

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

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Vera Center on Victimization + Safety

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Purpose of the Guide

Pursuant to the Prison Rape Elimination Act of 2003 (PREA), Standard §115.16/115.116/115.216/115.316 in the *National Standards to Prevent, Detect, and Respond to Prison Rape* (PREA Standards) requires correctional agencies to ensure meaningful access to all PREA-related programs, services, and information to incarcerated people who are limited English proficient (LEP).¹ “People who are limited English proficient” refers to those who do not speak English as their primary language and who have a limited ability to speak, read, write, or understand English. The purpose of this guide is to provide strategies to correctional agencies that will aid their compliance with the language access requirements of Standard §115.16.

Over the past several years, the Vera Institute of Justice (Vera) has cultivated and led efforts to increase access to victim services and avenues to justice for people who experience language and cultural barriers. The information and strategies offered in this guide are adapted from the language access resources Vera created in collaboration with a number of expert partners for the Translating Justice Initiative, funded by

the Office for Victims of Crime of the U.S. Department of Justice’s Office of Justice Programs.² The Translating Justice Initiative, a collaborative multiyear project, was funded to identify best practices and provide resources, training, and support to victim service providers and allied professionals so they can better serve people with limited English proficiency and people who are Deaf and hard of hearing. Collaborators working on this initiative produced resources, including a training curriculum, that provide detailed guidance on planning for language access, working with interpreters, and working with translators. By extracting the best practices from the Translating Justice Initiative and Vera’s broader body of work on language access—and adapting those practices to the correctional and PREA contexts—this guide aims to help adult and juvenile correctional facilities increase access and inclusion among people who are LEP. Creating language access plans for PREA-related materials and services should contribute to safer facilities and increase the likelihood that incarcerated people who are LEP will report and seek help if they experience sexual victimization.

Using the Guide

This guide describes what language access is and why it matters, and provides concrete steps for how correctional agencies can craft language access plans and engage interpreters and translators that are consistent with the LEP requirements of Standard §115.16: Inmates with disabilities and inmates who are limited English proficient. It is designed to be practical and achievable while promoting best practices that may be aspirational for some agencies that are new to the concept of language access. At a minimum, the guidance offered here will help agencies implement the PREA requirements.

When using this guide, we encourage agency officials and others to keep the following key points in mind:

The requirements in Standard §115.16 apply to all facility types covered under PREA. This guide is designed specifically to help correctional agencies comply with the language access requirements in Standard §115.16: Inmates with disabilities and inmates who are limited English proficient. Importantly, the requirements for adult prisons and jails enumerated in Stan-

ard §115.16 also apply to lockups (§115.116), community confinement facilities (§115.216), and juvenile facilities (§115.316). Except for the term used to describe the specific incarcerated population (inmate, detainee, and resident), the language of this standard is the same across facility types.³ For the sake of convenience, this guide uses the language of Standard §115.16, but the strategies discussed are applicable to all types of correctional facilities and will aid their compliance with these PREA requirements.

This guide should be used in consultation with other resources to meet the PREA requirements related to people with disabilities and Deaf people.

This guide has been developed as a companion resource to a 2015 implementation guide Vera produced for the PREA Resource Center. We encourage readers to consult [Making PREA and Victim Services Accessible for People with Disabilities: An Implementation Guide for Practitioners on the Adult and Juvenile Standards](#) for practical information and guidance on complying with the Standard §115.16 requirements related to incarcerated people with

disabilities and those who are Deaf. We further recommend that agencies consider incorporating the information in that guide pertaining to incarcerated people who are Deaf into their broader language access plans for PREA-related information and services.

In community settings, it is best practice for agencies to develop language access plans that encompass both spoken languages and sign languages, like American Sign Language (ASL).

Because Standard §115.16 describes access requirements for Deaf people along with the requirements for incarcerated people with disabilities, this guide focuses primarily on people who use spoken languages. But we also note that people who are culturally Deaf identify as members of a distinct cultural and linguistic group, rather than as people with disabilities. The uppercase “D” in “Deaf” is used to signify identification with Deaf culture, whereas a lowercase “d” in “deaf” reflects an audiological perspective defined by loss of hearing. Because Deaf people in the United

States identify as a unique group and primarily use ASL or other forms of sign language that are distinct from English, we encourage correctional agencies to incorporate sign language into their language access plans. Given that such a plan provides a road map as to how and when to secure interpreters and translators, it makes sense to integrate spoken and sign language interpreters as well as translators into the plan. Because corrections staff will be securing language services for people who are LEP as well as for Deaf people, following one process and procedure will be more effective and efficient than developing a separate process for Deaf people.

What Is Language Access?

