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KATHRYN O. GREENBERG IMMIGRATION JUSTICE CLINIC

Held Incommunicado

The Failed Promise of Language Access
in Immigration Detention



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Executive Summary

Immigration detention is a staggering modern phenomenon, with the United States detaining more noncitizens in connection with civil removal cases than any other country in the world.² Indeed, in FY2023, ICE detained a daily average of nearly 30,000 people from all over the world in a vast patchwork of 150 detention centers across the nation.³ That number has only grown in 2024.⁴

Language access is an increasingly important component of this sprawling system. Last year alone, ICE detained individuals from over 170 countries who spoke dozens of languages, including—increasingly—a diverse array of less common languages indigenous to Latin America and West Africa.⁵ And the data indicate that an overwhelming majority of this growing population has little to no ability to speak, understand, read, or write English.⁶

The importance of providing language access to people with limited English proficiency (LEP) is well recognized in U.S. law.⁷ It is particularly critical for LEP individuals in immigration detention. In this context, the ability to communicate is essential to meaningfully access basic necessities such as medical and mental health care. And because there is no general right to government-appointed representation and only a small proportion of detained noncitizens are represented by counsel in their removal cases,⁸ language access in detention center law libraries is also essential for most detained LEP people to even understand the charges against them, much less prepare any sort of legal defense to deportation.

ICE itself has acknowledged the importance—and legal imperative—of providing language access in immigration detention. It has issued broad language access policies and adopted internal rules that require detention facilities to provide LEP noncitizens with interpretation, translation, and other forms of language access in the context of medical care and law libraries.¹⁰ ICE has also suggested that immigration detention centers are performing well on this front, touting its “excellent work” in this realm and offering assurances of the “accurate and effective communication” that it provides to the LEP people it detains.¹¹

Yet accounts from impacted individuals and advocates suggest otherwise. Both have raised alarming instances of language access failures in immigration detention and devastating—even grave—consequences for those in ICE custody.¹³ A number of well-researched reports have documented troubling barriers to and disparities in access to medical care among speakers of different languages.¹⁴ Others have played an important role in documenting language access deficiencies in specific ICE facilities.¹⁵ But to date, there has been no empirical research examining language access in the context of immigration detention medical care and law libraries on a nationwide scale.

This report begins to fill that gap, drawing on the accounts of more than 233 individuals—the vast majority of whom are LEP people who are currently or were recently detained—about their experiences with language access in medical care and law libraries in detention centers across the nation. It leverages responses from first-of-their-kind surveys of 171 detained and recently released people and 42 legal service providers, 25 qualitative interviews, and information from thousands of government records produced in response to multiple lawsuits under the Freedom of Information Act.

*A person is considered **limited English proficient**, or LEP, if they “have a limited ability to read, speak, write, or understand English.”⁹*

Interpretation refers to the process of converting speech or signs from one language to another verbally.

Translation, by contrast, refers to the conversion of written text from one language to another in writing.¹²



Case Study: Consequences of Language Access Failures

“I did not understand, and I could not make myself understood. . . . I felt like I was dead.”

These are the words of S., a Soninke-speaker who languished in an Immigration and Customs Enforcement (ICE) detention center in Pennsylvania for more than six months without being able to communicate in any meaningful way with a single staff member of the immigration detention center where he was being detained. The absence of language access services left S. essentially held incommunicado, with no understanding that he could ask ICE for his freedom at any time and almost certainly get it. S. did not even know why he had been detained in the first place or that his detention was related to an immigration case. All the documents he ever received were in English, and he was never able to understand any of them. And, despite his attempts to ask for help from detention center staff, no one understood him and not one staff member used any language access service—such as interpretation or translation—to understand or allow S. to communicate in a meaningful way.

Only when S. was taken to immigration court did he discover for the first time that his detention was connected to an immigration case. But, even then, language barriers prevented S. from obtaining legal help. While the immigration judge gave S. the phone numbers of pro bono legal services providers and encouraged him to find representation, language barriers prevented providers from understanding him. And despite the fact that immigration detention centers are specifically required to assist detained individuals with limited English proficiency in contacting these organizations,¹ S. never received any help. It was only through a chance encounter with a legal services organization visiting the facility that S. was finally able to communicate. He ultimately learned that he could ask for release, sought release, and was released shortly thereafter—but only after six months of detention due to ICE’s language access failures.



About **one in three** survey respondents reported not being able to request medical care at least once because of a language barrier.

Together, these data paint a clear—and troubling—picture of language access in 125 immigration detention centers that collectively hold approximately 95% of the people that ICE detains.¹⁶ Specifically, the data show a nationwide pattern of ICE failing to meet its language access obligations under its own rules and federal law. This report also sheds new light on the wide-ranging harms and often life-altering consequences of this failure for the LEP people that ICE detains. And, while this report does not cover other aspects of language access in immigration detention or with respect to other agencies involved in the immigration legal system, its findings suggest the need for closer examination of the government’s compliance with its language access obligations in these contexts as well.

The findings in this report are critical, both due to the importance of language access to LEP individuals’ fundamental needs and rights and because the very nature of ICE’s language access failures makes it effectively impossible for detained LEP individuals to raise, challenge, or remedy these problems on their own. As such, this report concludes with recommendations for the federal government and other actors to respond to the urgent problems that this study reveals.

Key Findings

Medical Care

In immigration detention—where LEP individuals must rely on detention center staff to obtain medical care for months or years of their life—language services are essential. Language access can mean the difference between critical treatment and worsening conditions, relief and debilitating pain, lifesaving care and death.¹⁷ Presumably for this reason, ICE’s own rules require detention centers to provide language access in the context of medical and mental health care.¹⁸ But this report shows a widespread pattern of failure on this front, with devastating consequences for some of the most vulnerable people in the U.S. legal system.¹⁹

Case Study: Medical Consequences of Language Access Failures

One Spanish-speaking woman detained in Louisiana recounted how she experienced chest pain for five days, but was not able to ask for help because she had no way to communicate with medical staff in Spanish. She was eventually able to ask another detained individual to write a note to the nurse in English. But instead of using interpretation resources—as required by ICE rules and established medical practice—to thoroughly examine the woman’s symptoms, the nurse told her to simply drink water. Three days later, she had a heart attack.²⁰

- ▶ **Language access deficiencies often prevent detained individuals from reaching medical professionals in the first place.**
 - Many LEP individuals reported being unable to even lodge a request for medical care, either because detention center staff only spoke English and did not use interpretation services, or because requests must be made in writing or through electronic tablets not navigable in their native language. In fact, nearly one-third (31%) of LEP survey respondents reported not being able to request medical care at least once because of a language barrier. Many others reported that the lack of language access made it feel futile to even attempt to seek medical attention.



About **one in four** survey respondents were explicitly told that they would not be provided an interpreter during medical visits.

- ▶ **Language access failures impede and outright prevent communication with medical professionals.**
 - LEP individuals reported detention centers' routine failure to provide interpretation services during medical visits, even for serious medical procedures. In fact, about one in four (23%) LEP survey respondents were explicitly told that they would not be provided an interpreter. In some cases, detained individuals reported being denied medical care altogether because they did not speak English; in others, detained individuals reported having to resort to hand gestures to attempt to communicate critical medical information.
- ▶ **Language access in connection with medical care is abysmal across the board, but almost nonexistent for the rapidly growing number of people in ICE detention who speak less common languages.²¹**
 - An overwhelming majority (89%) of LEP survey respondents who speak languages indigenous to Latin America and one-third (33%) of those who speak West African languages reported being told that the detention center could not or would not provide a fluent staff member or interpreter during medical visits.²² This is particularly concerning given the significant increase in migration from countries with large populations that speak these languages.²³ But even those who speak Spanish—one of the most common languages in the detained population—also face astounding barriers, with 21% reporting similar interactions.
- ▶ **Deficient language access forces many people to disclose sensitive medical information to other detained individuals and subjects them to invasive procedures without informed consent.**
 - More than a quarter (28%) of LEP survey respondents who were able to access medical care in detention reported having had to rely on another detained person to interpret for them because the detention center did not provide language access services.
 - Numerous individuals reported that they underwent invasive medical examinations—such as vaginal and rectal exams—without ever being asked for consent in their native language or having any understanding of what was happening to them.
- ▶ **Language access failures prevent detained people from getting critical medical care and create severe medical consequences.**
 - Nearly a third (30%) of LEP survey respondents reported not receiving the medical care they needed because of language access deficiencies.

“Sometimes I need to go [seek medical care] and I do not ask to go because I am ashamed because nobody understands me.”

Portuguese-speaker from Brazil detained in Louisiana

Figure 1

Legal Services Provider Survey: How did the inability of LEP noncitizens to promptly communicate in their primary language impact them?

Medical conditions had worsened due to lack of treatment or treatment that was delayed

78%

Illness or injury remained undiagnosed for a long period of time

68%

Suffered significant pain as a result of delayed care

62%

- More than three-quarters (78%) of legal services providers surveyed reported having clients whose medical conditions had worsened because of lack of or delayed treatment caused by language access deficiencies.
- Some individuals reported other serious consequences—for example, languishing in extraordinary pain, including until they eventually chose to accept deportation—because they could not adequately communicate their need for care.²⁴ There have also been reports of deaths directly tied to medical language access failures.²⁵

Law Libraries

As there is no recognized right to government-appointed counsel for most people in removal proceedings,²⁶ the vast majority of detained individuals are forced to represent themselves.²⁷ Detention center law libraries are critical for these noncitizens, as law libraries are often the only place that they can access the basic materials to understand the charges against them, seek release from detention, or prepare defenses to deportation.²⁸ As a result, the lack of meaningful access to a law library can lead directly to wrongful deportation. Language services are therefore essential. But while ICE purports to require detention centers to provide these services, this report shows that they routinely fail to do so,²⁹ and that these failures can impose irreparable harms on LEP people—including deportation leading to family separation, persecution, and even death.

Case Study: Legal Consequences of Language Access Failures

One Spanish-speaking asylum seeker recounted how, in the absence of any language assistance at the law library of a New Jersey detention center, he was forced to ask another detained individual who spoke Spanish and English to help prepare his asylum application. But because his story included instances of graphic torture, the asylum seeker did not feel comfortable delving into every detail with a person he barely knew, leading him to omit certain facts.³⁰ Those facts later arose during his testimony in immigration court, however, leading DHS to challenge his credibility based on “inconsistencies” with his asylum application—and ultimately to appeal the immigration judge’s decision granting him relief from deportation.³¹ This, in turn, prolonged his case for what has now been nearly four years, with no end in sight.³²



About **seven in ten** survey respondents who needed language assistance at a law library reported never having received assistance.



About **half of** survey respondents reported having to rely on other detained individuals to translate immigration applications.

- ▶ **Law libraries frequently fail to provide language assistance to detained LEP individuals.**
 - Among LEP survey respondents who needed language assistance at a law library, 70% reported never having received it.
 - Among LEP survey respondents who reported that their facility has a law library, only 8% said that the law library provides professional interpretation in their primary language.
 - Only 19% of LEP survey respondents reported that their law library provides translated materials in their primary language.
- ▶ **Language assistance in law libraries is deficient across the board, but almost nonexistent for people who speak less common languages.**
 - The vast majority (89%) of LEP survey respondents who speak languages indigenous to Latin America reported having had to rely on another detained person to translate immigration-related applications. This trend is even visible with languages commonly spoken in the United States, with 71% of LEP Spanish-speakers reporting the same.
- ▶ **Many—if not all—immigration detention centers have no written procedures for providing language access in law libraries.**
 - Despite detention centers' obligation to establish these procedures,³³ ICE has conceded that “none” of a list containing most of its largest detention facilities “have any written procedures” for providing language access in law libraries.³⁴
- ▶ **Deficient language access forces many detained LEP people to rely on other detained people for translation, including of highly sensitive immigration applications.**
 - Over half (52%) of LEP survey respondents reported having had to rely on another detained individual to translate important and often highly sensitive immigration-related applications (which are typically treated as confidential)³⁵ because they had no other way to translate them.
- ▶ **Language access failures impair detained LEP individuals' ability to seek release from detention.**
 - Many detained LEP individuals reported not knowing that they could have sought release—much less how to seek release—from detention because law libraries do not provide this information or any assistance in their primary language. And 57% of legal services providers surveyed similarly reported that the lack of language assistance impaired LEP individuals' ability to seek release.
- ▶ **Deficient language access makes it difficult or impossible for detained people to find representation or to represent themselves.**
 - Many detained LEP individuals reported that the lack of language services in law libraries created a significant barrier to the search for legal representation. This is particularly problematic because noncitizens generally have no recognized right to government-appointed counsel to help them defend against deportation.



83% of legal services providers reported that the lack of language access services in law libraries increases their workload.

- Many detained LEP individuals and legal services providers reported that deficiencies in language access in law libraries impede LEP individuals' attempts to represent themselves and any meaningful participation in their legal proceedings. Specifically, ICE's failures prevent them from reading or understanding correspondence from the immigration court, ICE, and other tribunals; conducting legal research to understand and support their case; and filing crucial applications, briefs, and evidence.
- ▶ **The lack of language access in law libraries severely undermines legal services providers' ability to serve detained individuals.**
 - An overwhelming majority (83%) of legal services providers reported that the lack of language access services in law libraries increases their workload because they must perform basic tasks that people would otherwise do in a law library, with 65% of legal services providers reporting that this limits the number of detained individuals to whom they can provide legal assistance.

Key Legal Violations

ICE—and the Immigration Detention Facilities Under Its Purview—Are Routinely Violating ICE's Own Detention Standards

ICE has adopted rules that direct immigration detention facilities to provide language access—including interpretation and translation—in the context of medical care and law libraries.³⁶ But despite ICE's public assurances,³⁷ the data underlying this report reveal routine, widespread, and consequential violations of these rules. Specifically, this report shows that:

- ▶ ICE is regularly failing to ensure “appropriate interpretation and language services for LEP detainees related to medical and mental health care.”³⁸
- ▶ ICE is regularly failing to ensure that “[d]etainees shall not be used for interpretation services during any medical or mental health service.”³⁹
- ▶ ICE is regularly failing to ensure that detained people have “language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access” to the law library.⁴⁰
- ▶ ICE is regularly failing to ensure that law libraries provide “oral interpretation or assistance . . . to any detainee who speaks another language” if no written translation is available.⁴¹
- ▶ ICE has completely failed to ensure that many of its largest detention facilities establish written procedures to assist LEP individuals in using the law library.⁴²

ICE Is Failing to Live Up to the Promises of Its Own Language Access Plans

Despite promising “meaningful access to its programs, services, and activities” to LEP individuals in its custody⁴³ and insisting that it is working towards “identifying



ICE must provide “appropriate interpretation and language services for LEP detainees related to medical and mental health care.”



ICE must
**“ensure that the
programs and
activities they
normally provide
in English are
accessible to
LEP persons.”**

and translating vital documents into the most frequently encountered languages, providing interpretive services where appropriate, and educating personnel about language access responsibilities,”⁴⁴ this report reveals ICE’s highly consequential failures to meet the goals of its language access plans. It also shows that ICE has failed to comply with the language access policies and plans of the Department of Homeland Security (DHS)—the “parent” agency in which ICE is located—by, among other things, failing to ensure basic interpretation and translation of vital information.⁴⁵

ICE’s Failures Violate Federal Statute and Executive Orders

This report also shows that ICE has regularly failed to provide meaningful language access to critical programs in its detention facilities. This failure violates the language access guarantees enshrined in critical laws such as Title VI of the Civil Rights Act of 1964 and required by multiple longstanding executive orders mandating all federal agencies and subcomponents—including ICE—to “ensure that the programs and activities they normally provide in English are accessible to LEP persons.”⁴⁶

ICE’s Failures Raise Serious Due Process and Equal Protection Concerns

ICE’s failures raise serious constitutional concerns as well, impinging on peoples’ fundamental rights to due process and equal protection. Indeed, when ICE fails to provide language access services within detention center law libraries, this deprives LEP individuals of the ability to raise meritorious challenges to their detention and to participate—in any meaningful way—in the proceedings against them, which can result in deportation, one of the harshest consequences in our legal system.⁴⁷ ICE’s deprivation of adequate medical care and law library services to detained LEP individuals also raises concerns of unjustifiable disparate treatment in a context where deprivation and delay can—and do—lead to pain and even death.

Key Recommendations

Immigration and Customs Enforcement

1. ICE should ensure that all detention centers use their access to readily available professional interpretation services to provide interpretation in the best language of every detained person.
2. ICE should ensure that facility staff and agents are trained, tested, and audited on when and how they must access these services.
3. ICE should ensure that, at intake, LEP individuals are meaningfully evaluated for their best language, informed of their language access rights, and provided translated materials detailing these rights.
4. ICE should ensure that facilities establish written language access procedures and post translated versions in detention facilities.
5. ICE should ensure that all electronic “tablets” (which detention centers often require detained individuals to use to make medical or law library appointments) are programmed in the primary languages spoken by all LEP detained individuals or that an alternative communication method is provided.
6. For detained LEP people who cannot read or write, ICE should ensure that facilities translate written materials verbally or through signs (sight translation) instead of requiring them to use electronic tablets.
7. LEP individuals should be safely released if ICE does not promptly provide them with language access services.
10. DHS should impose penalties—including contract termination—for facilities’ noncompliance.
11. DHS should create publicly available procedures to allow detained individuals to enforce their language access rights.
12. DHS’s Office of Civil Rights and Civil Liberties should create a hotline through which detained LEP individuals can lodge complaints in their primary languages.
13. DHS should provide access to interpretation as necessary to allow detained LEP people who cannot read or write to avail themselves of these processes.
14. DHS should publicly release data on language access needs at each facility and the extent to which it has met those needs.

