

Developing a PREA-compliant language access plan for incarcerated people who are limited English proficient

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Vera
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The National PREA Resource Center

The mission of the PRC is to assist adult prisons and jails, juvenile facilities, lockups, community corrections, and tribal facilities in their efforts to eliminate sexual abuse by increasing their capacity for prevention, detection, monitoring, responses to incidents, and services to victims and their families.

Logistics

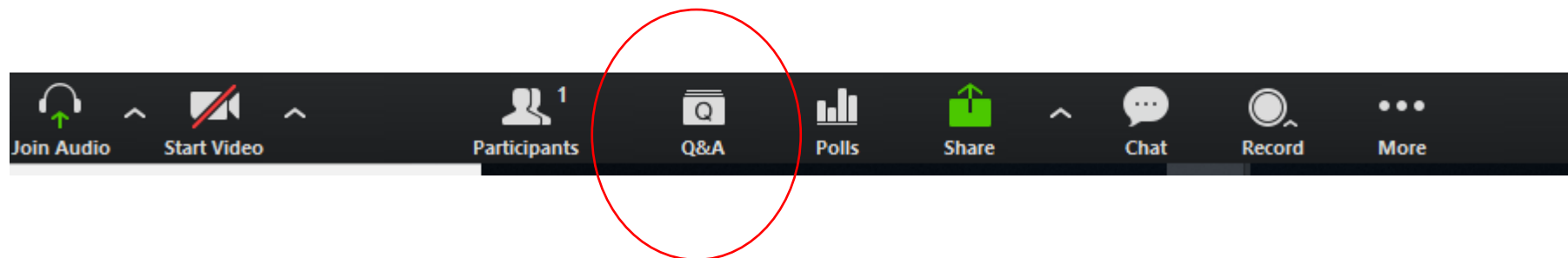
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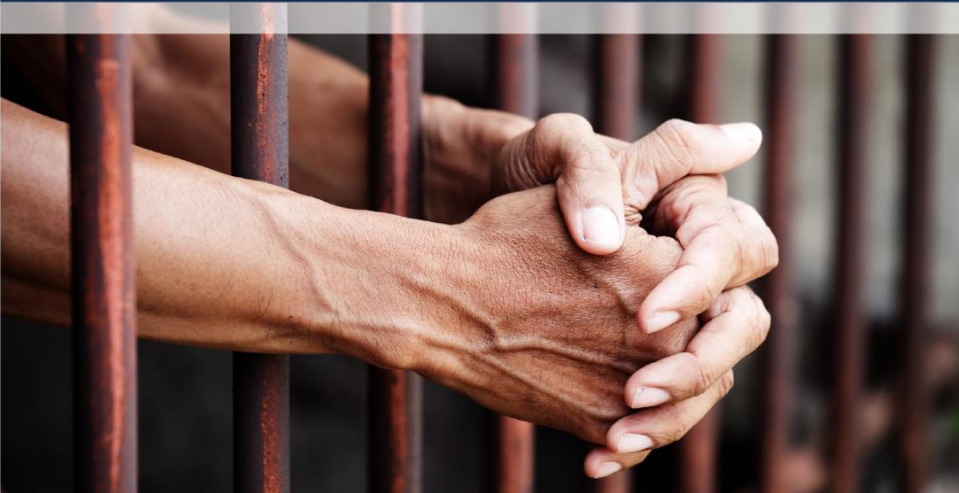
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**Developing a PREA-Compliant Language Access Plan
for Incarcerated People Who Are Limited English Proficient**

Allison Hastings and Jannette Brickman

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New PREA implementation resource available on the PREA Resource Center's website (www.prearesourcecenter.org) & Vera's website (www.vera.org).

**Standard applies to all facility types
(§115.16/115.116/115.216/115.316) and requires:**

(a) The agency shall take appropriate steps to ensure that inmates with disabilities (including, for example, inmates who are **deaf** or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure **effective communication with inmates who are deaf or hard of hearing**, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

**Standard applies to all facility types
(§115.16/115.116/115.216/115.316) and requires:**

(a) continued: In addition, the agency shall ensure that **written materials** are provided in formats or through methods that ensure effective communication with inmates with disabilities, including inmates who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.

Standard applies to all facility types (§115.16/115.116/115.216/115.316) and requires:

(b)The agency **shall** take reasonable steps to ensure **meaningful access** to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are **limited English proficient (LEP)**, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

The Standard also states:

(c) The agency shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under Standard §115.64, or the investigation of the inmate's allegations.

What does it mean to be “limited English proficient?”