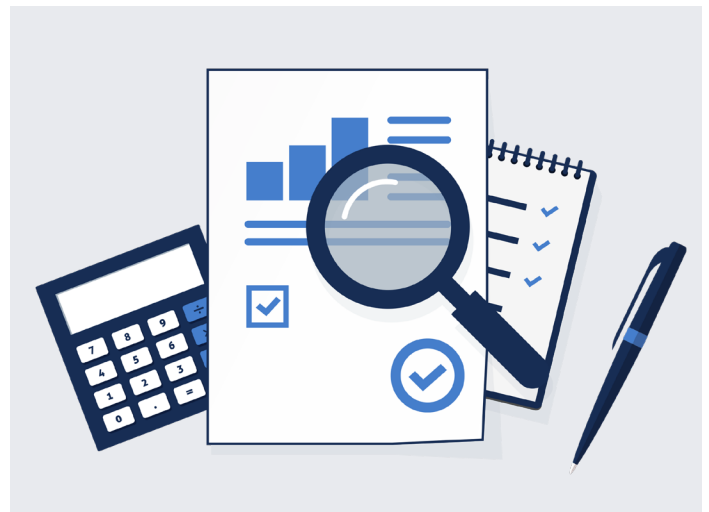
Language access means ensuring that people who have limited or no English language proficiency or are Deaf or hard of hearing are able to access information, programs, and services at a level equal to English-proficient hearing individuals.

Language Access Plans and Why They Matter

A language access plan is a document that maps out how an agency will provide information and services to, and engage with, people who are limited English proficient and people who are Deaf. Developing a language access plan is a way to actively promote safety while protecting against the missteps and pitfalls that often arise from ad hoc responses to crisis situations. Having this type of plan in place reduces the chances that a person will be denied critical information and services because of language barriers. In the PREA and correctional contexts, it will serve as a tool to help an agency do the following:

1. Identify the languages most likely to be spoken and/or signed by its incarcerated population and plan for providing spoken and sign language interpretation;
2. Identify all of the circumstances and vital documents that require language access services;
3. Determine capacity, unmet needs, and the necessary budget for providing various language access services;

4. Map out policies, procedures, and staff training needed to implement language access;
5. Plan for emergency situations; and
6. Determine a plan for monitoring and quality control.



Establishing and implementing a language access plan benefits people who are incarcerated and corrections staff. For incarcerated people, it reduces their risk of harm if they have access to PREA information and resources in a language they understand. People will also be able to communicate better if they can use their own language, which may mean greater comfort reporting and seeking help if they do experience victimization.

Although people who are LEP may have a working knowledge of English, that knowledge likely does not include concepts and words related to sexual victimization or trauma. Because these concepts and issues exist outside of context of the “normal conversations” they may have heard or learned in their lives, it is critical that services be delivered in the language of their origin. And when a person has experienced trauma or is in crisis, it can be particularly difficult to convey information in the person’s non-native language or for them to understand it. This is true for people who are LEP and those who are Deaf.⁴ For staff, providing meaningful language access to the incarcerated population has the potential to increase compliance with rules, decrease the number of misunderstandings among staff and incarcerated people, and improve the staff’s understanding of who is in their care and custody.

Language access is also a legal requirement. Regarding people with limited English proficiency, the legal requirement stems from **Title VI of the 1964 Civil Rights Act**. Title VI states: “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected

Language Access Is a Matter of Dignity

Language access is not just about hiring an interpreter or a translator. Language access is about placing value on understanding a person’s culture and how that person interacts in the world and understands concepts. Providing language access shows respect for the person’s language, culture, and experience. Providing language access to victims/survivors, in particular, honors their humanity and worth in the wake of an experience that may have left them feeling stripped of both.

to discrimination under any program or activity receiving federal financial assistance.” This includes discrimination that is based on a person’s inability to speak, read, write, or understand English, a type of national origin discrimination. Title VI also requires that language assistance must result in *accurate, timely, and effective* communication at no cost to the person with limited English proficiency. This means access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English-proficient people.

Similar to Title VI, the **Omnibus Crime Control and Safe Streets Act of 1968** prohibits recipients of federal funding from discriminating based on race, color, or national origin. Importantly, under both of these statutes, state and local correctional facilities count as recipients of federal funding if they are operated by a unit of state or local government that receives federal assistance of any kind. Title VI requirements also apply to private entities if they receive any federal assistance.

For people who are Deaf or hard of hearing, their language access legal requirements come from the **Americans with Disabilities Act (ADA)**. The ADA requires state and local governments, businesses, and nonprofit organizations that serve the public to be able to communicate effectively with people who have communication disabilities.