Department of Homeland Security Oversight Subcomponents

8. DHS should assign independent officers to each immigration detention facility to focus on ensuring language access to detained LEP individuals.
9. DHS should routinely assess language access needs and compliance with language access obligations in detention facilities.

Executive Office for Immigration Review

15. Immigration Judges should consider ICE’s failures to provide required language access services as a factor counseling strongly in favor of release in making bond determinations.
16. The Executive Office for Immigration Review should consider ICE’s failures to provide required language access services in setting, extending, and excusing failures to meet filing deadlines.

Congress

17. Congress should adopt appropriations legislation requiring that a minimum percentage of ICE’s budget be set aside for language services.
18. Congress should hold oversight hearings on language access in immigration detention.

Legal Community

19. The legal community should help detained LEP people enforce their language access rights.
20. The legal community and funders should devote greater resources to the representation of LEP people in immigration detention.

Background

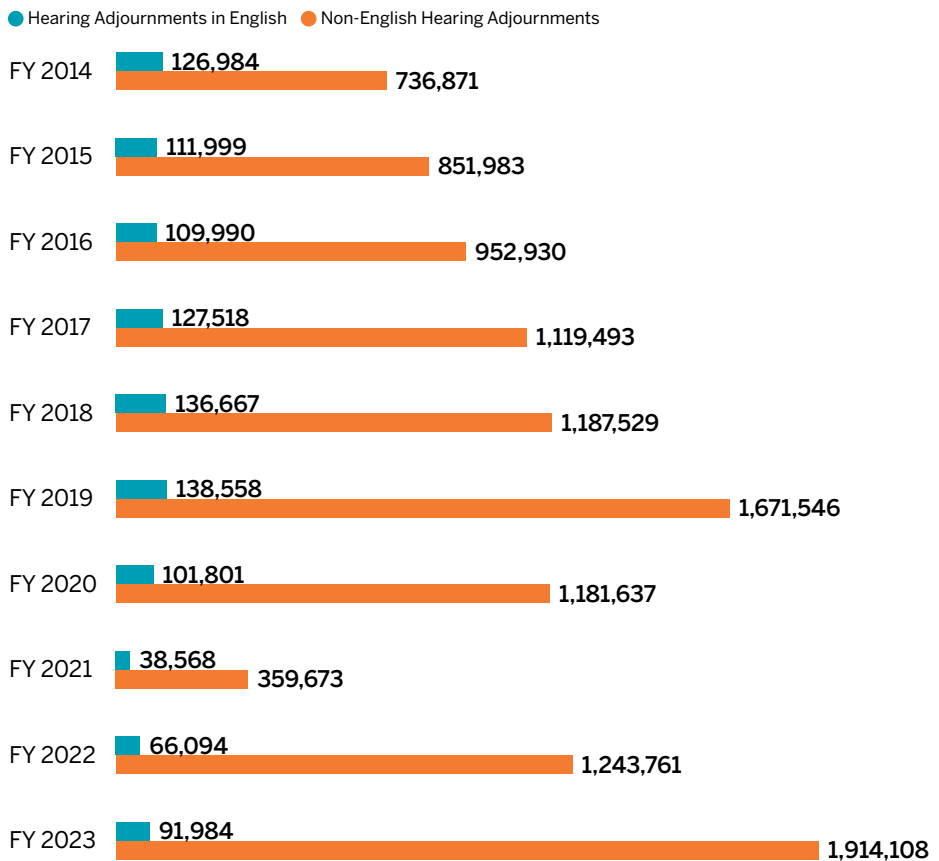
Immigration Detention and the LEP Population

The U.S. immigration detention system is vast and sprawling, a patchwork of 150 detention facilities across the nation in which ICE regularly detains more than 30,000 people a day.⁴⁸ While there are many ways in which these people may come into contact with immigration enforcement agents and many reasons why they may be charged as removable under the nation’s civil immigration laws, each is entitled to present some defense to removal or claim for relief.⁴⁹ Accordingly, while the people who are detained may have vastly different backgrounds and lived experiences, most are attempting to defend themselves against deportation in an often-lengthy legal process.⁵⁰

Unsurprisingly, people in immigration detention were born in countries all over the world—often nations in which English is not a primary or even widely understood language.⁵¹ In FY2023, for example, ICE detained individuals from over 170 countries who spoke dozens of languages, including—increasingly—rarer languages indigenous to Latin America and West Africa, among other locations.⁵² And available data strongly suggest that the vast majority of these people are LEP, which means that they “have a limited ability to read, speak, write, or



Figure 2
Hearing Language of Immigration Court Adjournments



Executive Office for Immigration Review Adjudication Statistics: Hearing Language, EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, U.S. DEPARTMENT OF JUSTICE (Oct. 12, 2023).

understand English.”⁵³ Indeed, although ICE has not released data reflecting the proportion of people detained for civil immigration purposes who are LEP, the Executive Office for Immigration Review (which oversees the immigration courts that adjudicate these removal cases) recently reported that 95% of people facing removal in immigration court required interpretation for court hearings due to their limited command of English.⁵⁴

Thus, there is ample basis to infer that the overwhelming majority of people in immigration detention have little to no understanding or command of written and spoken English.

The Urgent Need for Language Access in Immigration Detention

Noncitizens in ICE detention are not simply awaiting a decision in their removal cases. They, like all people, have a range of daily needs when it comes to medical care, mental health, and personal wellbeing.⁵⁵ In fact, because many are detained while attempting to obtain protection from physically and psychologically

traumatic political repression, religious persecution, and more, their medical and mental health care needs may be particularly acute.⁵⁶ And oftentimes, because they are being held in jail-like facilities and are facing deportation—one of the harshest penalties in our legal system⁵⁷—they must do much, much more: they must attempt to defend themselves in active litigation against trained government attorneys and challenge often-flawed decisions by immigration adjudicators in their removal cases.⁵⁸

The ability to communicate is critical to do any of these things in a meaningful way. For example, noncitizens who need medical attention must first request an appointment, which usually requires either filling out a form or talking to detention center staff at a specific time, depending on the facility.⁵⁹ Sometimes, this is not as simple as merely requesting an appointment; it also requires explaining the nature of the medical needs or the urgency. For people who are eventually able to see a medical professional, they must then be able to share critical information about their symptoms and medical history. They must also be able to understand the doctor's questions, diagnosis, instructions, and treatment regime.⁶⁰ Any miscommunication in this context can lead to misdiagnosis, inadequate care, or serious medical error, with potentially irreparable medical consequences.⁶¹ In short, communication is critical, and, for LEP individuals in the medical care context, deficient language access can mean the difference between life and death.⁶²

Communication is equally essential for noncitizens who wish to fight their detention or defend themselves against deportation. As most people in immigration detention are being forced to confront charges that they are removable in active proceedings in immigration courts,⁶³ they must attempt to understand the factual and legal charges against them and prepare their defense. And, since only a small proportion of detained noncitizens are represented by counsel,⁶⁴ the overwhelming majority must do this entirely on their own and in English. This means conducting legal research, preparing evidence, drafting legal



filings, and making any concessions, in English and against a trained government attorney. For instance, just to apply for asylum, individuals must adhere to complex filing requirements and strict deadlines, fill out a lengthy application, prepare a written declaration, and submit substantial supporting evidence—all of which must be in English.⁶⁵ Even an inadvertent failure to comply with these requirements can spell doom for a noncitizen's case, resulting in the rejection of their filing and even an order of deportation.⁶⁶ Those who are detained while their case is on appeal face similar challenges, as they must often conduct in-depth legal research, review transcripts from immigration court, and draft appellate briefs—again all in English and on their own.⁶⁷ Thus, the dearth of language access in this context can wreak devastating consequences, including unlawful deprivations of liberty, unjust and wrongful deportations, and returning people to face persecution or death.⁶⁸

The Law of Language Access

The notion that deficient language access can deprive people of critical rights is well established in U.S. law. Courts have long recognized the constitutional dimensions of language access in the context of legal proceedings, observing that the due process guarantees of notice of the charges against a person and an opportunity to be heard “would be meaningless” if language barriers prevented that person from understanding or being understood.⁶⁹ Deficient language access also implicates principles of equal protection, as the Constitution generally prohibits the government from discriminating on the basis of race and national origin—which placing a higher burden on LEP people facing removal than English-speaking ones surely does.⁷⁰ And Congress, for its part, enshrined this notion in federal statute decades ago by enacting Title VI of the Civil Rights Act of 1964, which guarantees LEP people meaningful access to federally funded programs and activities.⁷¹

More recently, the executive branch has reaffirmed and built upon these principles. Among other things, it issued Executive Orders 13166 and 13985, which require all agencies—including DHS and ICE—to “ensure that the programs and activities they normally provide in English are accessible to LEP persons.”⁷² Attorney General Merrick Garland recently reiterated these values in a memorandum directing agencies to update their language access policies and plans,⁷³ emphasizing that “[a]ll people in this country, regardless of the language they speak, deserve meaningful access to programs and activities that are conducted or supported by federal agencies.”⁷⁴

Against this backdrop, ICE has adopted a number of policies and rules that purport to guarantee language access in immigration detention. These are articulated through ICE's Language Access Plan and ICE's Performance-Based National Detention Standards 2011 (PBNDS 2011) and 2019 National Detention Standards for Non-Dedicated Facilities (NDS 2019), which together govern the majority of immigration detention facilities.⁷⁵

ICE's Language Access Plan describes the agency's language access aspirations in laudable terms. This plan promises to provide LEP individuals in ICE custody with a range of resources, including translation and interpretation services, translated materials informing individuals of their legal rights, staff members

trained to assess an individual's language access needs, and a *National Detainee Handbook* translated into a range of languages.⁷⁶ DHS has echoed these goals in its own recent Language Access Plan, which states that DHS components “should incorporate language access considerations into their routine and strategic and business planning, identify and translate vital documents into the most frequently encountered languages, provide interpretive services where appropriate, and educate personnel about language access responsibilities and how to utilize available language access resources” in order to provide “quality language assistance services in a timely manner.”⁷⁷

Moving beyond broad aspirations, DHS has adopted rules that purport to implement its language access obligations in the immigration detention context. Specifically, it has adopted the PBNDS 2011 and NDS 2019, which together bind nearly all immigration detention facilities under ICE's purview.⁷⁸ While these two sets of rules have some distinctions in their coverage and requirements,⁷⁹ they are largely consistent in their language access mandates.

For example, in the context of medical care, the PBNDS 2011 and NDS 2019 require immigration detention facilities to:

- ▶ Provide individuals “access to appropriate medical, dental and mental health care, including emergency services.”⁸⁰
- ▶ Provide “appropriate interpretation and language services for LEP detainees related to medical and mental health care,” including “[s]taff or professional language services . . . during any medical or mental health appointment, sick call, treatment, or consultation.”⁸¹
- ▶ Refrain from using detained individuals “for interpretation services during any medical or mental health service,” except “in an emergency medical situation.”⁸²
- ▶ Post signs in medical intake areas in English, Spanish, and “languages spoken by other significant segments of the facility's detainee population that list what language assistance is available during any medical or mental health treatment, diagnostic test, or evaluation.”⁸³

To ensure detained individuals' access to the courts—and any meaningful opportunity to vindicate their legal rights—the PBNDS 2011 and NDS 2019 mandate that detention facilities:

- ▶ Provide detained individuals access to a law library that is equipped with sufficient resources to allow individuals to: access legal materials, engage in legal research and writing, prepare legal documents, and print and copy legal materials.⁸⁴
- ▶ Provide LEP individuals “with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.”⁸⁵
- ▶ Provide language access assistance to LEP individuals “who wish to pursue a legal claim related to their immigration proceedings or detention, and who request assistance or otherwise indicate difficulty accessing or comprehending the legal materials.”⁸⁶

- ▶ Establish procedures to assist LEP individuals in using the law library, such as “having the facility’s law librarian assist the detainee with legal research; permitting the detainee to receive assistance from other detainees in using the law library; assisting the detainee in contacting pro bono legal-assistance organizations . . . ; and in securing interpretation or translation services for an LEP detainee.”⁸⁷
- ▶ Generally ensure that all written materials in the law library be translated into Spanish, and where practicable, provide written translation for other significant segments of the population with limited English proficiency.⁸⁸
- ▶ Provide “[o]ral interpretation or assistance . . . to any detainee who speaks another language in which written material has not been translated or who is illiterate.”⁸⁹
- ▶ Contact ICE if they are not able to fulfill their language assistance obligations.⁹⁰

In short, DHS has purported to mandate and promised to provide detained LEP individuals with language assistance to ensure access to law libraries and medical care.

The Failed Promise of Language Access

Since adopting these language access policies, ICE has suggested that it is complying with these mandates. For example, it has offered assurances that it has done “excellent work” in the realm of language access, “provides accurate and effective communication” with LEP individuals,⁹¹ and regularly uses “professional oral interpretation and translation services that cover more than 200 languages,” including less commonly spoken ones.⁹²

Yet anecdotal reports have consistently signaled alarming failures in ICE’s provision of language access in immigration detention. In one recent instance, a congressional investigation found that detained women at Irwin County Detention Center in Louisiana were subjected to “excessive, invasive, and often unnecessary gynecological procedures,”⁹³ which was due, in significant part, to the poor translation that made it impossible for the women to give informed consent for these procedures.⁹⁴ Other reports reveal the role that deficient language access has played in devastating medical outcomes—and even deaths—in immigration detention.⁹⁵ Still others have described the irreparable damage that can result to noncitizens’ legal cases as a result of inadequate language access services in detention.⁹⁶ And investigations of specific facilities have suggested that these deficiencies are widespread.⁹⁷

Although this reporting has played an important role in bringing these failures to light, critical gaps remain. Much of the existing literature touches on language access in the medical care and detention center law library contexts only in examining broader sets of issues, and those that focus more in depth are often population- or facility-specific. Accordingly, major questions remain about whether and to what extent ICE does or does not systemically comply with its language access mandates in the context of these critical detention programs.⁹⁸ Using multiple original datasets reflecting language access in these detention contexts nationwide, this report begins to fill that gap.

Summary of Methodology

The research team that wrote this report used four primary methods to obtain information regarding the availability of translation and interpretation services in detention facilities throughout the nation: (1) a survey of 171 currently and recently detained individuals (**Detained Individual Survey**); (2) a survey of 42 immigration attorneys and other legal services providers (**Provider Survey**); (3) 25 semi-structured long-form interviews with currently and recently detained individuals, legal service providers, and interpreters (**Individual Interviews**); and (4) thousands of pages of documents produced by the federal government in response to Freedom of Information Act requests and litigation (**FOIA**). Below are brief descriptions of each method of data collection. The research team also reviewed other relevant records—including a database of grievances regarding detention conditions in ICE facilities in Florida⁹⁹—that informed this report as well. Taken together, this report’s data sources cover approximately 125 facilities, which comprise 67% of all ICE detention centers currently holding noncitizens in the United States, and which hold approximately 95% of the average daily national detention population.¹⁰⁰ The appendix to this report contains more detail on the methodology underlying this study.

Detained Individual Survey

The research team conducted nationwide outreach to identify currently and recently detained LEP individuals who were willing to participate in the Detained Individual Survey. This survey was conducted over the phone, often with the assistance of a professional interpretation service. Participation in the survey required that the individual: (1) identify as LEP; (2) be currently or recently detained by ICE; and (3) had attempted to either use a detention center law library or seek medical care while in detention. In total, 171 people who met these criteria participated in the survey.

The survey itself consisted of open- and close-ended questions regarding detained individuals’ language access needs, services provided by the detention center, and detained individuals’ experiences with language access in the context of medical care and detention center law libraries. Additionally, it asked respondents for background and demographic information and whether they consented to the use of the information provided in this report.

The data collected via the Detained Individual Survey was analyzed by a third-party expert, who was hired to conduct the data coding and analysis used in the report.

Provider Survey

The research team also surveyed 42 legal services providers regarding their experiences serving LEP individuals in immigration detention. Respondents were located through nationwide outreach to legal services organizations that serve detained individuals. The web-based survey was disseminated via email for providers to complete themselves.

The survey asked providers to respond to a series of open- and close-ended questions regarding language access in each facility they regularly visit (with “regularly” defined as every one to two months). Questions centered around the language needs of providers’ clients, the language services offered by detention facilities, and the way that the quality and availability of language access services impacted providers themselves.

Individual Interviews

In addition to the surveys, the research team conducted 25 in-depth, one-on-one interviews with (1) 19 LEP individuals who were currently or recently detained; (2) four legal services providers who regularly worked with detained LEP individuals; and (3) two individuals who provided interpretation for detained individuals. These interviews were conducted using open-ended questions with the goal of obtaining more detailed qualitative information regarding the availability of language services in detention centers and the impact that the availability—or lack of availability—of language services has on LEP individuals. The questions asked by the research team varied depending on the interviewee’s knowledge and experience with translation and interpretation services in detention, but generally included questions about the availability of these services in the law library and in medical care and whether the availability—or lack thereof—of these services, impacted them personally or impacted the detained individuals with whom they worked.

FOIA

The research team’s data collection efforts were supplemented by data obtained from DHS and its components through records requests that were submitted and litigated under the Freedom of Information Act (FOIA). These data included complaints, Excel spreadsheets, e-mails, and other documents from ICE, DHS’s Office of Civil Rights and Civil Liberties (CRCL), DHS’s Office of the Inspector General (OIG), and DHS’s Office of the Immigration Detention Ombudsman (OIDO) concerning language access in ICE detention facilities. These documents were obtained as a result of three FOIA requests: (1) a request to ICE for records related to immigration detention facilities’ procedures for providing language access services to LEP individuals in detention center law libraries;¹⁰¹ (2) a request to DHS, including component offices, for records of complaints related to language access issues in immigration detention;¹⁰² and (3) a request to ICE for records related to detention facility inspections.¹⁰³ The research team reviewed and analyzed these documents with a particular focus on evidence reflecting language access services in the detention law library or medical care context.