- People who are “limited English proficient” (LEP) refers to those who do not speak English as their primary language and **who have a limited ability to read, write, speak, or understand English.**
- People who are limited English proficient may use **spoken or sign language.**

Language access



What is language access and why does it matter?

It's the law



In addition to Standard §115.16:

- Americans with Disabilities Act
- Title VI of the Civil Rights Act of 1965
- Omnibus Crime Control and Safe Streets Act of 1968

How do you create a language access plan?



1. Identify languages.
2. Identify circumstances and vital documents.
3. Determine capacity, unmet needs, and budget for providing services.
4. Map out policies, procedures, and staff training.
5. Plan for emergencies.
6. Determine a plan for monitoring and quality control.

Creating your plan: step one

Step one: identify top 3 – 5 languages most likely to be spoken

- **Consult multiple sources of information**
 - School districts
 - Tribal communities
 - Public health clinics
 - Victim service providers
 - Hospitals
- **Include projected languages using U.S. Census data and www.lep.gov**

Creating your plan: step one

LEP.GOV Resource



Creating your plan: step two

Step two: identify all PREA-related circumstances and vital documents

Key questions:

1. What situations require language access?
2. Which vital documents need to be translated?



What PREA-related circumstances require language access?

Use the Standards to guide decision-making

- **Inmate and resident education** (Standard §115.33)
- **Reporting** (Standard §115.51)
- **Victim services** (Standards §115.21 and 115.53)
- **Investigations and discipline** (Standards §115.64, 115.71, 115.73, and 115.78)
- **Medical and mental health** (Standards §115.81-115.83)

Which PREA-related vital documents need to be translated?

Use the U.S. Department of Justice safe harbor provision to guide decision-making

- Written translation of vital documents for each spoken language used by 5% of the population or 1,000 people – whichever is fewer.
- If 50 or fewer people are members of a language group that equals 5% of an eligible population, facilities do not need to translate that document.

U.S. Department of Justice safe harbor provision

The U.S. Department of Justice safe harbor provision is available on U.S. Department of Health and Human Services website

- **Source:** Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.
- **URL:** <https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-vi/index.html>.

Creating your plan: step three

Step three: determine capacity, unmet needs, and budget

Start by determining what language access services your facility is currently able to provide:

- By whom?
- With what type of interpretation (e.g., in person, phone, or video) and translation?
- Where?

Step three continued: conduct an inventory of services

- What interpreter services are available at the facility? In what format?
- Are in-person interpreter services available in the area? Which languages? Where would they take place?
- Are there dedicated sign language interpreters in the area?
- What do interpreters need to know (i.e., security, procedures, dress) to gain access to the facility?
- If telephonic interpretation is used, where will it take place? In private?
- What is the hourly rate for telephonic interpreter services?

Step three continued: conduct an inventory of services

- Does the facility have reliable internet for video remote interpretation (VRI)?
- What are the vital documents the facility should be translating?
- How will vital documents be translated? By whom?
- How will language access services be provided to people who speak languages other than those identified as the priority languages?
- How will budgeting and contracting with service providers be handled?

Interpretation versus translation

Interpretation

- Spoken or signed
- Done in real time
- Simultaneous or consecutive

Translation

- Written document to written document

Sight translation

- Written document to oral rendering

Creating your plan: step four

Step four: map out policies, procedures, and training needed

Check whether each policy and procedure that addresses language access creates services and information that are **as effective as** those provided to the native English-speaking population.

Step four continued: mapping policies and procedures

Policies and procedures should contain:

- How the agency will **notify** incarcerated people of their language access rights.
- How incarcerated people who are LEP or Deaf will make a **report** of sexual abuse or sexual harassment.
- How **victim services** can and will be provided in the language of choice of the incarcerated person.
- How language access will be provided during **investigations** and any **disciplinary process**.
- How **staff will be trained**.

Step four continued: mapping training needs

Staff training should address:

- **Official responsibilities** at the point of contact with the incarcerated individual.
- Staff **tools and resources** that make it easier to provide ongoing language access:
 - Translated materials.
 - Procedures for securing an in-person interpreter.
 - Procedures for facilitating remote video and telephonic interpretation.
 - “I speak” posters, available for download at <https://www.laborposters.org>.
 - List or directory of bilingual staff.

Step four continued: mapping training needs

Example of “I Speak” poster

[illegible]

Creating your plan: step five

Step five: plan for emergencies

Use 115.16(c) to guide your planning efforts:

(c) The agency shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants **except in limited circumstances** where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under Standard §115.64, or the investigation of the inmate's allegations.