These entities are obligated to provide an auxiliary aid or service, which often includes interpreter services, to ensure that the communication is as effective as communication with people who do not have disabilities. The goal is to ensure that communication with people who are Deaf or hard of hearing—and those with disabilities—is as effective as communication with hearing people and people without disabilities. Unlike Title VI and the Safe Streets Act, this is not tied to funding of any kind.

Steps for Creating a PREA-Compliant Language Access Plan

1. Identify the top three to five languages most likely to be spoken by the population incarcerated at the facility and develop a plan for providing sign language interpretation. Staff assigned the task of identifying the top three to five languages spoken by the population should consult multiple sources of information. They should also consider community demographics and include a projection of the languages that may become common among the incarcerated population but have not shown up yet. To get started, staff should determine which administrative records are maintained for the current population that may contain the number or proportion of people with limited English proficiency who speak other languages as their first language.

For local facilities, we recommend considering the following potential information sources: school districts, tribal communities, public health clinics, victim service programs (such as the local rape crisis center), local police departments, local interpreter offices, and hospital/court interpretation services. For



state facilities, the following sources could prove fruitful: state administration offices, local colleges and universities, tribal communities, and state domestic violence and sexual violence coalitions. All facility types should review U.S. Census data and the federal government’s website on LEP, www.lep.gov, for current immigrant populations, predicted populations, and use of languages in the United States. Simple Google searches using the town, county, or state name along with key terms like “limited English proficiency” or “immigrant and refugee populations” may also be helpful.

In addition to identifying the top three to five languages the population speaks, staff must create a plan for

providing communication aids and services to people who are Deaf or hard of hearing. This often means providing ASL or other sign language interpretation services. Regarding people with limited English proficiency who use spoken language, the U.S. Department of Justice (DOJ) has issued guidance (through www.lep.gov) on how to decide when spoken language services are needed. This includes a four-factor analysis to help agencies determine and balance their obligations with what is reasonable (given their LEP population), resources, geographical location, and so forth.⁵ Unlike planning for spoken language services, however, even if the facility has only one Deaf or hard of hearing person, it is required by the Americans with Disabilities Act to provide communication aids and services necessary to communicate with Deaf or hard of hearing people.

2. Identify all of the PREA-related circumstances and vital documents that require language access services.

Once a facility has identified the top three to five languages that the incarcerated population is likely to speak and has planned for sign language services, staff need

to be prepared to provide access to all PREA-related information and services in those languages. This means understanding which situations require language access and which vital documents need to be translated into languages other than English.⁶ Regarding the necessary threshold for determining when to translate vital documents into particular languages, DOJ has established “safe harbor” provisions that apply to all recipients of federal financial assistance, including all types of correctional facilities. These provisions direct facilities to provide written translations of vital documents for each spoken language used by 5 percent of the population or 1,000 people—whichever is fewer—served or likely to be served by the facility. When 50 or fewer people are members of a language group that constitutes 5 percent of the eligible population, facilities do not have to translate vital documents into that language. Instead, DOJ advises facilities to provide written notice—in the primary language of the specific group of people—of the right to receive competent oral interpretation of the written materials, free of cost.⁷



Facilities can use the **PREA Standards** to guide this process of identifying situations and vital documents. To illustrate, the following standards describe language access needs that facilities should be prepared to meet.

- **Education.** Standard §115.33: Inmate education requires the agency to provide information during intake and comprehensive education within 30 days of intake. Facilities will need to decide when and how to bring in interpreters for in-person orientations and be prepared to make available translations of vital documents like orientation materials, brochures, and handbooks.
- **Reporting.** Standard §115.51: Inmate reporting requires agencies to provide multiple internal ways and at least one external way for incarcerated people to report sexual

abuse and sexual harassment. Facilities will need to ensure that incarcerated people who are LEP and those who are Deaf have a way to report sexual abuse and sexual harassment using their own language. This means having a plan in place for interpretation services for these circumstances and establishing criteria for emergencies, including identifying which procedures are acceptable during emergencies.

- **Victim services.** Standard §115.21: Evidence protocol and forensic medical examinations and 115.53: Inmate access to outside confidential support services require agencies to take different steps to ensure that victims have access to critical support and victim services after suffering sexual victimization. These steps include providing access to a victim advocate or “qualified agency staff member” following a forensic medical exam and access to outside confidential support services. A facility’s language access plan should outline measures for ensuring that these services are provided in a meaningful way to people who are LEP and to Deaf people. If the forensic medical exam is conducted on-site at the

facility, staff should ask the LEP person for their preferred method of communication (likely in-person or telephone) and plan for in-person interpretation for Deaf people.⁸ If the forensic medical exam is conducted off-site at a hospital, staff should alert the hospital in advance to make interpreter arrangements. Ideally, staff should still ask for a preferred method of communication, but hospitals often have their own policies regarding interpretation services and communication aids.