The following table shows the total number of surveys and interviews conducted by the research team. In addition to these accounts, the research team reviewed more than 800 complaints about language access issues in immigration detention produced by various agencies in response to the FOIA requests and litigation described above.

Table 1
Surveys and Interviews Conducted

Data Type/Sources	Number of Respondents
Detained Individual Survey	171
Attorney/Legal Services Provider Survey	42
Individual Interviews with Detained Individuals, Legal Services Providers, and Interpreters	25
Total Counts*	233

*As four detained individuals and one provider were surveyed and interviewed for the report, these duplicates have been subtracted from the final figure.

Challenges and Limitations

As a first-of-its-kind investigation of language access services in ICE detention centers, this study is an important first step in understanding the availability and deficits of language access in ICE detention centers. Its findings are critical because the very deficiencies described here—inadequate language access services—not only deprive detained LEP individuals of crucial needs, but also make it effectively impossible for them to raise these issues, assert their rights, or challenge these deficiencies on their own.

At the same time, other problems in the immigration detention system created certain challenges and limitations in collecting this data. First, despite the research team’s relentless outreach across the country, it was not able to survey individuals from all ICE detention facilities. This was due in part to the internal policies and practices of certain ICE detention facilities, which sometimes made it impossible to communicate with detained individuals. For example, the team was often unable to set up calls with potential survey respondents because facility staff failed to respond to calls and emails or would only provide the detained individual instructions to call us in English, a language they did not understand.¹⁰⁴ In other instances, individuals were only given ten minutes per call, at which point the call would disconnect automatically. These challenges show both the difficulty of communicating with detained LEP individuals and how isolated these people are in ICE detention. Second, the research team was reliant on referrals from legal services providers to connect with detained individuals. Thus, the limited ability of legal services providers to access certain facilities¹⁰⁵ and the limited number of legal services providers serving certain facilities and regions also made it difficult for the research team to identify survey respondents in some areas, particularly in rural areas (where a large proportion of people facing removal are detained).¹⁰⁶ One can only imagine how difficult it is for detained LEP individuals to try to seek help from the inside—further underscoring the urgent need for meaningful language access.

Given these challenges, it is important to recognize that this report likely only reveals the tip of the iceberg. Because the research team was unable to reach detention centers that do not have reliable procedures for scheduling calls and do not have significant legal services provider coverage, the facilities with the most vulnerable detained populations are almost certainly underrepresented in this report. Additionally, because the research team had no way to identify and survey individuals who are unable to communicate with *any* legal services providers,

those who speak only rare languages or those who lack literacy are likely underrepresented because they face additional barriers in accessing counsel. Unfortunately, this means the research team likely did not have access to the individuals who are most acutely affected by failures of language access. For all of these reasons, it is probable that the true statistics and impacts are even starker than those included in this report.

Findings

Language Access in Immigration Detention: Medical Care

Case Study: Language Access Failures and Excessive Force

ICE's language access failures played a large part in leaving one woman unable to walk. L., an indigenous Nasa Yuwe-speaker, is a disabled torture survivor who suffers from recurrent dislocation of the patella (kneecap) in both knees. While L. was detained at Calhoun County Correctional Center (Calhoun) in Michigan, her condition left her with limited mobility, and she walked with a visible limp. She also suffered from PTSD so severe that she had been hospitalized on multiple occasions. Despite these serious conditions, the language services provided to L. in the medical care context were woefully inadequate.

In several medical and psychological appointments, the only interpreter provided was another detained individual who spoke only English and Spanish. This was problematic both because L. only speaks conversational Spanish and could not fully express herself in the language and because she felt uncomfortable sharing everything about her traumatic medical and psychological situation with the other detained individual. Making matters worse was L.'s knowledge that the other detained woman had also suffered past trauma and struggled with depression and anxiety herself. When the woman told L. that she had been having nightmares after learning about L.'s past, L. felt as though she were personally responsible for her trauma.

But these deficiencies pale in comparison to the inappropriate and excessive force L. suffered at the hands of detention center guards. During these incidents, the guards failed to communicate with her in a language she understands, which exacerbated the situation. On the first occasion, a guard initially used a translation app to tell L. that she had to move to another dorm. But when L. tried to explain that she had specific medical requirements for her mattress and lower bunk, the guard (and another who joined him) didn't try to understand her: they just kept speaking to her in English. One guard came closer to L., then they smashed L. against the wall, handcuffed her, and began dragging her down the hallway. L. attempted to communicate that, given her physical disability in both knees, this was extremely painful: she used some of the only English words she knew, shouting to the guards, "pain, pain." She then attempted to point to her injured knees. The guards tied her to a chair, where they used additional significant physical force against her and ultimately took her to solitary confinement. L. was confused and terrified. She was never given any explanation of what was happening in any language she could understand. After being held in solitary confinement for approximately five days and suffering severe physical symptoms of PTSD, she was forced to wear ankle

continued on next page

shackles that exacerbated the pain in her knees and made it even more difficult for her to walk.

About six weeks later, L. was being transported down the hall by three guards, her arms handcuffed behind her back and an officer on either side of her with their arms underneath her armpits. As the guards increased their speed, L. experienced significant pain in her knees. Afraid of what would happen if she yelled or pointed again, L. relaxed her weight onto the guards holding on to her, hoping that they would carry her. Instead, a guard pushed her to the ground and more pinned her down. Her knees now in excruciating pain, L. tried yelling “pain, pain” to explain. But the guards tied her up and held her for multiple hours. During this time, she repeatedly tried to communicate how much pain she was suffering because of her

condition, but no one even attempted to understand. The guards just kept screaming at her English, and she had no idea what they were saying. She recalls thinking, “What do I have to do for them to understand?” When L. was finally permitted to stand, the pain in her knees caused her to fall to the floor. Not appreciating the degree of her pain and that she needed medical attention, they failed to respond to her need for medical care and used additional force against her. They forced L. into a position on the ground that was especially damaging to her disabled knees, then put her in solitary confinement for another approximately 15 days. Ultimately, this incident not only exacerbated L.’s PTSD, but worsened her knee condition so significantly that she was left unable to walk. To this day, she remains in a wheelchair.

Availability of Language Access

Access to adequate medical care is a fundamental human right,¹⁰⁷ but one that depends, as a practical matter, upon basic communication. As a result, in immigration detention—where detained LEP individuals are forced to rely on detention center staff to obtain medical care for months or years of their life—language access is essential. Indeed, language access in the medical care context can mean the difference between critical treatment and worsening conditions, relief and debilitating pain, lifesaving care and death.¹⁰⁸ This is presumably why ICE’s own rules impose broad mandates that require immigration detention centers to ensure language access to medical and mental health care. Yet, as this section shows, immigration detention facilities across the United States are routinely failing to do so.¹⁰⁹ It also shows how this widespread failure deprives LEP people of adequate—or any—medical care and wreaks devastating consequences on some of the most vulnerable people in the U.S. legal system.¹¹⁰

Language access deficiencies prevent detained LEP people from being able to reach medical professionals in the first place. Deficiencies in language services do not just impact the quality of medical care once a patient gets into a doctor’s office, they often prevent detained individuals from being able to request medical care at all. In fact, as Figure 3 shows, nearly a third (31%) of all LEP survey respondents reported having not asked for medical care at least once because of a language barrier.¹¹¹

This problem frequently stems from the fact that many detention center staff members are monolingual English-speakers and fail to use interpretation services. One Spanish-speaker detained in Louisiana described an English-only rule for people who needed medical care: “I had to submit all medical requests in

Figure 3

Have you ever not asked for medical care because of a language barrier?



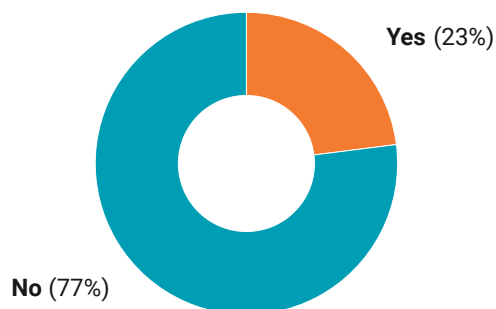
English.”¹¹² Providers and individuals detained at other facilities described similar hurdles, reporting that any requests for medical care had to be made in writing or through electronic tablets not navigable in their native language.¹¹³ Legal services providers who work with detained individuals reiterated this threshold obstacle to obtaining medical care, reporting that interpretation services, when provided at all, are “[o]nly offered once in the medical room with medical staff.”¹¹⁴

Of course, as described below, language access problems often continue even if detained individuals manage to see a medical professional. And the knowledge of these problems can also discourage detained LEP individuals from seeking help in the first place. One Spanish-speaker detained in Louisiana explained how, despite seeking medical attention numerous times, he was only provided interpretation twice during his 20 months in detention, making it nearly impossible to communicate with the facility’s doctors.¹¹⁵ As a result, he simply stopped asking for medical care.

Language access services are often not provided even when detained individuals manage to obtain a medical appointment. Even when detained LEP individuals manage to see medical professionals, their requests for interpretation are routinely rejected, despite ICE’s obligation to provide these services.¹¹⁶ Nearly a quarter (23%) of LEP survey respondents reported that detention center staff told them that they could not or would not provide a staff member or other form of interpretation in connection with their medical care.¹¹⁷

Figure 4

Has the detention center ever told you that it could not or would not provide a staff member or interpreter who could speak your primary language for your medical care?



“The Buffalo facil[it]y knows [the] best language that I speak and understand [is] Arabic, but they refused to provide me with an interpreter that would help me get the proper treatment that I need I am suffering from high blood pressure, str[ess], depression, and I am also dealing with [an] injury in my right knee and my lower back pain that require physical therapy.”

Arabic-speaker detained in New York

Detailed accounts from LEP individuals and attorneys only underscore the wide range of circumstances in which requests for language services are outright rejected. For example, one Tigrinya- and Amharic-speaker in Louisiana described being told that no interpreter would be provided when he saw a mental health professional and that he would have to proceed in English.¹¹⁸ An attorney similarly recalled her Twi-speaking client being repeatedly denied an interpreter by a doctor who insisted they proceed in English.¹¹⁹ A Spanish-speaker in Louisiana reported threats when he attempted to avail himself of the right to interpretation, explaining that he was being told that he “would be deported if he continued to complain” about the “lack of accommodation for detainees that speak different languages.”¹²⁰

In some instances, detained individuals even reported being refused medical care altogether because they did not speak English. One Spanish-speaker detained in Texas reported being mocked and turned away by a nurse due to his inability to speak English.¹²¹ Another Spanish-speaker in Virginia suffering from stomach pain similarly reported that a nurse flat-out refused to see him because he did not speak English.¹²²



Figure 5

Have you ever had to consult with a medical professional about your medical care in English or another language that is NOT your primary language because the detention center could not or would not provide a fluent staff member or an interpreter?



Detained individuals are frequently forced to attempt to communicate in languages they do not speak or understand when receiving medical care. Nearly half (41%) of LEP survey respondents reported having to consult with a medical professional at least once in a non-primary language because the detention center could not or would not provide a fluent staff member or interpreter.¹²³

While some detained individuals were forced to communicate in English despite not understanding it, others were offered interpretation services in languages in which they had little to no comprehension. This was particularly true for LEP survey respondents who speak languages indigenous to Latin America and Africa. For example, an Akateko-speaker detained in Florida reported only being offered Spanish telephonic interpretation despite barely understanding the language.¹²⁴ Similarly, a Mossi-speaker detained in Louisiana described how he was only ever provided a French interpreter during medical appointments, despite repeatedly asking for a Mossi one. He recalled how “misunderstandings prevented me from full communication about what was going on,” and how “[s]ometimes if they didn’t understand what I was saying, I would let it go and stop trying to explain myself.”¹²⁵ A Soninke-speaker detained in Pennsylvania reported that he was almost never provided interpretation when he sought medical treatment, but on the rare occasions when he was, he was also only offered French, a language he barely speaks or understands.¹²⁶ Many other detained LEP people similarly reported being forced to proceed in Spanish or French to obtain medical care despite being proficient in neither.¹²⁷

But this phenomenon was not limited to those who speak rarer languages; individuals who speak more common languages reported being forced to communicate in Spanish or French, as well. For example, a Haitian Creole-speaker detained in Colorado and suffering from significant mental health difficulties reported only being provided a French interpreter, despite the fact that he did not understand French very well.¹²⁸ An attorney reported a similar phenomenon with their Arabic-speaking client, who frequently had to try to use Spanish (a language he did not speak fluently) to get medical care faster.¹²⁹

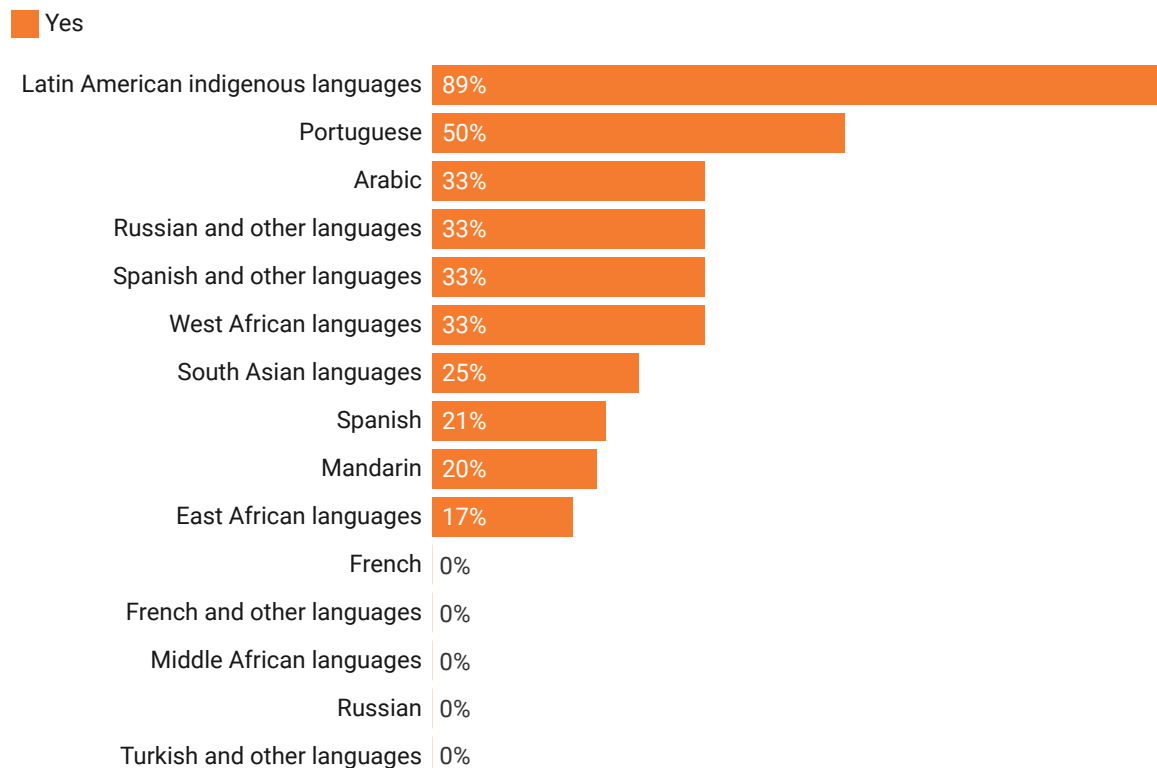
In some instances, detained LEP individuals reported being forced to use hand gestures to communicate. For example, a Spanish-speaker detained in Louisiana described having to use gestures in a desperate attempt to communicate that he

was allergic to medication he was about to receive, as the nurse did not understand Spanish or use an interpreter.¹³⁰ Another Spanish-speaker detained at a different facility in Louisiana described similar experiences, explaining that medical staff only occasionally used telephonic interpretation, and when they did, the call would usually drop mid-appointment, leaving her no choice but to use hand gestures.¹³¹ As one Arabic-speaker detained in Texas stated, “Nobody really understands me . . . I can only use hand gesture to communicate my needs.”¹³² And, while some individuals were ultimately able to convey some of their points when forced to communicate in these problematic ways, many others were unable to convey critical information and get the medical care they needed.¹³³ One Spanish-speaker detained in Louisiana forced to use hand gestures to communicate recounted how sometimes he “needed medicine and didn’t ask for it because it would be too much trouble to try to communicate with the doctors and nurses.”¹³⁴

Language access in detention center medical care is abysmal across the board, but almost nonexistent for the rapidly growing number of people in ICE detention who speak less common languages. The vast majority—89%—of LEP survey respondents who speak languages indigenous to Latin America and 33% of those who speak West African languages reported being told that the detention center could not or would not provide a staff member or interpreter who could speak their primary language during medical visits. These numbers are even higher than the 23% reported by LEP survey respondents overall,¹³⁵ showing the particularly dire language access deficits for speakers of these languages.

Figure 6

Has the detention center ever told you that it could not or would not provide a staff member or interpreter who could speak your primary language for your medical care?



