17 CHAIRMAN NICHOLAS CAFARDI: Thank you
18 very much for coming to testify, Miss
19 Afanador.

20 Our next person to testify, Miss
21 Joanne Massaro, unfortunately had to leave,
22 so we will move on then and she will submit
23 written testimony.

24 Our next person to testify is Ernie