- **Investigations and discipline.** Facilities will need to review all of the requirements related to first response (§115.64), investigative interviews (§115.71), reporting investigative outcomes to incarcerated people (§115.73), and disciplinary sanctions (§115.78) to determine when and how to use interpreters in each of these situations. Facilities should pay particular attention to which first response situations constitute emergencies that may allow for an exception to the prohibition in Standard §115.16 against using inmate interpreters. When identifying which circumstances would allow for using inmate interpreters, staff should clearly establish criteria for when an

emergency ends, triggering the facility's obligation to provide an impartial, qualified interpreter.

- **Medical and mental health care.** Standards §115.81-115.83 set various requirements regarding medical and mental health care screenings (§115.81), access to emergency care (§115.82), and access to ongoing care (§115.83). All of the medical and mental health care services that these standards mandate, both for emergency and ongoing care, should be administered to incarcerated people with full language access.

When planning for language access for the situations covered by the standards cited above and for any other PREA-related services and documents, facilities should keep the following questions in mind:

- What does the incarcerated population need to know about the facility's policies and efforts to prevent, detect, and respond to sexual abuse?
- What written information is available to the English-speaking population that should also be available to non-English-speaking populations?

- What do incarcerated people need to understand or have the right to understand in order to be free from sexual abuse and sexual harassment?

3. Determine capacity, unmet needs, and the necessary budget for providing various language access services.

After planning for sign language interpretation, identifying the priority languages and all of the PREA-related circumstances and vital documents, facilities should take an internal inventory to determine what language access services they are able to provide, by whom, with what type of interpretation (such as in person, by phone, and/or by video remote interpretation), and where. Regarding the type of interpretation, we recommend that facilities prioritize in-person, followed by telephone interpreting, for LEP people who use spoken languages and in-person interpretation for Deaf people who use sign language.⁹ While conducting this inventory, facilities should consider these key questions:

- What interpretation services are available at the facility, and in what format?

- Are there in-person interpretation services available in the area? If so, in which languages do they provide services? For budgetary planning, are the services provided by for-profit or nonprofit agencies?

- Are there dedicated sign language interpreting agencies?

- What do interpreters need to know (such as security requirements and procedures) to gain access to the facility? Are there private meeting areas for in-person interpreting services?

- For telephone interpretation services, if used, where do those services take place? Is the phone in a private room or in an open/public setting? Does the setting provide the same kind of access to services (such as reporting or access to outside confidential support) that incarcerated people with English proficiency have?

- What is the hourly rate for telephone interpretation services?

- For in-person interpretation services, if used, where do those services take place? Do they take

place in a private room or meeting space or in an open/public setting?

- What is the hourly rate for in-person interpretation services? Are transportation expenses included? What, if any, is the hourly minimum for in-person interpretation?
- For video remote interpretation services, does the facility provide private areas for meetings? Does the facility have reliable internet access?



- What are the vital documents the facility uses for PREA-related information and activities? Consider all forms, descriptions of services, and any other written document that describes an incarcerated person's rights.
- How will vital documents be translated into the priority languages? Ensure that vital documents are

translated using qualified translators and not machine translation (such as Google Translate).

- How will language access services be provided to people who are LEP and speak languages other than those identified as the priority languages?

Similar to the process for determining which languages are most commonly spoken by the incarcerated population and the greater geographical area that contains the correctional facility, staff should consult multiple information sources to learn more about in-person interpretation resources and translation services. For interpretation resources, staff can start with an internet search, but should also contact other community service providers—including victim service programs and hospitals—to get a full picture of prospective interpreters in the area. Those entities may also have ideas for translation services, which may or may not be local.

Once staff have a sense of the universe of resources they may want to use, they should contact those service providers and find out if they are qualified and knowledgeable

about words and concepts related to sexual victimization and trauma. They should also plan to orient those providers to the correctional environment. As part of this orientation, staff should consider compiling a list of terms and jargon regularly used in the facility, along with definitions,

and provide that list prior to contact with a victim. For translators, this may mean phone consultations to explain certain policies or security issues that may appear in written materials. For interpreters who will be coming to the facility, staff should prepare them for the unique circumstances of working

How Are Interpretation and Translation Different?