Case Study: Repeated Failure to Facilitate Communication

Despite numerous requests for interpretation in her native language, a Mam-speaker detained in Louisiana never received the needed Mam language access assistance in any of the around 15 medical visits she had at LaSalle Detention Facility. Describing her experience at another Louisiana facility (South Louisiana ICE Processing Center), she explained that even a Spanish interpreter “was not offered every time. The facility would call for Spanish interpreter and if one wasn’t available, they would communicate with me in English.” Indeed, she was forced to attempt to communicate in Spanish even as she developed a kidney infection and severe back pain, through the resulting emergency room visit, and even when it came to instructions for her treatment regimen.¹³⁶

Individual accounts paint an equally stark picture of linguistic isolation and the often-insurmountable obstacles these individuals face. For instance, a Miskito-speaker detained in Florida reported having to “settle” for attempting to communicate in Spanish during medical visits because the detention center did not provide interpretation in Miskito.¹³⁷ In fact, it appears that some detention centers generally *only* provide Spanish interpretation (and even then, not consistently): a full quarter (25%) of all legal services providers surveyed reported that the facilities they routinely visit only sometimes offer interpretation services during medical care, and generally only if the person speaks Spanish.¹³⁸

But this study shows that, even for Spanish-speakers, language access services are woefully deficient. After all, 21% of Spanish-speakers surveyed reported having been refused interpretation services in the medical care context.¹³⁹ One individual detained in Louisiana elaborated on her experience in this respect, explaining that, in the 18 months she was in ICE custody, no doctors or nurses spoke Spanish and telephonic interpretation was only sometimes available.¹⁴⁰

In sum, this investigation reveals that ICE detention centers are regularly failing—across a wide range of languages and across the nation—to provide the basic language services that are necessary for LEP people to meaningfully access medical care. As the next section makes clear, these failures have harmful—even grave—consequences for LEP people in ICE detention.

Impact of Dearth of Language Access

Given the critical nature of medical care for those in immigration detention and the widespread failure to provide language access in this context, it may be unsurprising to learn that the consequences are dire. As this section shows, the dearth of interpretation prevents many detained LEP individuals from accessing medical care at all. It denies many others timely or adequate medical care. It deprives still others of any opportunity to understand or consent to the treatment they receive and procedures they undergo. In short, the failures of language access in immigration detention can and do severely impact detained LEP people’s physical and mental health.

Figure 7

Have you ever been unable to get the medical care you needed because the detention center did not provide interpretation or someone who spoke your primary language?



ICE's failure to provide language access in the medical care context prevents detained individuals from getting critical care. Language access deficiencies do not just violate the agency's own rules, they also impose real-life consequences on the people ICE detains. Indeed, nearly a third (30%) of LEP survey respondents reported that they were unable to obtain the medical care they needed because the detention center did not provide interpretation or staff who spoke their primary language.¹⁴¹

Legal services providers described a similar impact of language access deficiencies on their LEP clients. Indeed, over half (56%) of those surveyed reported that detained individuals with whom they worked were sometimes or often unable to obtain medical care due to a language barrier.¹⁴²

In some instances, detained LEP people reported that the dearth of interpretation led detention center staff and medical officers to simply refuse access to medical care altogether.¹⁴³ In one emblematic account, a Spanish-speaker detained in Louisiana explained how, after having to resort to hand gestures to try to communicate that he was sick to a detention center officer, the officer just left.¹⁴⁴

In other instances, language access deficiencies resulted in LEP individuals being given "one-size-fits-all" responses in place of treatment responsive to their specific medical needs.¹⁴⁵ For example, one Spanish-speaker detained in Colorado described his experience attempting to obtain care as he suffered from cancer and experienced frequent stomach pain and bleeding. He explained that, because the majority of the nurses did not speak Spanish and did not use interpretation services, they did not understand the specifics of his symptoms or needs, and instead, would simply give him Tylenol.¹⁴⁶ In another illustrative account, a Spanish-speaker detained in Florida described a "very degrading" experience in which, after trying to explain to a nurse without interpretation that the screws in his prosthetic leg were loose, he was merely given a painkiller.¹⁴⁷

Deficient language access forces detained LEP individuals to rely on other detained individuals to interpret for them in sensitive medical situations.

Although ICE generally forbids detention facilities from using other detained individuals as interpreters in the medical care context,¹⁴⁸ more than a quarter (28%) of LEP survey respondents reported having to rely on another detained person to interpret for them during medical appointments because the detention center did not provide language services.¹⁴⁹

Accounts from individuals interviewed for this investigation show the implications—including the risks to people’s mental and physical safety—that this violation creates. For example, one attorney described having a Twi-speaking client detained in New York who was forced to rely on other detained people, including some who did not even speak Twi, to communicate with medical professionals. This not only violated his rights, but created serious risks to him—a gay individual with Hepatitis B—given stigmas about his sexual orientation and medical condition.¹⁵⁰ In another illustrative account, a Spanish-speaker detained in Florida recounted needing to see a psychiatrist, but that “the doctor insisted that we used another detained individual as [an] interpreter, although I did not want to.”¹⁵¹ As these examples show, forcing detained LEP individuals to rely on other detained people for interpretation does not just violate the governing rules, it also poses a host of risks to individuals’ physical safety, ability to obtain adequate treatment, and medical privacy.

Language access failures undermine detained individuals’ bodily autonomy, at times resulting in invasive and unwanted procedures. Another consequence of inadequate language access in the medical care context is that LEP individuals are forced into medical procedures or treatments they do not understand and to which they have not consented.

LEP survey respondents often reported that, due to language access deficiencies, they did not know what medications they were being prescribed or even taking—even when taking the wrong medication could put their life in jeopardy. As one Russian-speaker detained in Louisiana explained, he had life-threatening preexisting health conditions, and, if he did not receive the right medication, he could die. Yet because of inadequate language access, he did not even know what medication he was being given.¹⁵² Along similar lines, an Arabic-speaker detained in Texas who suffered from spine problems and back pain reported that doctors tried to inject something into his spine without ever using an interpreter to explain what they were injecting or why.¹⁵³

Numerous LEP individuals also reported having to go through invasive medical examinations without any interpretation and, consequently, without understanding the nature of the procedure or providing informed consent. In one

Case Study: Risk of Irreparable Medical Harm

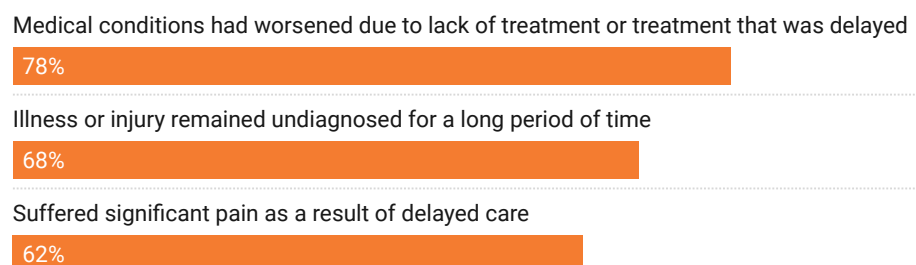
One Spanish-speaker detained in Louisiana reported that she and seven other LEP women were taken to a gynecologist outside the detention center. The doctor—without using an interpreter—told them they should have their uteruses removed because they wouldn’t need them anymore. She was fortunately able to learn what the doctor was trying to do and prevent it because other women who spoke her language understood a little English and told her what was happening. Unfortunately, she recalled that certain women still did not understand, appeared to agree to have the procedure done, and were taken away. And, although the woman herself was eventually able to refuse the procedure, she was deeply traumatized because she almost lost her uterus.¹⁵⁴

troubling example, a Spanish-speaker detained in California reported having to tell a doctor, in broken English, that he sometimes bled from his rectum. Without calling an interpreter or even asking for consent, the doctor put his fingers in the man's rectum. Afterward, the doctor did not even provide any treatment or potential diagnosis. The man was embarrassed, shocked, and traumatized, and he explained that, if he had been able to communicate with the doctor, he would have refused the examination.¹⁵⁵ Similarly, a Spanish-speaker detained in Louisiana reported being subjected to an unexpected pelvic exam by a doctor who made no effort to secure an interpreter or obtain her consent.¹⁵⁶ Another individual detained in Texas described much the same in the context of dental care; he was taken to have two dental procedures done despite never complaining about dental issues, but he never received interpretation or understood why these procedures were performed.¹⁵⁷ In short, in these circumstances, the failure to provide language access not only violates ICE's obligations, but also can also breach basic medical professional norms (and in some states, legal mandates) of informing patients and obtaining consent before such exams.¹⁵⁸

The inability to receive medical care because of language access deficiencies has severe consequences for detained LEP individuals' physical and mental health. As many of the above examples show, ICE's failure to provide language access in the medical care context is not just a technical violation of the rules; it negatively impacts detained LEP individuals' physical and mental health. In fact, more than three-quarters (78%) of legal services providers surveyed reported having clients whose medical conditions had worsened due to lack of treatment or treatment that was delayed due to language access deficiencies. Approximately two-thirds (68%) also reported that their clients' illness or injury remained undiagnosed for a long period of time due to deficient language access, and nearly as many (62%) indicated that their clients suffered significant pain as a result of this delayed care.¹⁵⁹

These impacts are only more apparent in reports from detained LEP individuals themselves. For example, one Spanish-speaker detained in New York reported that language barriers prevented him from communicating with medical staff to obtain treatment for his depression, which eventually became so serious that he almost committed suicide.¹⁶¹ An attorney described an Oromo-speaker detained in Louisiana who had gone through a similar experience, in which his already severe PTSD and anxiety dramatically deteriorated because he could not get medical care due to the lack of interpretation services.¹⁶² A Spanish-speaker

Figure 8
How did the inability of LEP noncitizens to promptly communicate in their primary language impact them?



Case Study: Unbearable Pain

One legal services provider surveyed reported that her former client, a Popti-speaker detained in Arizona, was not able to receive a medical evaluation for his back and intestinal pain with Popti interpretation. As a result, he remained in pain for a prolonged period of time. His pain eventually became so severe that he requested deportation because he could no longer endure the agony.¹⁶⁰



detained in Colorado, who was suffering from stomach cancer and in severe pain because of challenges communicating with medical staff, also recounted how when he tried to see a psychologist, no interpretation was provided. As a result, he was never able to get any mental health care either.¹⁶³

Numerous other detained individuals described experiencing intense physical pain and worsening symptoms because their inability to communicate prevented them from obtaining treatment or care. For instance, one woman—a Lingala-speaker detained in Texas—had surgery in one detention center to remove fibroid tumors in her uterus.¹⁶⁴ When she was transferred to another facility shortly after surgery, however, she was never provided an interpreter, despite repeatedly trying to explain to the doctor that she was experiencing severe abdominal pain. Instead, she was simply given medication without ever being told what it was or why she was taking it. She remained in pain for six months before ultimately being deported. In a similar vein, a Spanish-speaker detained in Pennsylvania described how, after a surgery, she had excruciating pain in her hand, but the nurses did not speak Spanish nor use interpretation to try to understand her. As a result, she remained in pain for a significant amount of time because she could not get any medical assistance.¹⁶⁵ Most troublingly, some legal services providers reported being aware of individuals who died because of delayed care caused by lack of language access.¹⁶⁶

As all of these examples show, the dearth of language access can result in dire—even deadly—medical consequences. But ICE’s failure to provide language access extends to aspects of detention well beyond the medical care context. The next section turns to language access and its impacts in the context of law libraries in immigration detention.

Language Access in Immigration Detention: Law Libraries

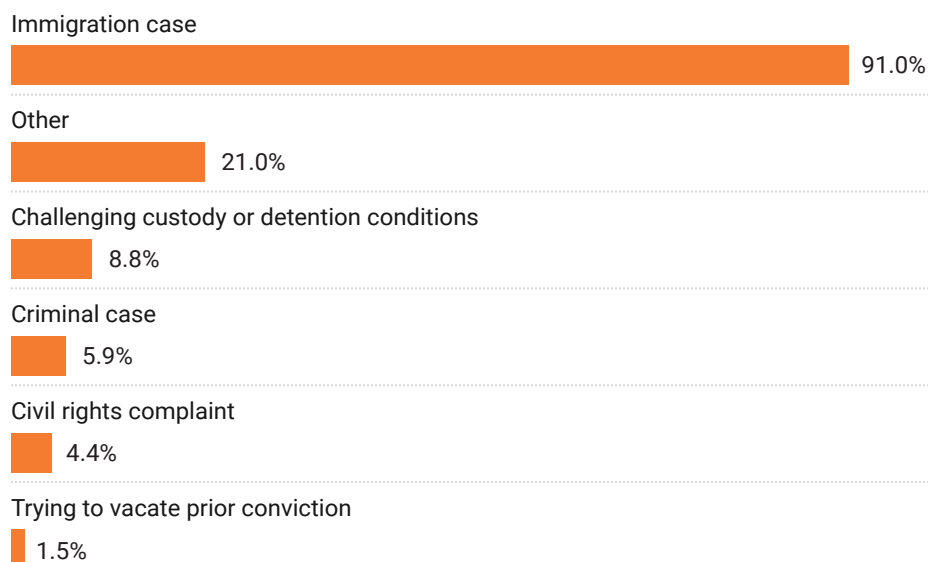
Availability of Language Access

Law libraries play an essential role in immigration detention facilities. Because there is generally no recognized right to government-appointed counsel in immigration proceedings,¹⁶⁷ the vast majority of detained individuals are forced to represent themselves.¹⁶⁸ Law libraries are often the only places where these individuals can access even basic legal materials to understand the charges against them, prepare defenses against deportation, or challenge their ongoing detention.¹⁶⁹ Similarly, they are the arena in which ICE is meant to “assist [detained individuals] in contacting pro bono legal-assistance organizations,”¹⁷⁰ and thus often the primary way to access counsel. In this sense, access to a law library can mean the difference between people being wrongfully deported or being able to remain in their communities with their families. For those who face persecution or torture in their country of origin, it can mean the difference between life and death.

Federal law and ICE’s own rules require the agency to provide detained LEP individuals with language assistance—including interpretation and translation services—in the law library.¹⁷¹ Yet, as this section shows, ICE detention facilities across the United States are routinely failing to do so, preventing detained LEP individuals from meaningfully participating in their own legal proceedings, forcing them to rely on unreliable sources for translation and interpretation needs, and placing them at risk of wrongful deportation, detention, and worse.

Most LEP individuals reported needing language assistance in the law library to defend themselves in their immigration cases. Given that LEP individuals—by definition—do not speak or understand English very well, many need language assistance to meaningfully access materials in a law library. As Figure 9 shows,

Figure 9
Needs for Language Assistance at the Law Library



“I wanted to understand better what they were alleging against me [in my immigration case] and I never was able to understand that. . . . I did not have a lawyer. . . . Officials bullied us for not knowing English. I was told we are in America, we speak English. . . . In the end, I had to accept deportation without knowing why I was detained.”

Spanish-speaker detained in Florida

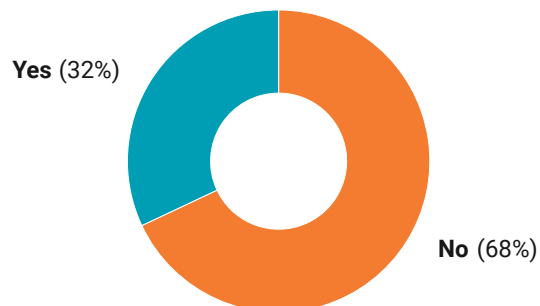
detained LEP individuals need language assistance in law libraries for a range of reasons, but overwhelmingly in connection with their removal proceedings. In fact, just over nine in ten (91%) of the LEP survey respondents reported that they needed language assistance at the law library for their immigration case.¹⁷²

LEP survey respondents specifically reported needing language assistance at the law library to understand their immigration case, file legal documents, prepare applications, find an immigration attorney, and learn more about the appeals process.¹⁷³ For instance, many survey respondents described needing language assistance at the law library to understand and fill out asylum applications.¹⁷⁴ One person interviewed explained that he needed translation assistance just to understand the laws listed on a form he signed related to his immigration case.¹⁷⁵ In short, the data reveal an overwhelming need for language access services to allow LEP people to perform basic, but critical, legal tasks.

Two-thirds of LEP survey respondents were unaware that immigration detention centers are supposed to provide them with access to a law library and provide language assistance in the law library. Although ICE is obligated to provide detained individuals in immigration detention with meaningful access to a law library and provide language assistance in the law library,¹⁷⁶ more than two-thirds (68%) of LEP survey respondents reported being unaware of these rights.¹⁷⁷ Many legal services providers confirmed this finding,¹⁷⁸ with the vast

Figure 10

Did you know the detention center is supposed to provide you access to a law library and provide language assistance in the law library?



majority of those surveyed (88%) reporting that the detained LEP individuals they work with are unaware that they are entitled to language assistance in the law library.¹⁷⁹ Notably, some legal services providers themselves were also unaware of ICE's obligation to provide these services.¹⁸⁰ The lack of awareness around this critical issue itself raises concerns, as it can prevent detained people from even requesting—much less vindicating rights to—language assistance.