Creating your plan: step five

Step five: plan for emergencies

- Clearly define **what constitutes an emergency**—when a delay in securing an effective interpreter could compromise:
 - the inmate's safety,
 - the performance of first-response duties under Standard §115.64, or the investigation of the inmate's allegations the performance of first-response duties under Standard §115.64, or
 - the investigation of the inmate's allegations.
- Provide **criteria and parameters for when the emergency lifts** and staff transitions to standard operating procedures.

Does this constitute an emergency?

Consider:

- An incarcerated man is bleeding and indicates he was just sexually assaulted by a person with a weapon.
- The incarcerated man speaks French and wants to report the incident, and there are no staff on duty who can communicate with him.
- It would take several hours to get an interpreter who speaks French in place.

Is this an emergency?

Creating your plan: step six

Step six: establish a plan for monitoring and quality control

- Consider what has worked well and what needs improving.
- Include gathering feedback from incarcerated people, vendors, and staff.
- Analyze the number of reports of sexual abuse and sexual harassment made by incarcerated people who are LEP or Deaf.
- Compile and review statistics on use of language access services.
- Use to plan following year's budget.

Working with interpreters and translators: tips

- Seek out qualified interpreters, not bilingual staff.
- Adhere to code of ethics established by American Translators Association (https://www.atanet.org/governance/code_of_ethics.php).
- Understand that interpreters and translators also may have specialized knowledge or follow codes of ethics for specific settings: medical, legal, or educational.



Qualified interpreters and translators

American Translators Association,

https://www.atanet.org/governance/code_of_ethics.php :

- Professionally trained and adhere to a code of ethics.
- Proficient in the source language (English) and target language.
- Able to interpret effectively, accurately, and impartially, both receptively and expressively.
- Able to engage in multiple cognitive tasks simultaneously.
- Able to demonstrate competency and knowledge of terms associated with correctional environment, sexual abuse, and healing.

Qualified interpreters and translators (cont)

Knowledge of:

- Cultural nuances
- Regional variations
- Idiomatic expressions
- Colloquialisms

... in all working languages.

Appendix A: tips sheet for selecting and working with interpreters

Tip sheet 1: questions to ask interpreting agencies

Tip Sheet 1: Questions to Ask Interpreting Agencies

1. Does the agency hire nationally certified/state-licensed interpreters?
2. Does the agency have a list of qualified interpreters who have been trained to interpret in mental health settings? If so, how many?
3. Does the agency have a list of interpreters who have been trained to work in hospital or medical settings? If so, how many?
4. Does the agency have a list of interpreters with specialist certification to work in legal settings? If so, how many?
5. Does the agency have interpreters experienced in interpreting for victims of sexual abuse and/or other types of trauma and violence?
6. Does the agency have interpreters who would be willing and able to work in correctional facilities?
7. What type of screening or criminal background check does the agency complete for its interpreters? Will the agency's interpreters be willing to submit to a background check prior to interpreting on-site at a correctional facility?
8. Does the agency understand trauma-sensitive practices and promote the development of best practices on being trauma-sensitive?
9. What is the interpreting agency's capacity to accommodate/meet requests, sometimes with little notice?
10. Does the agency have video remote interpreting services?
11. What are the language assessment procedures for spoken language interpreters?
12. What is the agency's cancellation policy?
13. What are the agency's rates and terms regarding general and specialty interpreting services, video remote interpreting services, and travel?

Tip Sheet 2: Tips for Working with an LEP or Sign Language Interpreter

1. Interpreters like to come to a situation prepared. Give them specific information about the correctional environment and what to expect, whether they are providing services in person or by telephone or video. This includes any jargon, abbreviations that might be used, and the names of relevant people, programs, or services. Also give them generic information such as the type and duration of meeting and how many people will be with the person who needs the service.
2. If you are working with a Deaf person, position yourself next to the interpreter. If you are working with a person who is LEP, position yourself opposite the interpreter and that person.
3. Look at the person who is LEP or Deaf, not the interpreter.
4. Direct your questions and statements to the person who is LEP or Deaf; do not use phrases such as “ask her” or “tell him.”
5. Speak in the first person rather than the third person.
6. Speak naturally at a reasonable pace. For LEP, there may be a hand signal to indicate a pause or slow down.
7. Because the interpreting may be consecutive, wait until the interpreter is finished interpreting a chunk of information before you proceed, or wait for the interpreter to finish interpreting what the person has said.
8. If possible, use the same interpreter for an ongoing service. Ask the person if they prefer a different interpreter for ongoing services.
9. Do not have side conversations with the interpreter, especially if the person is in the room.
10. When and where appropriate, have ground rules or common agreements regarding communication in settings involving multiple participants, such as taking turns, raising hands, checking in with the pace of interpreters, and so forth.