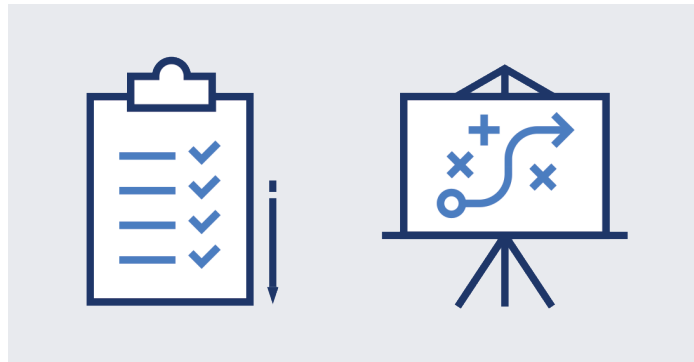
Interpretation is spoken or signed and done in real time. Translation is the process of taking a written document and presenting its information and meaning in a different language. Sight translation is a specialized process whereby an interpreter reads a written document in the source language (for example, English) and translates it into the target language (for example, ASL or Spanish) simultaneously. Qualified interpreters can provide sight translation for incarcerated Deaf or LEP people who do not speak or read English.

Cultural responsiveness and cultural relevance are extremely important for both interpretation and translation. Sometimes a word or concept in English can be strictly interpreted/translated in another language, but

because of a lack of cultural understanding, the meaning is not the same. For example, someone may refer to a minor who has left home as a “runaway” in English, but in another language that could be interpreted as a word or concept that sounds like a “runaway train.” The connotation of these terms is quite different; a “runaway youth” is a person who may have been a victim and needs help, whereas a “runaway train” is something out of control that needs to be stopped. If, for example, facilities are not able to provide culturally responsive interpreters to Spanish speakers from Mexico and from Argentina, they should ask interpreters and translators in advance to determine which words or concepts could be misunderstood among different speakers of the same language and plan accordingly.

in a correctional facility (such as entry and security procedures, including dress code). Staff should be sure that service providers understand the rules and policies of the facility and that they are comfortable with them before they provide services.

Facilities should also create a timeline with clear benchmarks for achieving language access in their PREA efforts and develop a budget that supports the timeline. If the facility has never budgeted for language access before, we recommend starting with **50 hours of interpreter services** and budgeting **10 percent more** over actual usage each year, if the services are used. Forecasting an extra 10 percent over actual usage for each subsequent year will enable the facility to be prepared to meet higher demands for services as people become aware that those services exist.¹⁰ For translation costs, after completing the inventory of written documents that should be translated for PREA-related information and services, facilities should get estimates for each document to be translated into the top three to five languages. We recommend starting with a limited printing, which could coincide with the facility's next scheduled printing of materials.



4. Map out policies, procedures, and staff training needed to implement language access.

Once the facility has completed Steps 1–3, as described above, staff should map out the necessary policies, procedures, and staff training needed for providing language access to PREA-related information and services. The facility should review each policy and procedure created to implement language access to determine whether it results in information and services that are as effective as those provided to the native English-speaking population. Policies and procedures should contain the following:

- a. A description of how the agency or facility will **notify** incarcerated people of their language access rights under PREA.
 - i. How often will notifications be given—one time (such as during intake) or repeatedly (such as during intake, at the initiation

of programs or services, and/ or through posted signs in the facility)?

- ii. Will notification be in writing, necessitating translated materials, or orally, necessitating interpreter services?
- iii. Are the procedures and mechanisms for notifying people who are LEP or Deaf of their rights equal to those provided to other populations? For example, if native English speakers receive a brochure and can ask questions about the information in the brochure, people who are LEP should also get a brochure in a language they understand with an opportunity to ask questions and get answers in a language they understand. In this example, simply providing the brochure in another language would not constitute equal access.

b. A description of how incarcerated people who are LEP or Deaf will make a **report** of sexual abuse or sexual harassment.

i. For all potential internal reporting mechanisms, are incarcerated people who are LEP or Deaf able to make a report in their first language? This is critical, so as to avoid confusion, miscommunication, and misunderstanding, especially if someone wants to invoke or waive any of their rights.

ii. For all potential external reporting mechanisms, are incarcerated people who are LEP or Deaf able to make a report in their first language? As with access to internal reporting mechanisms, this is critical, so as to avoid confusion, miscommunication, and misunderstanding, especially if someone wants to invoke or waive any of their rights.

c. Detailed descriptions of how **victim services** can and will be provided in the language of choice of the incarcerated person.

i. What services are available to incarcerated people who are native English speakers?

- ii. What policies and procedures need to be put in place to ensure that incarcerated people who are LEP or Deaf have equal access to the same services?
- iii. If the facility has an agreement for services with a local rape crisis center or other community victim service provider, how does that organization provide language access? Do they use qualified interpreters and translators that are knowledgeable about trauma and victimization?