Detained LEP individuals are often denied access to law libraries because their facility does not have one or they do not know that one exists. Despite the vital role that law libraries can play in helping people navigate their immigration proceedings, ICE does not adequately inform detained individuals of the availability of law libraries. As Figure 11 shows, about a quarter (24%) of LEP survey respondents reported that they were unaware of the existence of a law library at their detention facility.¹⁸¹

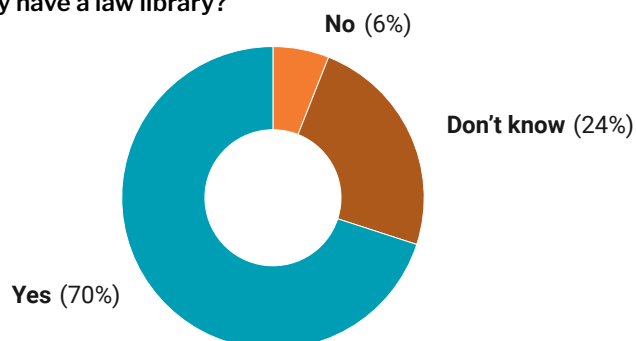
Other LEP survey respondents reported that their detention centers simply did not have a law library, despite ICE's clear obligation to provide one.¹⁸² Indeed, as Figure 11 shows, more than 5% reported that there was no law library at their detention facility.¹⁸³ Attorneys who regularly work at a range of detention facilities similarly reported the absence of law libraries at certain facilities, including at numerous facilities in Louisiana¹⁸⁴—the state with the second-largest concentration of individuals detained by ICE.¹⁸⁵

Both the dearth of law libraries and ICE's failure to inform detained individuals of the existence of law libraries when they are available means that LEP individuals are often denied access to the only place that would provide them the language resources they need to meaningfully understand or further their legal proceedings. The consequences of this denial can be particularly harsh for the large proportion of people held in remote detention facilities that few legal services providers can reach.¹⁸⁶

Even when a law library does exist and detained LEP individuals are aware of its existence, they are often deprived of access to it in other ways. One Spanish-speaker detained in Colorado, for example, reported that he was never able to visit the law library, despite requesting permission to do so, because guards always told him that it was closed or that there were not enough guards to take people there.¹⁸⁷ Still others reported having very limited access to the law library or being limited to unreasonable amounts of time there, particularly when considering the extra time that LEP individuals must allocate to using translation

Figure 11

Does your facility have a law library?



and interpretation services.¹⁸⁸ Thus, even when a law library exists, detained LEP individuals often still cannot meaningfully access it.¹⁸⁹

ICE’s failure to provide language assistance also prevents detained LEP individuals from even asking for access to the law library. As a result of ICE’s failure to provide language assistance in its detention centers, many detained LEP individuals simply cannot or do not request access to the law library at all. Among LEP survey respondents who reported that their facility does have a law library, just under half (48%) reported having used it.¹⁹⁰

While the reasons for this varied among survey respondents, many reported being unable to access the law library specifically due to language access issues. A Spanish-speaker detained in Florida described how, when he asks the guards for assistance accessing the law library, “they just laugh in my face and say they don’t speak Spanish.”¹⁹¹ Many other detained LEP individuals reported only being able to make requests to visit the law library through tablets not navigable in their native language, just as in the medical care context. One Spanish-speaker detained in Pennsylvania, for example, explained that he could not visit the law library because he simply did not understand how to make a request.¹⁹² A Turkish-speaker detained in Louisiana similarly recalled trying to make a request to visit the law library through the tablet, but, ultimately, being unable to do so because he could not navigate the English display.¹⁹³ In this way, ICE’s reliance on tablets that are often not accessible in the appropriate languages effectively eliminates access to the law library for many detained LEP people.¹⁹⁴

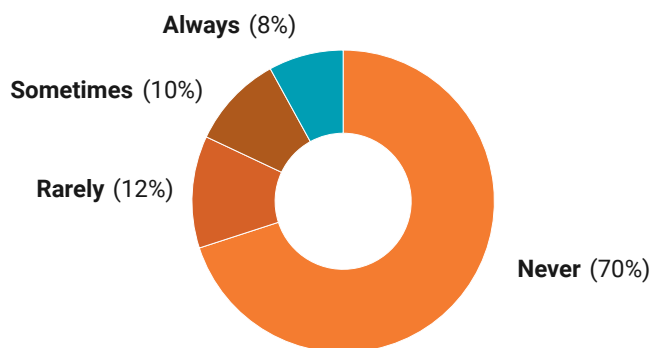
A Fula-speaker detained in Pennsylvania described a related and equally concerning variation on this theme. While he did initially manage to get to the law library, he was informed by staff there that they could not provide him language assistance. As a result, he explained, he never sought access to the law library again.¹⁹⁵ Several other LEP survey respondents similarly reported never visiting the law library because they heard from or were told by staff members or other detained individuals that language assistance was simply not provided there.¹⁹⁶

Figure 12
Have you ever used the law library before?



Figure 13

If you have needed language assistance at the law library, how often have you received the language assistance that you needed?



Among LEP survey respondents who needed language assistance at the law library, almost 70% reported never receiving it. Law libraries are mandated to provide language assistance to LEP individuals,¹⁹⁷ but almost 70% of LEP survey respondents who reported needing language assistance at their law library never received it.¹⁹⁸ While there are a range of reasons for this, part of the problem stems from the lack of bilingual staff members available to help at most law libraries, as well as the widespread failure to use professional interpretation services.¹⁹⁹ Indeed, over half (55%) of LEP survey respondents reported that their law library did not provide professional interpretation in their primary language,²⁰⁰ a report echoed by legal services providers.²⁰¹

Accounts from detained LEP individuals show the depths of this problem. For example, one Spanish-speaker detained in Louisiana reported that the law library staff refused to provide interpretation services so that she could understand an English document she had to sign.²⁰² Several individuals who had been detained at two other facilities in Louisiana reported that there were no interpretation services at the law libraries there either.²⁰³ Another Spanish-speaker detained in Louisiana explained that, because he did not have access to these services, he had to sign a document related to his request for asylum that he did not understand.²⁰⁴ A Spanish-speaker detained in Colorado reported similar problems, also noting that detained individuals were prohibited from taking items out of the library at his facility, which eliminated the option of trying to obtain outside language assistance.²⁰⁵

In other instances, facility staff prevent LEP individuals from using otherwise available language access services. For instance, a Spanish-speaker detained in Florida explained that the law library staff simply “tell us to look for outside services to translate materials.”²⁰⁶ Another Spanish-speaker detained in Texas explained how he once brought his immigration papers to the library for language assistance and an employee actually took the papers away from him without helping him.²⁰⁷ Legal services providers who regularly work with people detained at a facility in New York also reported that ICE employees staffing the law library there often do not call interpreters for detained LEP individuals despite the fact that they are able and required to do so. Providers recalled one officer in particular who was notorious for denying individuals access to law library resources, including interpretation, as a form of retaliation.²⁰⁸ Others reported that staff members refuse to help individuals with their translation needs because they wrongly believe or claim that this would

“Not knowing English has limited my ability to do anything at the facility. The lack of language assistance at the law library prevented me from doing legal research. I wanted to do legal research to see how I c[ould] continue to fight my case because I can’t go back to my country. But, I couldn’t use the computer at all because I couldn’t understand English.”

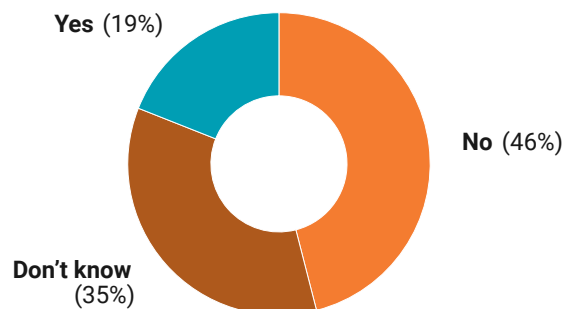
Lingala-speaker detained in New York

amount to providing legal assistance.²⁰⁹ These accounts show that, even where language assistance is available as a technical matter, LEP individuals are often deprived of that assistance in practice based purely on unjustified refusals by staff.

Of LEP survey respondents who reported that their facility has a law library, 46% reported that the library does not provide materials translated into their primary language. Providing detained individuals meaningful access to legal materials to allow them to prepare a defense to deportation and ongoing detention is one of the most important functions of a law library. However, many detained LEP individuals are deprived of this opportunity, not only because of the dearth of interpretation services, but also due to the lack of materials available in a language they understand. Indeed, as Figure 14 demonstrates, almost half of survey respondents (46%) who reported that their detention center has a library also reported that the law library does not provide translated materials in their primary language.²¹⁰ And although facilities are required, at minimum, to provide materials translated into Spanish,²¹¹ many facilities do not even do this. Among LEP survey respondents who reported that their facility has a law library, 38% reported that written materials are not translated into Spanish.²¹² One Spanish-speaker detained in Louisiana reported that although his law library *did* provide materials translated into Spanish, it only offered materials completely unrelated to immigration law.²¹³ An attorney who regularly represents people detained at a facility in New York similarly explained that the books in the law library there are generally unrelated to any type of law, and the limited resources available are all in English, including legal forms and the

Figure 14

Does the law library provide translated materials in your primary language?



displays of computers.²¹⁴ Many LEP survey respondents who were detained at a range of facilities across the nation also expressed that their law libraries did not offer resources in any language other than English.²¹⁵

Language access availability in the law library context is deficient across the board, but almost nonexistent for people who speak less common languages. As the prior findings demonstrate, adequate language assistance in detention center law libraries is unavailable to an overwhelming number of detained LEP individuals. But those who speak less common languages face even higher obstacles. For example, the vast majority (89%) of speakers of languages indigenous to Latin America reported having to rely on other detained individuals to translate immigration-related applications.²¹⁶ In some cases, law libraries only offer these individuals resources in languages they do not speak fluently or at all. For example, a native Mam-speaker detained at several different immigration detention facilities was never offered interpretation or translation services in Mam at any facility, and was only occasionally able to access books in Spanish, a language she did not know well.²¹⁷ Other speakers of less common languages similarly reported being left with no access to translation and interpretation services—like a Fulani-speaker detained in Arizona who tried to make use of the law library, but was never provided materials or interpretation in his native language.²¹⁸

As all these examples demonstrate, ICE detention centers are regularly failing to provide the basic language assistance in the law library that are necessary for LEP individuals to meaningfully access legal resources and, consequently, meaningfully challenge their deportation and detention. And as the following section highlights, this failure can have dire consequences.

Impact of Dearth of Language Access

Predictably, the dearth of language access in detention center law libraries leads to devastating legal consequences for detained LEP individuals. As shown above in Figure 9, 91% of LEP survey respondents who reported needing language assistance in a law library needed it for their immigration case.²¹⁹ Many also needed it for other reasons: to challenge their detention conditions, to fight for custody of their children, to file civil rights complaints, to defend themselves in pending criminal cases, or to vacate prior convictions.²²⁰ These are all extremely high stakes matters, meaning that ICE's failure to ensure language assistance in detention center law libraries can result in irreparable harm and life-changing outcomes.

Failure to provide language access impairs detained LEP individuals' ability to represent themselves in their immigration cases and other proceedings.

As noted above, most people in immigration detention are facing charges of removability in immigration court and are attempting to defend themselves against deportation.²²¹ And, in the overwhelming majority of cases, they are doing so alone: from FY2001 to March 2024, 81% of detained individuals were not represented by an attorney in their immigration proceedings.²²² This means that they had to read government charging documents; conduct legal research; prepare complex written forms, motions, briefs, and evidence; and comply with technical filing rules all on their own. Since all of this must be done in English,²²³ translation and interpretation services are essential to providing detained LEP individuals a meaningful opportunity to defend themselves from removal.

Case Study: One Man's Appeal Brief Was Rejected

A single story illustrates the myriad ways that language access failures can deprive detained LEP individuals of any real access to the court process and consign them to deportation. Consider the case of R., an LEP Spanish-speaker detained in New York, who was attempting to seek protection from the persecution he feared in his country of origin if removed.²²⁴ Although R. sought language assistance from the detention center's law library, the facility provided neither translation nor interpretation that would have allowed him to understand critical records that the Board of Immigration Appeals (the appellate administrative court) sent him.²²⁵ R. was not provided interpretation or translation of any kind at the law library and he was ultimately forced to share confidential information about the persecution he faced in his country of origin with a fellow detained individual, who was the only person willing to help translate R.'s appeal brief into English.²²⁶ Even then, the Board of Immigration Appeals rejected R.'s filing because R. had not signed the brief nor the accompanying proof of service: extremely simple requirements that he simply did not know were required because the filing rules are in English²²⁷ and no one had provided the language assistance R. needed (and was entitled to) to understand them.²²⁸

Unsurprisingly, deficient language access in detention center law libraries impacts detained LEP individuals' ability to participate in every aspect of their removal cases.²²⁹ Multiple LEP survey respondents reported that this prevented them from reading correspondence from the immigration court, ICE, and other tribunals,²³⁰ and from understanding the most basic aspects of their case.²³¹ "I don't know why I would go to court or how going to court would happen. I don't know when my court date is," one Amharic-speaker detained in Louisiana explained.²³² Similarly, a Soninke-speaker detained in Pennsylvania shared that he too did not know his court date because he was unable to read the English-language correspondence he received from the immigration court.²³³ He was also unable to ask for assistance because no staff at the detention center spoke Soninke or made any effort to communicate with him in Soninke using a professional interpretation service.²³⁴ A Spanish-speaker also detained in Pennsylvania cited the fact that he never understood any of the documents in his immigration case as a significant factor in his pending deportation.²³⁵

Relatedly, numerous detained LEP individuals reported that the lack of language services in their detention center law libraries made it impossible for them to conduct legal research to fully comprehend—much less refute—the removability charges against them or to identify any potential claims for relief from removal.²³⁶ As one Russian-speaker detained in New York explained, "I wanted to do research to understand how I could continue to fight my immigration case [but] I couldn't access anything at the law library because everything was in English."²³⁷ A Spanish-speaker detained in New York also noted how he was unable to research the conditions in his country of origin—an essential element of an asylum claim²³⁸—because he never received any assistance in the law library.²³⁹ Legal services

“I requested law library access for help when my husband informed me he would be seeking a divorce and full custody of our daughters The library consisted of bibles and other books left behind by other detained individuals. But law books, to defend your legal case, there aren’t any I was never able to translate any documents in my case and I didn’t understand what was happening. I eventually lost custody of my daughters.”

Spanish-speaker detained in Louisiana

providers echoed these concerns, with 70% of those surveyed reporting that law library language access deficiencies prevented LEP individuals from researching legal arguments for their immigration case.²⁴⁰

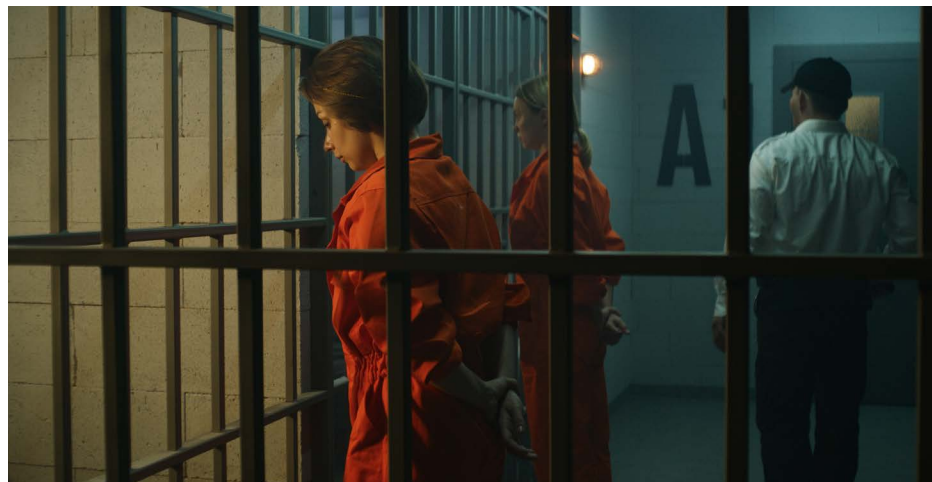
Language access deficiencies also dramatically limit detained LEP individuals’ ability to file critical materials—such as applications, briefs, and evidence—in their immigration cases. For example, one Spanish- and Miskito-speaker detained in Florida reported that, because documents submitted to the immigration court must be in English,²⁴¹ he had to resort to writing and translating his own asylum declaration—a critical part of an asylum claim²⁴²—using the same tablet that detention centers use for inputting requests, such as for medical care.²⁴³ Unsurprisingly, this resulted in many mistakes. As he recalled, “I was told by the court that it was too late to fix it and I was denied asylum.”²⁴⁴ Another LEP survey respondent—a Farsi-speaker detained in Texas—explained that ICE’s failure to provide translation in her law library prevented her from submitting a letter from her mother as evidence in her immigration case.²⁴⁵ Again, legal services providers echoed these reports, with 68% of those surveyed indicating that law library language access issues prevented LEP individuals from filling out applications for relief and/or filing documents in their immigration case.²⁴⁶

The harmful impacts of language access deficiencies also deprive detained LEP individuals of their right to meaningfully participate in other legal matters. Several detained LEP individuals reported, for example, that the lack of language services in their detention center law libraries prevented them from filing civil rights complaints about their detention conditions.²⁴⁷ One Spanish-speaker detained in Louisiana shared that because LEP individuals could not file such complaints, they had no other option but to engage in a hunger strike to protest the conditions of their confinement.²⁴⁸

Lack of language access prevents detained LEP individuals from being able to challenge their ongoing detention. All too frequently, deficient language access in detention center law libraries severely impairs detained LEP individuals’ ability to seek release from detention on bond or parole, or through a petition for habeas corpus. Indeed, 57% of legal services providers surveyed reported

that lack of language assistance impaired detained LEP individuals' ability to seek release.²⁴⁹ Numerous LEP survey respondents also reported that their inability to translate critical documents made it difficult or impossible for them to make the case for release.²⁵⁰ For example, a Spanish- and Miskito-speaker detained in Florida complained that lack of language access in her detention center's law library prevented her from doing research to understand how to apply for bond or parole.²⁵¹ An Achi-speaker detained in Texas similarly languished in detention because no one was able to explain the bond process to her in her native language.²⁵² A Spanish-speaker detained in Louisiana explained that he was unable to understand documents relating to his parole due to lack of translation services in the law library.²⁵³ And a Spanish-speaker detained in Louisiana described how he was unable to submit important medical records in support of his parole request because language barriers prevented him from requesting his medical file.²⁵⁴ Several other LEP survey respondents also reported that the lack of language assistance in their law libraries prevented them from researching and filing petitions for habeas corpus challenging their ongoing detention.²⁵⁵