Appendix A: tips sheet for selecting and working with interpreters

Tip sheet 2: tips for working with an LEP or sign language interpreter

Appendix A: tips sheet for selecting and working with interpreters

Tip sheet 3: checklist of interpreter qualifications

Tip Sheet 3: Checklist of Interpreter Qualifications

A good interpreter:

- Is able to enunciate/articulate in both languages and has a clear speaking voice
- Does not pause unnecessarily or excessively
- Interprets everything, including side conversations, insults, curse words, and environmental sounds
- Maintains impartiality, not interjecting bias, opinions or favoritism toward certain persons while working
- Corrects themselves and informs parties when they have made an error
- Asks for clarification when appropriate
- Does not summarize
- Checks in during breaks to make sure everyone is getting the information and asks if adjustments are needed

A bad interpreter:

- Does not enunciate or articulate in both languages, and struggles with the interpretation process
- Pauses excessively
- Does not interpret everything in the setting
- Interjects opinions, biases, personal favoritisms while working
- Does not stop to correct their errors or inform parties about those errors
- Stops excessively for clarification and meanings
- Summarizes and omits information
- Does not check in or is unwilling to receive feedback in order to make adjustments

Quick Facts About Translation and Tips for Selecting Translators

- A translation is first and foremost a written document. The process of translation is turning words or text from one language into another. This is different from interpreting, which is spoken and often done in real time.
- Translation is not just about words; it's about the meaning behind them. Language and culture are deeply linked, and nuance and context are important.
- The use of technology (such as Google Translate or other machine-based translation services) can be tempting to use for translation services, but they have their limitations, do not provide cultural or nuanced translation, and are sometimes simply wrong.
- Ask the service provider or individual how familiar they are with common terms and expressions used in corrections (for example, phrases such as security threat group, segregation, protective custody, grievance procedure, and sick call) and have any clarifying conversations in advance. Educate the translator in advance of any terms of art specific to the facility type (such as "kite," "the yard," "a bid," "shot caller," and so on).
- Connect prospective translators with your agency's PREA coordinator, any community victim advocates working with the facilities, and others actively engaged in sexual abuse prevention and response, to help the translators build their capacity regarding translation of words related to sexual victimization in confinement.
- Use plain English in your documents. Avoid using idioms to minimize misunderstanding in translation (such as "food for thought," "shoot for the moon," "a 'get out of jail free' card," etc.).
- Aim to have bilingual staff or community partners review translations before documents are given to the population, to make sure the content and vocabulary are contextually accurate.

Appendix B: tip sheet for understanding and working with translators

Quick facts about translation and tips for selecting translators

Additional resources

NATIONAL
PREA
RESOURCE
CENTER

Making PREA and victim services accessible for incarcerated people with disabilities:

An implementation guide for practitioners on the adult
and juvenile standards

Sandra Harrell, Allison Hastings, and Margaret diZerega
October 2015



Resource available in the PREA
Resource Center's library at:

[http://www.prearesourcecenter.org/
sites/default/files/library/preadisab
ilityguide.pdf](http://www.prearesourcecenter.org/sites/default/files/library/preadisabilityguide.pdf)

Additional resources

- Frequently Asked Questions (FAQs) on the PREA Resource Center (PRC) website (www.prearesourcecenter.org).
- PREA Standards in Focus on the PRC website.
- *Making PREA and Victim Services Accessible for People with Disabilities*, archived webinar on the PRC's website.
- *Power Hour Chat with a PREA Expert on PREA Standard §115.16 – Inmates with disabilities and inmates who are limited English proficient*, archived webinar on the PRC's website.

Increasing access to PREA information and services: a technical assistance opportunity

The PRC, in partnership with the Vera Institute of Justice, is offering **six to 12-month virtual technical assistance (TA)** engagements to help correctional facilities increase access to PREA information and services for incarcerated people with disabilities, those who are Deaf, and those with limited English proficiency (LEP).

- Vera will work in partnership with facilities to identify priority areas related to disability and language access. Vera will work with each facility to identify barriers and create a barrier removal plan related to PREA information, reporting, and services.
- During the TA period, Vera will help each facility create accessible written educational materials and orientation procedures.

If you are interested, contact Allison Hastings at ahastings@vera.org.

Questions & answers



Additional questions about this webinar or the technical assistance opportunity

115.16

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For more information about the National PREA Resource Center, visit www.prearesourcecenter.org.

To ask a question, please visit our [Contact us](#) page.

Thank you!

An email will be sent to you following this event with a link to provide feedback. Your input is important and will help to plan and coordinate future events and resources.

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