Note that beyond the requirements in the PREA Standards, incarcerated people who have been victimized have a right to access victim services. This is an example of a situation in which someone may invoke specific legal rights, including the right to be reasonably protected from the accused and the right to be treated with fairness and respect.¹¹ It is therefore critical that people who are

incarcerated understand the process. Importantly, making contact with victim services is also often the point when the healing process begins for crime victims. To ensure that the person is able to make a safe connection with a service provider and receive meaningful help, any emergency or ongoing services should be provided in the language of the incarcerated person.

d. A description of how language access will be provided during **investigations** and any **disciplinary process**.

- i. How does/will the facility ensure that all investigative and disciplinary decisions and actions following a report of sexual abuse or sexual harassment are communicated in a language that an incarcerated person can understand? This applies to alleged abusers and to victims.
- ii. For investigative interviews, how will the facility provide qualified interpreters to incarcerated people who are LEP or Deaf? (See pages 23–24 for more on qualified interpreters.)

- iii. When reporting outcomes of investigations, how will the facility report them to incarcerated people in a language they understand?
- iv. How does/will the facility ensure that incarcerated people understand any disciplinary process?
- e. Specific details about how **staff will be trained**. To identify staff training needs, facilities should consider the following:
- i. **Official responsibilities at the point of contact with the incarcerated person**. The facility should determine what level of training is required for different types of employees, contractors, and volunteers (such as security staff, medical/mental health providers, and program staff), based on their role at the facility and the level of contact they have with the incarcerated population. For security staff, for example, the facility may choose to have information available at different posts, so that any officer on any shift knows who to call and what to do if an incarcerated person who is LEP or Deaf reports sexual abuse or sexual harassment.
- ii. **Staff tools and resources that make it easier to provide ongoing language access**. These may include, but not be limited to the following:
- Translated materials: This includes brochures in the top three to five languages spoken by the incarcerated population;
 - Procedures for securing an in-person interpreter: All staff should be clear about whom to contact to arrange for an interpreter to come to the facility; which permissions and/or notifications are needed beforehand, if any; what the required entry and security procedures are for interpreters; and where interpreters will provide services.
 - Procedures for facilitating remote video interpretation: All staff should know how the equipment works; where it is stored; which permissions and/or notifications are needed beforehand, if any; and whom to contact if they have questions or problems with the equipment.

- Procedures for facilitating telephonic interpretation: All staff should know how to access telephone interpretation; which permissions or notifications are needed beforehand, if any; and which locations/telephones can be used for telephonic interpretation.



- “I speak” posters (posters or laminated cards that show different languages): The facility should consider creating, downloading, purchasing, or printing posters to assist staff in identifying the exact language and dialect spoken by an incarcerated person. These posters can help guide staff in finding the correct interpreter.
- A list or directory of bilingual staff: For emergency situations, it may be helpful for staff to have easy access to a list or directory of staff who speak more than one language and which languages they speak. If the staff’s analysis of languages spoken at the facility

from Step 1 (see page 9) shows a pronounced increase or sustained high percentage of a particular language, the facility might also consider hiring bilingual staff to meet the immediate needs of some people. But bilingual staff are not the same as qualified interpreters. They can provide their regular services in another language and they can assist incarcerated people who are LEP in emergency situations, but they should not act as interpreters once an emergency ends.

5. Plan for emergency situations.

Correctional facilities are accustomed to planning for emergency situations, conducting drills, and initiating response protocols when unexpected events occur. They may or may not be used to integrating language access into emergency response protocols, but having a plan in place for providing language access in the event of an emergency related to sexual abuse is critical for ensuring safety. Having a plan for language access may also be crucial to preserving evidence (for example, a first responder might ask the person, in a language they understand, not to take any actions that could destroy

evidence). No service provider or staff member can know at all times who will need language access services and under what circumstances, but if the facility has a language access plan that contemplates emergency situations, all staff can follow procedures for securing language access services quickly and without an appointment.

During the emergency planning process, facility staff should clearly define what constitutes an emergency, thereby allowing the use of “inmate interpreters” or bilingual staff if a delay in securing a qualified interpreter would pose a threat to safety. One example of an emergency would be a situation in which an incarcerated person who is LEP or Deaf is bleeding, approaches an officer, and indicates that they were just sexually assaulted by a person who used a weapon. In this scenario, the officer may need an “inmate interpreter” or bilingual colleague to help get the person emergency medical attention and find and secure the weapon. By contrast, a person who is LEP or Deaf may approach an officer to say something happened and they want to make a report, but the person does not appear to be in the midst of a medical or emotional crisis at the

time of the interaction. That situation would not constitute an emergency, although the officer should work to secure a qualified interpreter for the person as soon as possible.