Deficient language access in detention center law libraries also indirectly prolongs detention. For example, following an increase in the number of Mauritanians who speak languages such as Mauritanian Pulaar, Mauritanian Soninke and Hassaniya Arabic and were detained while seeking asylum, numerous people reported that these less common language-speakers "languish[ed] in detention while their removal proceedings are stalled because the immigration court cannot locate an interpreter."²⁵⁶ But this phenomenon also occurs with people who speak more common languages. As one Spanish-speaker detained in New York explained, because he was required to present his immigration court submissions in English but there were no translation services available at his law library, he had to ask the court multiple times for extensions of his filing deadlines.²⁵⁷ This, in turn, unnecessarily extended his detention.²⁵⁸ Even more concerning, a Russian-speaker detained in Florida reported that, as a result of deficient language access, he did not even understand why he had been detained in the first place²⁵⁹—making it nearly impossible to challenge that detention. These reports further substantiate concerns about language access and prolonged detention that other researchers have raised for years.²⁶⁰



Deficient language access forces many detained LEP individuals to rely on other detained individuals or other unreliable methods to translate highly sensitive documents. Although ICE’s own rules require the agency to provide language assistance to LEP individuals in the law library, including through securing interpretation and translation services,²⁶¹ over half (52%) of LEP survey respondents reported that they had no other option but to use other detained individuals to translate important—often highly sensitive—documents.²⁶²

These statistics are particularly pronounced for speakers of languages indigenous to Latin America, 89% of whom had to turn to fellow detained people for translation.²⁶³ Yet the figures remain at remarkably high rates even for Spanish-speakers, 71% of whom reported the same problem.²⁶⁴ As one Spanish-speaker detained in New York explained, he had to rely on another detained individual to translate his immigration documents notwithstanding multiple attempts to secure language assistance through the law library.²⁶⁵ ICE officers rarely notified him that he could even go to the law library, and when he did get “lucky” enough to go, none of the staff members there spoke Spanish or offered translation services, leaving him with no choice but to turn to other detained individuals who spoke Spanish and English.²⁶⁶ Sometimes, they would all be expelled from the library just for speaking Spanish.²⁶⁷

It appears that, in a number of instances, ICE employees have taken the position that detention centers can fulfill their language access obligations by having detained people conduct translation and interpret for other detained people.²⁶⁸ But this not only violates ICE’s own rules and federal law,²⁶⁹ it raises enormous risks both for their legal proceedings and for their physical safety.

First, there is no guarantee that any other detained individuals will be available or willing to translate documents, particularly for detained LEP individuals who speak rarer languages. For example, a Pulaar-speaker with rudimentary French skills detained in Louisiana reported that there was only one other person in his detention center who had the language skills to translate his asylum application from French to English (and presumably Pulaar to English was not an option).²⁷⁰ However, this person’s help was in such high demand that he was unable to assist before the individual’s court deadline.²⁷¹ As this individual explained, this directly led to his deportation order.²⁷²

Figure 15

Have you had to have another detained person translate an immigration-related application (such as an asylum application) for you because you did not have any other way to translate it?



Second, even if another detained person is available to assist with translation, LEP individuals have no way to verify that person's fluency or competency to translate. For example, a Spanish-speaker detained in California noted that, although some detained individuals sought to help each other with translation, they were often unable to fully translate certain documents.²⁷³ A Kichwa-speaker detained in Louisiana explained how this same problem frequently resulted in people signing documents without knowing exactly what they were.²⁷⁴ These examples illustrate why DHS itself recognizes that interpreters must have specialized knowledge of technical terms and concepts—not just conversational fluency.²⁷⁵ Indeed, the agency recommends that, “[w]here individual rights depend on precise, complete, and accurate interpretation or translations, such as in the context of . . . administrative hearings, the use of certified interpreters is strongly encouraged.”²⁷⁶

Even more concerning, one provider reported the common usage of “relay translation” in ICE detention facilities.²⁷⁷ This refers to the practice of detained individuals essentially forming a chain of interpreters to try to translate from their native language into English. This is extremely common for speakers of less common languages, who often need one translator from their native language to Spanish and a second translator from Spanish to English.²⁷⁸ This method of translation can be a “dysfunctional game of telephone” in which the LEP individual's story can get lost completely.²⁷⁹

Finally, forcing detained LEP individuals to rely on other detained people for translation is problematic because of the deeply sensitive nature of immigration cases. In asylum applications, for example, individuals must share in detail the traumatic experiences that forced them to flee their countries.²⁸⁰ Courts and DHS are required to keep these applications confidential and only allow public access to related proceedings with the noncitizen's consent.²⁸¹ One LEP survey respondent, a Spanish-speaker detained in Florida, explained having to try to describe his past to a complete stranger that he didn't trust:²⁸² “[i]t was very uncomfortable to have to share personal things about my case with other detained individuals . . . because the law library did not offer translation assistance.”²⁸³

This lack of trust can lead detained LEP individuals to omit sensitive facts from their applications, which in turn can undermine their credibility if they later share those facts with the immigration court.²⁸⁴ For example, another Spanish-speaker who had been detained in New Jersey explained that because his story included instances of graphic torture, he did not wish to delve into every detail with the other detained person helping him prepare his asylum application, and thus he omitted certain facts.²⁸⁵ Those facts later arose in his legal proceedings, however, leading DHS to challenge his credibility and appeal the immigration judge's initial decision granting him relief from deportation.²⁸⁶ This, in turn, has prolonged his case for what has now been nearly four years, with no end in sight.²⁸⁷ Negative credibility findings are typically fatal to an individual's immigration case and notoriously difficult to correct through an appeal.²⁸⁸

What is worse, some LEP survey respondents reported being forced to depend on methods of interpretation that are even more cumbersome and unreliable than looking to other detained individuals. Examples include translating by hand using a dictionary, calling their country of origin to have relatives translate, or using

“There was simply no translation or interpretation to help [me] figure out how to contact attorneys.”

Portuguese-speaker

Google Translate to write entire legal documents.²⁸⁹ One Susu-speaker detained in Arizona was even encouraged by an immigration judge to rely on one of the tablets used by the detention center to request appointments to translate her immigration documents because the law library did not offer professional interpretation or translation.²⁹⁰ Unsurprisingly, these practices can also lead to adverse immigration consequences based on credibility assessments that often hinge on the smallest of inconsistencies.²⁹¹ This is likely why one LEP survey respondent who was forced to fill out their asylum application using Google Translate reported being denied asylum due to errors in the translation.²⁹²

Lack of language services inhibits detained LEP individuals from finding legal representation. Detained LEP individuals who wish to find an attorney often face challenges in doing so due to law library language access failures.²⁹³ In fact, without language services, many detained LEP individuals have trouble communicating with outside individuals and organizations at all.²⁹⁴ Despite ICE's obligation to “assist the detainee in contacting pro bono legal-assistance organizations,”²⁹⁵ several LEP survey respondents reported that they never received any such assistance and were never able to contact an attorney.²⁹⁶

Even the small subset of detained LEP individuals who have a recognized right to government-appointed counsel can be deprived of this right due to law library language access failures. While most have no such right, certain individuals with severe mental disabilities are entitled to an attorney in their removal proceedings.²⁹⁷ However, multiple legal services providers reported that language access deficiencies often lead to delays in identifying or failure to identify these individuals.²⁹⁸ This demonstrates yet another instance in which the dearth of language access in detention centers places some of the most vulnerable noncitizens at particularly high risk.

Language access deficiencies undermine legal services providers' ability to effectively aid detained individuals. Even when detained LEP individuals are able to connect with legal services providers, the lack of language access in detention center law libraries often undermines the ability of these providers—which often provide legal resources and counsel instead of full representation—to efficiently provide legal services.²⁹⁹ Indeed, 83% of providers surveyed reported that lack of language access for detained LEP individuals directly increases their workload because they are forced to do the tasks that the people they work with would otherwise do in the law library themselves.³⁰⁰ This kind of work, in turn, limits the number of individuals these providers can help overall because they are spending a significant amount of time compensating for the language resources that ICE should (but does not) provide.³⁰¹ In fact, 67% of providers surveyed said that lack of language access in law libraries directly limits the number of individuals they are able to assist overall.³⁰² By failing to invest in language access as required by

Figure 16

How has the inability of LEP individuals to promptly access interpretation/translation in their primary language at this detention center law library impacted YOUR work with LEP individuals?

It has increased my workload because I have to do some of the tasks that individuals would otherwise do in the law library.



It limits the number of individuals I can help because I am spending my time doing things that those individuals should be able to do in the law library.



It diverts my time/attention because I have to advocate for language access for these individuals.



It diminishes impact of LOP orientation and advice because individuals cannot act on the information provided.



its own rules, ICE is effectively transferring the cost to already severely strained legal service providers, diminishing the critical legal assistance they can offer to all detained noncitizens.

In sum, this investigation provides a clear—and troubling—picture of language access in the context of medical care and law libraries in immigration detention. It reveals a widespread pattern of ICE failing to ensure language access in these contexts and sheds new light on the serious, even life-altering, consequences of these failures for the LEP people ICE detains.

And it shows how, all too often, the nature of these language access failures makes it effectively impossible for detained LEP individuals to raise or remedy these problems on their own. The next section turns to the legal implications of these failures.

Legal Violations

The findings described above reveal widespread failures by ICE to provide detained LEP individuals with adequate language access in medical care and law libraries in immigration detention. While these findings are limited to the scope of the instant study, the patterns that the study reveals are pronounced and troubling. As this section describes, these patterns also reflect violations of the agency’s own rules and policies, longstanding executive orders, and other aspects of federal law.

ICE is routinely and overtly violating its own detention standards. As a threshold matter, the findings in this study reflect direct violations of the rules that the agency itself imposed through the 2011 Performance-Based National Detention Standards (PBNDS 2011) and 2019 National Detention Standards for Non-Dedicated Facilities (NDS 2019).

Medical Care

Rule: Provide “appropriate interpretation and language services for LEP detainees related to medical and mental health care.”³⁰³

Violation: As documented in this report, ICE has often failed to provide detained LEP individuals appropriate interpretation or language services when seeking medical care.³⁰⁴ Specifically, ICE is:

- ▶ Failing to provide language services that individuals need to ask for medical care in the first place. Close to one-third (31%) of all LEP survey respondents reported having not asked for medical care at least once because of a language barrier.³⁰⁵
- ▶ Failing to provide language services when detained individuals need to communicate with medical staff. Indeed, a full 41% of LEP survey respondents reported having to consult with medical staff in a non-primary language because the detention center could not or would not provide a fluent staff member or interpreter.³⁰⁶
- ▶ Failing to provide language services when detained LEP individuals manage to obtain a medical appointment. Nearly a quarter (23%) of LEP survey respondents reported that detention center staff told them that they could not or would not provide a staff member or any other form of interpretation in connection with their medical care.³⁰⁷
- ▶ Failing to provide almost any kind of language access in connection with medical care for people who speak less common languages. The overwhelming majority (89%) of LEP survey respondents who speak languages indigenous to Latin America reported being told the detention center could not or would not provide a staff member or interpreter who could speak their primary language during medical visits.³⁰⁸

Rule: “Detainees shall not be used for interpretation services during any medical or mental health service. Interpretation and translation services by other detainees shall only be provided in an emergency medical situation.”³⁰⁹

Violation: As documented in this report, ICE’s failure to provide language access in the medical care context has forced many detained LEP individuals to rely on other detained individuals to interpret for them in non-emergency medical situations.³¹⁰ Specifically, ICE is:

- ▶ Forcing detained LEP individuals to rely on other detained individuals to interpret in non-emergency medical situations such as normal medical and even psychological appointments. For example, 28% of LEP survey respondents reported having to rely on another detained person as an interpreter during a medical appointment because the detention center did not provide adequate language services.³¹¹

Law Libraries

Rule: Provide detained individuals “meaningful access” to a law library, for at least five hours a week, equipped with sufficient resources to allow individuals to: access legal materials, engage in legal research and writing, prepare legal documents, and print and copy legal materials.³¹²

Violations: As documented in this report, ICE has failed to provide detained individuals with meaningful access to a law library as required.³¹³ Specifically, ICE is:

- ▶ Failing to ensure that all detention facilities have law libraries. Indeed, more than 5% of LEP survey respondents reported that there was no law library at their detention facility at all.³¹⁴
- ▶ Failing to provide individuals meaningful access to law libraries at detention centers where a law library is available. A large majority (70%) of LEP survey respondents who reported needing language assistance at the law library never received it.³¹⁵
- ▶ Failing to provide adequate access to legal materials in the law library. Of LEP survey respondents who reported that their facility has a law library, 46% reported that the library does not provide any materials translated into their primary language.³¹⁶
- ▶ Regularly failing to provide necessary language assistance services. More than half (55%) of all LEP survey respondents reported that their law library did not provide professional interpretation in their primary language, a report echoed by legal service providers.³¹⁷

Rule: Provide detained individuals “who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities. . . . Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.”³¹⁸

Violations: As documented in this report, ICE routinely fails to provide necessary language assistance to detained LEP individuals.³¹⁹ Specifically, ICE is:

- ▶ Failing to provide LEP individuals language assistance in the law library. As noted, of the LEP survey respondents who reported needing language assistance at their law library, 70% indicated that they *never* received it,³²⁰ and 55% reported that their law library does not provide professional interpretation in their primary language.³²¹ As a result of this failure, over half (52%) of LEP survey respondents reported having to rely on other detained individuals to translate important and often highly sensitive immigration-related applications for them.³²²
- ▶ While some ICE employees have suggested that facilities can satisfy this obligation through assistance from other detained individuals,³²³ this conflicts with DHS’s own guidance on satisfactory interpretation and translation³²⁴ and creates serious problems due to unverified language and translation skills of other detained people, the highly sensitive nature of the information that must be shared in immigration proceedings, and the risks of irreparable harm that this can create for detained LEP individuals.³²⁵

Rule: Establish procedures to assist LEP individuals in using the law library, such as procedures that involve: “having the facility’s law librarian assist the detainee with legal research; . . . assisting the detainee in contacting pro bono legal-assistance organizations from [an] ICE/ ERO-provided list; and in securing interpretation or translation services for an LEP detainee.”³²⁶

Violations: As documented in this report, ICE has failed to ensure that its largest and most prominent detention centers have established *any* procedures to assist LEP individuals in using the law library,³²⁷ strongly suggesting that it has failed across the board in this respect. Additionally, the data demonstrate:

- ▶ Law librarians do not assist, and often obstruct, detained LEP individuals.³²⁸
- ▶ Among LEP survey respondents whose facility has a law library, 55% reported that their library did not provide professional interpretation in their primary language.³²⁹

Rule: Provide “assistance beyond access to a set of English-language law books” to LEP individuals “who wish to pursue a legal claim related to their immigration proceedings or detention, and who request assistance or otherwise indicate difficulty accessing or comprehending the legal materials.”³³⁰

Violations: As documented in this report, ICE has overwhelmingly failed to provide “assistance beyond access to a set of English-language law books” to LEP individuals. Specifically, ICE is:

- ▶ Failing to translate English-language law books into languages other than English. As noted, almost half (46%) of LEP survey respondents reported that their law library does not provide translated materials in their primary language.³³¹ Even when it comes to a commonly spoken language like Spanish, there are often no written materials: 38% of LEP survey respondents whose facility did have a law library reported that written materials were not translated into Spanish.³³²

ICE is failing to live up to the promises of its Language Access Plans. For at least a decade, ICE has promised to fulfill its obligation to provide “meaningful access to its programs, services, and activities” to LEP individuals in its custody, consistent with Executive Order 13166 and Title VI of the Civil Rights Act of 1964.³³³ In 2015, when the agency issued its Language Access Plan, it claimed to be working towards “identifying and translating vital documents into the most frequently encountered languages, providing interpretive services where appropriate, and educating personnel about language access responsibilities and how to utilize available language access resources.”³³⁴ Today, this report reveals significant shortfalls in meeting each of those goals. DHS’s November 2023 Language Access Plan continues to make similar promises for the future, including pledging to assess its components’ implementation of their own plans.³³⁵ This report provides DHS useful insight into the current realities of language access for LEP individuals in ICE custody, and should inform not only assessment of ICE’s implementation of its plan, but also the consequences for noncompliance.

ICE's failures implicate due process and equal protection concerns. ICE's failure to provide meaningful language access in its detention facilities also raises constitutional due process and equal protection concerns. There is no question that, within the immigration courts, due process requires that the government provide noncitizens adequate language access.³³⁶ By detaining noncitizens, ICE forces them to participate in their removal proceedings from within a detention center. As a result, when ICE fails to provide language access in its detention center law libraries, this deprives LEP individuals of the ability to meaningfully participate in the proceedings against them—proceedings that can result in devastating and even life-threatening deportation.

Deficient language access also implicates principles of equal protection, as it places a higher burden on LEP people facing removal than English-speakers face in the removal process due to their national origin and race.³³⁷ It also means that detained LEP individuals face more risks than English-speaking people do when going through the same process, including the real risk of deportation. No legitimate government purpose, much less a compelling interest, justifies ICE's failure to provide meaningful language access in such a high-stakes context. As such, ICE's deprivation of language access and thereby adequate medical care and law library services to detained LEP individuals raises serious constitutional concerns.

Recommendations

Immigration and Customs Enforcement

Detained LEP individuals should be safely released if ICE does not promptly provide them with language access services.

- ▶ If ICE does not provide language access services within 48 hours or less, depending on the circumstances, the detained LEP person should be safely released. To operationalize this requirement, DHS detention centers should maintain interpretation request logs in a centralized DHS database that records the date and time of such requests in the medical care and law library contexts and whether or not the requested services were provided. Interpretation request logs reflecting a specific detained person's requests should be made immediately available to detained individuals and their representatives upon request.
- ▶ ICE's Office of the Principal Legal Advisor should refrain from opposing requests for release made before immigration courts where ICE has failed to promptly provide required language access services.

ICE should ensure that all detention centers have access to and use readily available professional interpretation services to provide interpretation in the best language of every detained person.

- ▶ In situations where no staff member is available to interpret in-person, ICE should ensure round-the-clock access to a 24-hour, remote professional interpretation service that covers all languages of people detained. This is essential given the pressing nature of many scenarios requiring interpretation, particularly those in the medical context.

- ▶ While ICE detention centers appear to have access to professional interpretation services, detention center staff often fail to utilize these services. ICE should mandate detention center staff and agent trainings, test, and conduct audits to ensure that all detention center staff, contractors, and other agents use them as required. Failure to do so should result in meaningful penalties, including potentially contract termination.

ICE should ensure that, at intake, LEP individuals are meaningfully evaluated for their best language, informed of language access rights, and provided translated materials detailing these rights.

- ▶ During the intake process, DHS should provide verbal and written information to LEP individuals, in the language they best understand, of their rights under the PBNDS 2011 and NDS 2019 to language resources when accessing medical care and using law libraries.

ICE should ensure that facilities establish written language access procedures and post translated versions in detention facilities.

- ▶ The PBNDS 2011 and NDS 2019 require detention facilities to establish procedures to satisfy their language access obligations,³³⁸ which many—if not all—have failed to do.³³⁹ This is an essential first step toward improvement in this realm, and ICE must ensure that detention centers create and post translated versions of these procedures.

ICE should ensure that electronic “tablets” be programmed in the primary languages spoken by all LEP detained individuals.

- ▶ As described above, detained individuals often have to use an ICE- or detention center-issued tablet to make appointments to access medical care and/or the law library. ICE should ensure that these tablets are programmed in the primary languages of the detained LEP individuals. ICE should also provide keyboards suited for languages with letters different from English. If ICE cannot do so, it should provide an alternate form of communication.

For detained LEP people who cannot read or write, ICE should ensure access to sight translation to allow understanding of written materials, instead of requiring the use of electronic tablets.

- ▶ To satisfy its obligation to provide meaningful language access, it is critical that ICE ensure sight translation, where written text is conveyed verbally or through signs,³⁴⁰ so that detained LEP people with low or no literacy can access critical written and electronic forms of communication.

ICE should ensure adequate language access in detention even beyond the law library and medical care contexts.

- ▶ Language access impacts virtually every single aspect of life in ICE detention centers. During our research, it became clear that language access issues also persist outside the law library and medical care contexts. For example, many detained LEP individuals reporting being unable to communicate with anyone in the facility, leading to linguistic isolation and deteriorating mental health.³⁴¹ Similarly, other detained LEP individuals reported that they were not able to ask facility staff for any kind of help due to the lack of language

access.³⁴² As a result, ICE should ensure that detained LEP individuals can access interpretation services beyond the law library and medical care contexts, as the PBNDS 2011 and NDS 2019 require.

Department of Homeland Security Oversight Subcomponents

DHS should assign independent officers to each immigration detention facility to focus on ensuring that the language access needs of detained LEP individuals are being met.

- ▶ These language access officers should proactively work with other detention center staff, holding weekly meetings to assess how language services are being used to help detained LEP individuals and holding weekly office hours for detained LEP individuals to report or make complaints about the language access issues they experience when visiting the law library or seeking medical care. The language access officers should be required to maintain the confidentiality of all information shared, timely investigate complaints, and take necessary steps to ensure the language access needs of the detained LEP individuals are met.

DHS's Office of Detention Oversight and other DHS subcomponents should routinely assess language access needs and compliance with language access obligations in detention facilities and develop penalties for facilities' noncompliance.

- ▶ DHS's Office of Detention Oversight and other subcomponents performing inspections should make language access a primary issue/priority for evaluation during inspections. They should monitor and assess the adequacy of inspection processes, including by ensuring that they are asking appropriate questions to those with the most relevant information.
- ▶ DHS's Office of Civil Rights and Civil Liberties should routinely assess ICE's compliance with the PBNDS 2011 and NDS 2019 as part of its required periodic assessment of language access in detention facilities.³⁴³ CRCL should track and make public recommendations based on its assessments and the complaints it receives.
- ▶ DHS should impose penalties—including contract termination—on facilities that fail to meet the language access standards of the PBNDS 2011 and NDS 2019.

DHS should create publicly available procedures to allow detained individuals to enforce their language access rights.

- ▶ DHS should create procedures, including complaint and reporting mechanisms accessible in all languages of people who are detained, to allow detained individuals to enforce the NDS 2019 and PBNDS 2011.
- ▶ To improve transparency, promote uniformity, and ensure durability, as well as to allow meaningful input from the public, experts, and stakeholders, DHS should formally promulgate the NDS 2019 and PBNDS 2011 as regulations through notice and comment rulemaking.³⁴⁴

DHS's Office of Civil Rights and Civil Liberties (CRCL) should create a hotline through which detained LEP individuals can lodge complaints in their primary languages.

- ▶ CRCL should create a hotline through which detained LEP individuals can lodge complaints in their primary languages and also make written complaint forms available in all primary languages spoken in the facility.³⁴⁵
- ▶ CRCL should investigate each complaint and provide each complainant a response in the language they speak within 14 days of the filing of the complaint. The complaint, primary language of the complainant, and steps taken to address it should be documented. A complaint should only be closed if the complainant reports that their language access issue was resolved.
- ▶ CRCL should work with other DHS subcomponents, including the Office of Detention Oversight to ensure prompt resolution of complainants' concerns. CRCL should be vested with the power to parole or at least recommend the release of LEP detained individuals where ICE fails to promptly provide required language access.

DHS should provide access to sight translation as necessary to allow detained LEP people who cannot read or write to avail themselves of these recommendations.

- ▶ To satisfy its obligation to provide meaningful language access, it is critical that DHS ensure sight translation to detained LEP people with limited literacy seeking to understand and use these processes.

DHS should publicly release data on language access needs at each facility and the extent to which it has met those needs.

- ▶ DHS should record and annually release aggregate data reflecting the number of LEP individuals in detention each year, the primary language of each detained LEP individual, what kind (type and language) of language assistance resources are available to meet the needs of each language spoken at each detention center, how many complaints are filed by speakers of each language, and how many complaints are successfully resolved.
- ▶ DHS should also annually release data regarding the amount spent on language access services (in the aggregate and by facility).

Executive Office for Immigration Review

Immigration judges should consider any failure by ICE to provide required language access to an LEP individual as a factor counseling strongly in favor of release in making a bond determination.

- ▶ As the Executive Office for Immigration Review (EOIR) has recognized, language access is critical to a "full and fair removal hearing" that meets statutory and constitutional demands.³⁴⁶ And that, as EOIR has acknowledged, requires "reasonable access to out-of-court translation services."³⁴⁷ Since that access is required for LEP people to meaningfully

avail themselves of their rights in removal proceedings and the delay or failure to provide it can lead to prolonged detention, immigration judges should consider ICE's failure to provide that access as a factor that counsels strongly in favor of release.

Immigration judges and the Board of Immigration Appeals should consider any failure by ICE to provide required language access to an LEP individual as a factor when setting, extending, and assessing failure to meet filing deadlines.

- ▶ For the same reason, EOIR recognizes that in determining filing deadlines, immigration judges should consider “the noncitizen’s proficiency in speaking and writing English,” “the availability of translation services to the noncitizen . . . at the detention facility,” and whether “the noncitizen’s preferred language is an Indigenous or rare language.”³⁴⁸ Both immigration judges and the Board of Immigration Appeals should also weigh any failure by ICE to provide required language access to detained noncitizens strongly in favor of extending deadlines and forgiving late filings.

Immigration judges should request that ICE produce translated copies of briefs and other filings in certain detained LEP individuals’ cases.

- ▶ Consistent with EOIR’s policy that immigration courts play a more active role in ensuring that ICE provides out-of-court translation,³⁴⁹ immigration judges should request that ICE produce translated copies of certain records³⁵⁰ where (1) the detention center logs reflect that detained LEP individual was not promptly provided with language access services or (2) the noncitizen provides testimony or other evidence that they made such a request and the detention center failed to record requests and/or responses in these logs.

Immigration judges and the Board of Immigration Appeals should automatically provide translated copies of all decisions to detained LEP individuals.

- ▶ At the very least, Immigration Judges and the Board of Immigration Appeals should ensure that detained LEP individuals receive translated copies of any decisions in their case. Immigration judges should also ensure that LEP individuals with limited literacy are offered sight translation of these decisions.

Congress

Congress should adopt appropriations legislation requiring that a minimum percentage of ICE’s budget be set aside for language services.

- ▶ Congress should set aside at least 1% of its budget for language services, and this amount should increase with major increases in the detained population.

Congress should hold oversight hearings on language access in immigration detention.

- ▶ These hearings should focus on issues including—but not limited to—language access in the context of detention center medical care and law libraries.

If ICE continues to systematically fail to provide meaningful language access in immigration detention, Congress should end the detention system entirely.

- ▶ There are many reasons for Congress to abolish immigration detention, but ICE's continued failure to ensure language access should alone be sufficient.

Legal Community

The legal community should assist LEP people with enforcing their language access rights.

- ▶ At the earliest possible opportunity, legal services providers should inform detained LEP individuals of their language access rights under the PBDNS 2011 and NDS 2019 and how to exercise them.
- ▶ Where detained LEP people have not received the language services to which they are entitled, legal services providers should help these individuals request logs, seek release from detention, and/or pursue other redress for these violations.

The legal community and funders should devote greater resources to the representation of LEP people in immigration detention.

- ▶ The broader legal community and funders should strive to provide representation to detained LEP people, as they face unique, widespread, and often insurmountable obstacles to representing themselves.

Conclusion

In the investigation underlying this report, the research team found evidence of a pattern of language access failures in the context of medical care and law libraries in immigration detention. The investigation also generated evidence of many abuses and failures by ICE that are not fully discussed here because they were outside the scope of this report. However, we encourage members of the public and the government to continue to investigate the myriad ways in which the rights of LEP individuals detained throughout this nation are being violated due to deeply inadequate language access. The federal government is obligated—by its own rules, governing statutes, and the Constitution—to provide language access in the context of detention center medical care, law libraries, and many areas beyond those targeted by this investigation. It should be held accountable to all of these standards if it chooses to detain LEP individuals and required to release LEP people where it fails to comply.

Appendix

Detailed Methodology

The research team that wrote this report used four primary methods to obtain information regarding access to language services in detention facilities across the United States: (1) a survey of 171 currently and recently detained individuals, (2) a survey of 42 immigration attorneys and other legal services providers, (3) 25 semi-structured long-form interviews with currently and recently detained individuals, legal services providers, and interpreters, and (4) thousands of pages of records from FOIA requests (and ultimately litigation). The research team also reviewed numerous other primary and secondary sources related to language access in this context, which included detained people's medical records and legal filing and a database of grievances regarding detention conditions and access to counsel in ICE facilities in Florida,³⁵¹ among other sources. All accounts are shared in an anonymous form unless the subject provided consent to share their name.

Data collection for the surveys and interviews was conducted between October 2022 and May 2024. The full research team for this project consisted of six law students participating in the Kathryn O. Greenberg Immigration Justice Clinic at Cardozo School of Law, two supervising attorneys, and fifteen additional trained Cardozo Law student volunteers. As described above, the research team's ability to conduct this research relied on support and cooperation of legal services providers and others working in the immigration field. Data coding and analysis were led by the research team, with the assistance of Dr. Ian Peacock, a third-party expert with a Ph.D. in sociology and experience conducting quantitative research on international migration, who provided a report analyzing the survey data for the team to use in crafting its findings.³⁵²

Detained Individual Survey

Outreach

From October 2022 to November 2023, the research team conducted a survey of currently or recently detained LEP individuals across the country regarding their need for, requests for, and receipt of language access resources when seeking medical care and accessing the law library in detention.

The criteria for detained people to participate in the survey were that they:

1. Identify as LEP;
2. Were then detained or had been recently released from immigration detention; and
3. Had either tried to use the detention center law library or tried to access medical care while in detention.

Notably, to avoid a selection bias, the research team did not request or require that individuals had any particular type of experience regarding language access in the context of law libraries or medical care.

To identify potential survey respondents who met these criteria, the research team relied on the support and cooperation of legal services providers across the nation. In some cases, legal services providers directly administered the Detained Individual Survey to the individual. In the vast majority of cases, however, legal services providers provided contact information for currently or recently detained individuals who were willing to participate in the survey. This oral method of conducting the survey permitted detained LEP people who do not read or write to participate. The research team then used this information to contact these individuals and conduct the surveys. To survey the individuals who were detained at the time of the survey—the majority of the people surveyed—the research team scheduled calls using the varying, and often nonfunctional,³⁵³ systems employed by ICE detention centers nationwide. As detailed below, the team encountered a variety of obstacles in meaningfully accessing many detained individuals referred by legal services providers for the survey. In other instances, the team was unable to speak to individuals because they had been “released” from the facility (including by being deported).

Despite challenges in accessing detained LEP individuals for surveys, the research team ultimately surveyed 171 respondents who were or had been detained at 39 different detention centers.

Survey

To communicate with the LEP survey respondents, the research team used professional private and non-profit interpretation services. The research team then recorded survey respondents’ translated answers, in English, using the web-based survey tool SurveyMonkey.

Each person surveyed was informed, at the outset, that survey responses would be used for a public report and then, upon consent, was asked a series of questions. In addition to asking respondents for background and demographic information, the survey instrument included both open- and close-ended questions regarding language access needs, services, and individual experiences in the context of medical care and law libraries in immigration detention.

Background and Demographic Information: The survey collected information including detained individuals’ country of origin; race/ethnicity; languages spoken, read, and/or written “very well”; and length of detention.

Language Access in the Medical Care Context: For medical care, the survey assessed four main domains:

- ▶ **Knowledge of rights:** Respondents were asked questions to determine whether they were aware of detention centers’ obligation to provide language access, including interpretation, in many medical care contexts.
- ▶ **Language services and accessing medical care:** Respondents were asked questions to determine whether they had ever been unable to access medical care due to lack of language access.
- ▶ **Availability of interpretation when receiving medical care:** Respondents were asked questions to determine whether detention centers had refused to provide them an interpreter while they were seeking medical care, and

whether they had ever been forced to communicate in a language they did not understand or rely on another detained individual to speak to medical staff.

- ▶ **Impact of lack of language services:** Respondents were asked to explain any consequences of not receiving medical care or receiving inadequate medical care, due to lack of language access. Respondents were also asked to share any general impacts of language barriers on their physical and mental health.

Language Access in the Law Library Context: For the law library, the survey assessed six main domains:

- ▶ **Availability of law library:** Respondents were asked whether the facility or facilities in which they were detained had a law library.
- ▶ **Knowledge of rights:** Respondents were asked whether they were aware that the detention center is obligated to provide them with access to a law library and with language assistance in the law library.
- ▶ **Use of law library:** Respondents were asked whether they had used the law library and, if so, how frequently they used it and what they used it for.
- ▶ **Availability of language resources in the law library:** If respondents had used the law library, they were asked whether the law library provided translated materials in their primary language, whether it provided professional interpretation or bilingual staff fluent in their language, and whether written materials in the law library were generally translated into Spanish.
- ▶ **Ability to access language resources in the law library:** If respondents had used the law library, they were asked whether they had requested law library interpretation or translation services and, if so, how they made the request and how it was resolved.
- ▶ **Impact of lack of language resources:** Respondents were asked whether they had been unable to use the law library due to lack of language access and how any lack of interpretation or translation services in the library had impacted their legal proceedings.

At the end of each survey, respondents were asked whether they consented to the use of the information they provided—in an anonymized form—in a public, published report. The survey data relied upon for this report is based only on responses from individuals who consented to the use of their responses in the report. No respondents were compensated for participating in the survey.

Data Coding and Analysis

Dr. Ian Peacock, a third-party expert, initially analyzed the data from the Detained Individual Survey and provided a report for the team to use in crafting its findings.

Dr. Peacock holds a master's and doctorate degree in sociology from the University of California, Los Angeles and has worked in quantitative data analysis for over a decade. He has provided data analysis for research on immigration detention published in top peer-reviewed and law review journals, an expert report in a class-action case involving detained immigrants' rights, and a range of other publications by nongovernmental organizations and media outlets.

Dr. Peacock has also provided individual statistical consulting for dozens of PhD students and instructed college and graduate students in data management and analysis courses and workshops.

To analyze the data from the Detained Individual Survey, survey responses were downloaded in a single comma-separated values file. All cleaning, analysis, and visualization of these responses relied on Stata statistical software. Initial cleaning steps entailed: (1) excluding respondents from the data if they reported speaking English well; (2) standardizing entries for detention facility names (e.g., “Winn,” “Winn Correctional,” “Winn Correctional (Louisiana)[sic],” and “Winn Correctional Center” all became “Winn Correctional Center”); (3) standardizing entries for country of origin (e.g., “Dominican Republic,” “Dominican Republic [sic],” and “Republica Dominicana” all became “Dominican Republic”); (4) standardizing entries for spoken languages (“Chinese Mandarin,” “Chinese, Mandarin,” and “Mandarin” all became “Mandarin”); (5) matching information about detention facilities (i.e., state and type of facility) to responses; and (6) creating language categories (e.g., “Amharic,” “Swahili,” “Kirundi, Kinyarwanda,” “Somali,” and “Tigrinya, Amharic” were all categorized as “East African Languages”).