Equally important, the emergency plan should provide criteria or parameters that indicate when a situation is no longer an emergency. In the first scenario above, the emergency would be over once the injured person gets medical treatment to stop the bleeding and the officer has completed the search for the weapon. At the point that an emergency ends, staff should transition from the emergency protocol to standard operating procedures.

6. Establish a plan for monitoring and quality control. All plans for language access need to be monitored on a regular basis for what has worked well, what needs improving, and what needs to be changed. Facilities should develop a plan for monitoring how well they are meeting the language access needs of their LEP and Deaf populations in relation to PREA information and services. Part of that monitoring and quality control should include gathering feedback from incarcerated people, the vendors or individuals used in providing language

access, and staff who have engaged with those vendors. It should also include an analysis of the number of reports of sexual abuse and sexual harassment made by incarcerated people who are LEP or Deaf. If the facility houses people who are Deaf and/or LEP but never or rarely receives reports from them, staff should examine whether lack of language access may be the reason that people are not reporting. Facilities may want to weave into their sexual abuse incident reviews (under Standard §115.86) an assessment of whether language access was adequately provided in applicable cases.

The plan for monitoring and quality control should also include statistics on use, including languages accessed, requests for interpreters, length of time to obtain interpreter services, number of interpreter hours, and



number of materials provided through translation. These statistics can help inform the following years' budgets and help with anticipating and planning for ongoing needs. Facilities should determine how often (such as yearly or biannually) this analysis should take place and then adhere to the schedule. Ensuring regular and ongoing analysis of language access use will help facilities forecast and meet needs as those needs expand or otherwise change.

Working with Interpreters and Translators

A critical component of providing language access to people who are LEP or Deaf is understanding how to assess, select, and work with qualified interpreters and translators. In the United States, interpreters and translators generally adhere to the code of ethics established by the American Translators Association.¹² They may also adhere to other codes of conduct specific to a given setting, such as medical, legal, or educational settings.

To be a **qualified interpreter or translator**, people must have these credentials:

- The person must be professionally trained to provide the service and adhere to a professional code of ethics, which includes impartiality, accuracy, and confidentiality;
- They must be proficient in the source language (English) and target languages (language spoken by the person needing interpretation, usually the interpreter or translator's first language);



- They must be able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. (Note that this is required for sign language interpreters under the ADA.)
- They must be able to engage in cognitive tasks simultaneously; and
- They must be able to demonstrate competency and knowledge of terms associated with correctional environments, sexual abuse, and healing. (Note that the correctional facility can provide the necessary information and orientation to help a service provider become familiar with terms associated with corrections.)

Qualified interpreters should also have knowledge and use of cultural nuances, regional variations, idiomatic expressions, and colloquialisms in

all working languages. Interpreters working in juvenile facilities should know how to interpret in plain language, using age-appropriate terminology. Some professional interpreters carry certifications that qualify them for interpreting in specialized environments like hospitals and courts. When possible, agencies should use medically certified or court-certified interpreters for any situation that could have an impact on the outcome of a person's case (such as during a forensic medical exam or an investigative interview). Further, when selecting an interpreting agency, whether for in-person or telephone services, facilities should seek to engage agencies that can provide certified and qualified interpreters for the greatest number of languages to account for the largest range of anticipated and unanticipated language access needs.

Similarly, to find qualified translators, facilities should ensure that any agency they select adheres to the code of ethics established by the American Translators Association, which includes a duty "to convey meaning between people and cultures faithfully, accurately, and impartially."¹³ Like qualified interpreters, qualified translators should have

demonstrated proficiency in the source language (such as English) and the target language (that is, the language for translation), and knowledge and use of cultural nuances, regional variations, idiomatic expressions, and colloquialisms in all working languages. For example, they should be able to check documents in advance for idioms, check the intended meaning with the facility, and choose words to ensure that the proper meaning is conveyed in the translation. Expressions like "code of silence" or "ax to grind" are examples of idioms a translator might flag for discussion and adjustment in a translated text. Importantly, even when facilities take great care to select and engage qualified translators and make translated materials available to incarcerated people, they still need to account for the possibility that a person who is LEP or Deaf will have questions about the material; facility staff needs to provide a means for receiving and responding to questions in the person's first language.

For more practical guidance on working with interpreters and translators, see the tip sheets provided in Appendices A and B.

Conclusion



Under the PREA Standards, correctional agencies are required to take steps to ensure that people who are limited English proficient have equal access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. By following the steps outlined in this guide, agencies will be able to plan and implement language access in ways that promote safety and achieve meaningful compliance with the standards. And by engaging in this process related

to PREA information and services, agencies may discover a broader need to plan for language access across other facility programs and services. If so, the strategies contained in this guide could certainly function as a road map for a more comprehensive effort. But regardless of whether PREA language access planning blooms into a broader agency plan, ensuring language access in the PREA context will contribute to a correctional culture that values dignity, respect, and safety for all.

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.

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, or 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.

Endnotes

- 1 28 C.F.R. Part 115, *National Standards to Prevent, Detect, and Respond to Prison Rape; Final Rule*, Standard §115.16: Inmates with disabilities and inmates who are limited English proficient (Washington, DC: U.S. Department of Justice, 2012), <https://perma.cc/482E-FQSC>. These requirements also apply to lockups (§115.116), community confinement facilities (§115.216), and juvenile facilities (§115.316).
- 2 Vera's partners on the Translating Justice Initiative were the Asian Pacific Institute on Gender-Based Violence, Casa de Esperanza, National Latin@ Network, IGNITE, Mujeres Unidas y Activas, the National Center for Victims of Crime, and consultant Alice Sykora.
- 3 For more information about the terms used in the standards, see 28 C.F.R. Part 115, *National Standards*, 2012, §115.5: General Definitions, <https://perma.cc/ZTX3-6AJ4>.
- 4 See Nancy Smith and Charity Hope, *Culture, Language, and Access: Key Considerations for Serving Deaf Survivors of Domestic and Sexual Violence* (New York: Vera Institute of Justice, January 2015), 16, <https://perma.cc/FF92-MHNB>.
- 5 For more on the four-factor analysis, see Coordination and Review Section, LEP Initiative, Civil Rights Division, U.S. Department of Justice, *LEP Corrections Planning Tool* (Washington, DC: U.S. Department of Justice), <https://perma.cc/62BQ-9HRU>. This resource provides information on limited English proficiency in the context of spoken languages and offers guidance to correctional agencies on how to develop language access policies and plans. Note that this resource is not specific to PREA; its emphasis on using bilingual staff should not be applied to the PREA context.
- 6 According to lep.gov, "A document will be considered vital if it contains information that is critical for obtaining federal services and/or benefits, or is required by law. Vital documents include, for example: applications, consent and complaint forms; notices of rights and disciplinary action; notices advising LEP persons of the

- availability of free language assistance; prison rulebooks; written tests that do not assess English language competency, but rather competency for a particular license, job, or skill for which English competency is not required; and letters or notices that require a response from the beneficiary or client.” See *Commonly Asked Questions and Answers Regarding Limited English Proficient (LEP) Individuals* (Washington, DC: U.S. Department of Justice, 2011), 3, <https://perma.cc/VLJ2-9SPQ>.
- 7 See 67 C.F.R. Part 117, *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (Washington, DC: U.S. Department of Justice, 2002), 41464, <https://perma.cc/CH2Q-R37H>.
- 8 Given that line of sight and other issues related to placement of a video screen during the exam can pose problems for video remote interpretation, we recommend planning for in-person sign language interpretation for Deaf victims needing a forensic medical exam.
- 9 During the Translating Justice Initiative, Vera heard from a number of sources and stakeholders that LEP people who use spoken languages prefer in-person and telephone interpreting over video remote interpretation. By contrast, Vera learned that Deaf people prefer in-person interpretation, followed by video remote interpretation.
- 10 During the Translating Justice Initiative, Vera heard that it was common for victim service agencies to see an increase in demand for language access services once people became more aware that those services were available in a language they could understand.
- 11 All states and the federal government have victims’ rights laws. See the National Center for Victims of Crime website for its “Victims’ Rights” page, which has a helpful overview and discussion of these rights: <https://perma.cc/YQ3V-VF5L>.
- 12 See the American Translators Association, *Code of Ethics and Professional Practice*, <https://perma.cc/RZY5-S3SJ>.
- 13 Ibid.

About citations and photos

As researchers and readers alike rely more and more on public knowledge made available through the Internet, “link rot” has become a widely acknowledged problem with creating useful and sustainable citations. To address this issue, the Vera Institute of Justice is experimenting with the use of Perma.cc (<https://perma.cc>), a service that helps scholars, journals, and courts create permanent links to the online sources cited in their work. Photos depict models and are for illustrative purposes only.

Credits

The Vera Institute of Justice (Vera) has been committed to helping agencies prevent and address sexual abuse in confinement settings since 2006, when Vera provided technical assistance to the National Prison Rape Elimination Commission. Vera’s Center on Victimization and Safety works with communities around the country to create healing services and justice options that reach, appeal to, and benefit all survivors. Our work focuses on communities of people who are at elevated risk of harm but often marginalized from the organizations and systems designed to support victims.

For more information on the Center on Victimization and Safety, please contact cvs@vera.org.