Rather than conduct analysis at the detention facility level, the test analyzed the level of individual survey respondents. Because speakers of different languages were often confined in the same detention facility and the services and resources available within facilities could depend on language, one single response would often not provide adequate information about a facility, its services, and its resources (or the lack thereof). Thus, analysis of items to which respondents could answer “yes” or “no” ultimately focuses on the number of respondents who answered “yes” or “no” divided by the total number of all valid responses to the same question. Analysis of multicategory questions of how often a certain condition had been met (e.g., “how often have you received the language assistance that you needed?”), likewise, focused on the number of respondents who had selected a given response divided by the total number of valid responses to the same question. Note that, because respondents could skip any non-applicable question, each question in this survey has a different sample size. The sample size for each individual question was used in calculating response percentages and has been noted for each figure derived from the Detained Individual Survey throughout the report.

The initial round of analysis consisted of creating frequency tables and visualizations for responses to all survey items. Analysis then focused on percentages of all valid responses for a given survey question, rather than the frequencies, as the total number of valid responses varied from question to question. Subsequent analysis entailed displaying the same percentages in tables and visualizations but broken down by detention facility characteristics (i.e., state and type of facility), language category, and country of origin. The final round of analysis added in tests for whether the differences in percentages broken down by detention facility characteristics, language categories, and countries of origin were statistically significant. The analysis used chi-square tests, in particular, to compare whether the observed frequencies in the data with the frequencies one might expect to see if there were no association between any pair of given measures (i.e., if they were independent). The p-value chosen for these tests of significance was the common 0.05 threshold (meaning that there is a 5% chance

of observing the observed result—or a more extreme result—if the two measures in question are truly independent of each other). The frequencies and figures drawn from the survey data reflect survey responses and may not be the same as those of the detained LEP population as a whole.

Additionally, individuals' responses to the survey's open-ended questions are incorporated throughout the report.

Provider Survey

Outreach

The research team also surveyed legal services providers who regularly work with detained LEP individuals. The survey focused on providers' knowledge of language access resources in detention centers, specifically in the medical care and law library contexts, as well as on the impact of these services on providers themselves. From October 2022 to February 2024, the research team disseminated the link to this web-based survey via email to legal services providers throughout the nation. Despite the heavy demands on the time of legal services providers working with detained individuals, we obtained data from 42 total respondents with experience at 22 detention centers.

Survey

The Provider Survey asked 16 open- and close-ended questions regarding language access in each of the detention centers that the provider visited “regularly” (defined as every one to two months). Respondents were asked to repeat the series of questions for each detention facility that they regularly visited and were also provided an opportunity to share more details about any relevant experiences. In addition to requesting basic background information, the survey assessed the following main domains:

- ▶ **Language Access in the Medical Care Context:** For medical care, the survey assessed the following domains:
- ▶ **Availability of interpretation services:** Respondents were asked what interpretation services were offered at detention centers in the medical context.
- ▶ **Impact of lack of language services:** Respondents were asked what impact language barriers had on the availability or receipt of medical care for their clients.
- ▶ **Language Access in the Law Library Context:** For the law library, the survey assessed these domains:
- ▶ **Availability of language resources:** Respondents were asked what language resources were provided to their clients in detention center law libraries.
- ▶ **Impact of lack of language resources on detained individuals:** Respondents were asked how lack of language access impacted their detained clients.
- ▶ **Impact of lack of language resources on providers:** Respondents were asked

how lack of language access impacted their ability—as a legal services provider—to perform their job.

Respondents were made aware at the outset that their survey responses would be used for a public report, and were also asked to provide their consent at the close of the survey.

Data Coding and Analysis

The research team itself analyzed the results of the Provider Survey. For each close-ended question, the team calculated the percentage of respondents who answered each available option. Note that, because providers could skip any non-applicable question, each question in this survey has a different sample size. The sample size for each individual question was used in calculating response percentages and has been noted for each figure derived from the Provider Survey throughout the report. Additionally, provider responses to the survey's open-ended questions are incorporated throughout the report.

Individual Interviews with Detained Individuals, Legal Services Providers, and Interpreters

Outreach

To supplement the data collected through the surveys, the research team conducted semi-structured long-form interviews of (1) 19 individuals who are currently or were recently detained; (2) four legal services providers who regularly worked with detained LEP individuals; and (3) two individuals who provided interpretation for detained individuals. Potential interviewees were identified through outreach to legal services providers and organizations that provide interpretation services. All interviews were conducted from November 2022 through May 2024. Interviewees were informed that the information they shared would be used for this report. Interviewees participated voluntarily and were not compensated for their participation. The names and other identifying characteristics of interviewees who wished to remain anonymous have been excluded from this report.

Before beginning an interview, the research team explained the purpose of the report and interview and obtained the interviewee's consent to use their responses in the report. The interviews consisted of a series of open- and close-ended questions regarding language access in the medical care and law library contexts.

Interview Goals/Approach

When interviewing a currently or recently detained individual, the research team sought information about the individual's language capabilities and about language access at the immigration detention facilities at which the individual was or had been detained. Interviews centered specifically on the individual's

experience(s) with language access in the law library and medical care contexts. In the law library context, interviewees were asked questions aimed at learning about whether they had requested language assistance at their facility's law library, the availability and effectiveness of language services at the law library, any issues they encountered related to language access at the law library, and the impact, if any, of the lack of language access services at the law library. Similarly, in the medical care context, interviewees were asked questions aimed at learning about whether they had ever requested language assistance, the availability and effectiveness of language services, common issues encountered, and the impact of the availability and quality of language services in the medical care context.

When interviewing legal services providers, our research team began the interview by learning about the provider's experience working with detained LEP individuals. Providers were asked questions aimed at learning about their knowledge of and experiences related to language access at the immigration detention facilities at which they have worked and/or where their clients are detained. In the law library context, providers were asked about their knowledge of language access services; the extent to which their clients' language access needs have been met, particularly in terms of filling out legal paperwork and preparing for legal proceedings; and the impact, if any, of the lack of language access services, both on their clients and on themselves as providers. In the medical care context, providers were asked about their knowledge of language access services, the extent to which their clients' language access needs are being or have been met, complaints received from clients related to lack of language access, and the impact on their clients, if any, of the lack of language access services.

When interviewing interpreters, the team also began the interview by learning about the interpreter's experiences providing services to detained LEP individuals. Interpreters were asked specifically about what, if anything, they had learned about detained LEP individuals' access to language services when receiving medical care or using the law library.

Records from FOIA Requests and Litigation

In addition to the original dataset drawn from surveys and interviews, the research team also collected and analyzed data from various federal agencies through requests submitted and litigation under the Freedom of Information Act (FOIA). These data included complaints, Excel spreadsheets, e-mails, and other documents from ICE and other federal agencies concerning language access in ICE detention facilities. Documents were obtained through three FOIA requests: (1) a request to ICE for records related to immigration detention facilities' procedures for working with LEP individuals in their custody;³⁵⁴ (2) a request to DHS for records of complaints related to language access issues in immigration detention;³⁵⁵ and (3) a request to ICE for records related to ICE facility inspections.³⁵⁶

The research team analyzed all the records produced in response to these requests on a manual basis, first identifying whether a complaint, email, log, etc. was related to language access, and then determining whether the complaint was related to language access in the law library or medical care context. Only documents expressly related to medical care and/or the law library language access were tagged for inclusion in our dataset.

Request to ICE for records related to immigration detention facilities' procedures for working with LEP individuals in its custody.

Under the PBNDS and NDS, immigration detention facilities must “establish procedures” that the facility should use to “assist detainees who are . . . LEP . . . in using the law library.”³⁵⁷ The researchers’ request sought disclosure of “any and all records prepared, received, transmitted, collected, and/or maintained by ICE (and its subcomponents) and its contractors (and their subcontractors) that reflect: (1) the current ‘procedures’ that [certain] detention facilities . . . have established for ensuring that LEP individuals can use the law library, and (2) any modifications or amendments to these procedures made by ICE.”³⁵⁸ After ICE failed to respond within the statutory limits set forth in the FOIA statute, we filed suit to compel ICE to produce the requested documents. Eventually, ICE conceded that “none of the subject detention facilities have any written procedures implementing [the relevant PBNDS/NDS standards].”³⁵⁹ The parties ultimately agreed to dismiss the proceedings on the basis that there were “no records responsive” to our request.³⁶⁰

Request to DHS, including components, for records of complaints related to language access issues in immigration detention.

This request, which was submitted by the American Civil Liberties Union Foundation and ACLU Foundation of Northern California (collectively “ACLU”), sought, for the period from January 1, 2016, through the present, all records of complaints submitted by the public to DHS, including to the CRCL, the Office of the Immigration Detention Ombudsman (OIDO), and the Office of the Inspector General (OIG), related to language access issues in immigration detention. It included any and all “complaints filed by individuals, family or community members, advocates or advocacy organizations, and/or government offices,”³⁶¹ and it specifically sought complaints regarding lack of adequate language access within a detention facility, including in the context of accessing medical care, the law library, the grievance process, and any other situations where lack of English proficiency has either affected a detained individual’s ability to access detention services or programs, or otherwise been an element of the complaint.³⁶² As of April 4, 2024, in response to this request, the ACLU has received 165 pages of records and 358 rows of spreadsheet data. The spreadsheet data reflected summaries of complaints from OIG and CRCL while other records reflected the underlying original complaints submitted to OIDO and CRCL, both of which were subsequently shared with our research team for analysis.³⁶³ This litigation is ongoing, and our team analyzed records produced as of April 4, 2024.

Request to ICE for records related to ICE facility inspections.

This request, also submitted by the ACLU, sought, for the period from January 1, 2018, through the present, (1) all template forms used by inspection officials in conducting ICE detention facility inspections as overseen by ICE’s Office of

Detention Oversight; and (2) all inspection template forms provided by ICE's Enforcement and Removal Operations to its contractor organization, Nakamoto, as well as all inspection template forms provided from Nakamoto to ICE and as used by inspection officials in conducting ICE detention facility inspections.³⁶⁴ Note that the request did not cover the completed forms or inspection reports but, rather, the template instructions and documents to be filled out or followed.

As of January 4, 2024, in response to this request, the ACLU received 2,291 pages of records and 21,763 rows of spreadsheet data, which it subsequently shared with our research team for analysis. This litigation is ongoing, and our team analyzed records produced as of October 20, 2023.

Study Sample

In total, the research team surveyed or interviewed approximately 233 individuals, who reflected on their experiences in 53 detention centers across the nation. When combined with the facilities about which the team reviewed FOIA data, our findings reach an estimated 125 detention facilities.

In order to produce a study sample representative of the areas of the country in which detained migrants are housed, the research team made particular outreach efforts to reach detained individuals in states with high average populations of detained individuals. While the rate of survey respondents did not always precisely match the distribution of people in immigration detention on a state level, it did align with the distribution of people in immigration detention when considered by region.³⁶⁵ For example, 65% of all survey respondents and interviewees were located in the Southern region, which aligns with the 68% of the national detained population housed in this region today. On a state level, the research team's difficulties accessing survey respondents in Texas were balanced by its ability to contact individuals in other Southern states, including Louisiana and Florida. Table 1 on page 21 shows the total number of accounts the research team reviewed from ICE facilities across the country as part of its study sample.

Limitations

As a first of its kind nationwide assessment of language access services in ICE detention centers, this study is an important first step at uncovering the vast language access deficiencies that exist across ICE detention centers and provides critical information on approximately 67% of ICE detention centers currently holding noncitizens in the United States, a subset which holds approximately 95% of the average daily national detention population.³⁶⁶ The findings from this study are valuable because they show that, although ICE claims to comply with its obligation to provide language access services to detained individuals in its custody,³⁶⁷ it is routinely failing to do so in practice, leading to widespread consequences for the health of detained individuals, the outcomes of their legal cases, and their ability to vindicate their rights. This report provides critical information because the very deficiencies examined here—inadequate language access services—not only deprive detained LEP individuals of critical needs, but also make it effectively impossible for them to raise these issues, assert their rights, or challenge these deficiencies on their own.

At the same time, due to access problems (linguistic and other) in the immigration detention system, the study—and therefore the data—has certain limitations. First, despite the research team’s relentless outreach across the country, it was not able to survey individuals from all ICE detention facilities. This was due in part to the internal policies and practices of certain ICE detention facilities, which made it, at times, impossible to communicate with detained individuals. For example, the team was often unable to set up a call with a detained individual, either because it could not reach ICE personnel or its emails went unanswered. In some cases, the facility would only provide the detained individual instructions to call us in English, a language they did not understand. Individuals were also often only given ten minutes for each call and then the call would be disconnected automatically, forcing them to call us again. These challenges highlight the difficulty of conducting surveys with detained LEP individuals. But equally, if not more important, they also demonstrate how isolated detained LEP individuals are in ICE detention centers. Despite the research team’s resources and English language skills, it was still often unable to reach detained LEP individuals. One can only imagine how difficult it is for detained LEP individuals to try to seek help from the inside—further underscoring the crucial need for meaningful language access.

Beyond this, the research team was completely reliant on referrals from legal services providers to connect with detained individuals. Thus, the limited ability of legal services providers to access certain facilities themselves,³⁶⁸ as well as the limited number of legal service providers serving certain facilities and regions, also made it difficult for the research team to identify survey respondents in rural areas in particular (where a large proportion of people facing removal are detained).³⁶⁹

Due to these limitations, our survey response rate is not uniform across facilities and geographic regions. The data demonstrates that our survey sample is under-representative of individuals detained in Texas, which today houses more than 35% of the nation’s detained individuals.³⁷⁰ This is one state where the research team found that there were particularly high barriers to contacting detained LEP individuals. On the other hand, the research team has a particularly high response rate in New York, the state in which the team has the most connections with legal services providers.³⁷¹

Third, it is also worth noting that the research team was only able to survey and interview detained LEP individuals who had already had some contact with legal services providers. This is because there was no other avenue for identifying and contacting eligible individuals in immigration detention. This means that the results of this study are not representative of the many detained LEP individuals who have never had the opportunity to work with any legal services providers.

Lastly, given all of the challenges noted above, it is important to recognize that this report likely only reveals the tip of the iceberg. Because the research team was unable to reach facilities that do not have reliable procedures for scheduling calls and do not have significant legal services provider coverage, the facilities with the most vulnerable detained populations are underrepresented in this report. Additionally, because the research team had no way to identify and survey individuals who are unable to communicate with any legal services providers, those who speak rare languages or those who lack literacy are likely underrepresented because they have additional barriers to contacting an attorney. Unfortunately, this means the research team did not have access to the individuals who would be most acutely affected by failures of language access. With this in mind, it is likely that the true statistics and impacts are even starker than those included in this report.

Additional Figures and Tables

Figure 17
Country of Origin of Detained Individual Survey Respondents

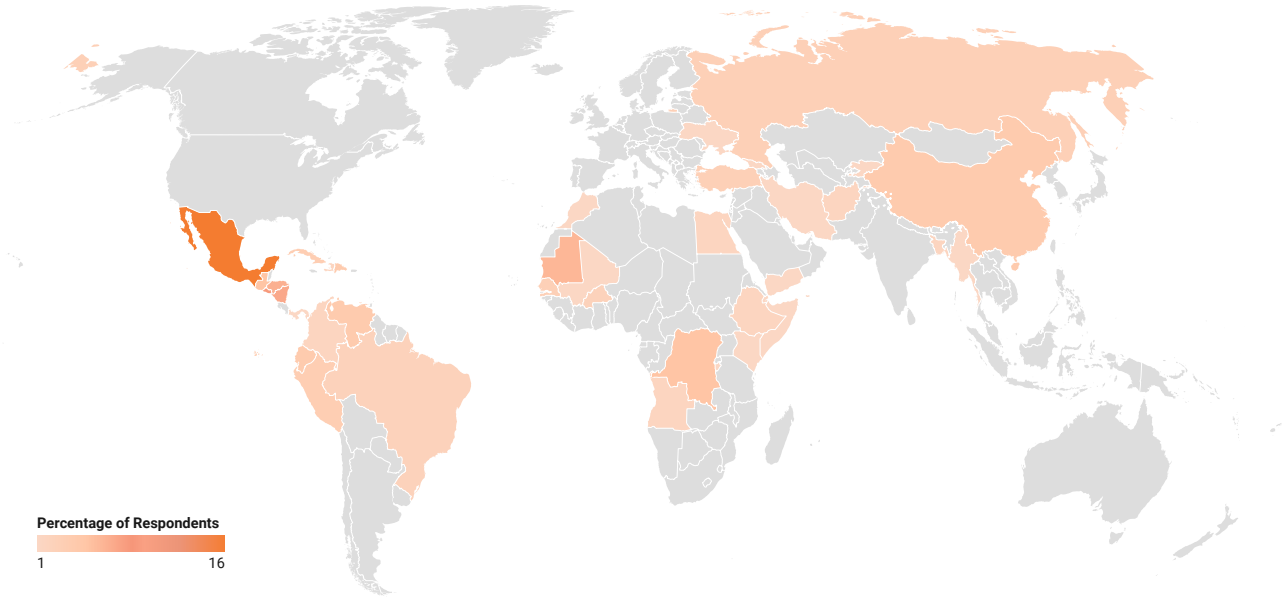


Figure 18
State-by-State Distribution of All Research Data

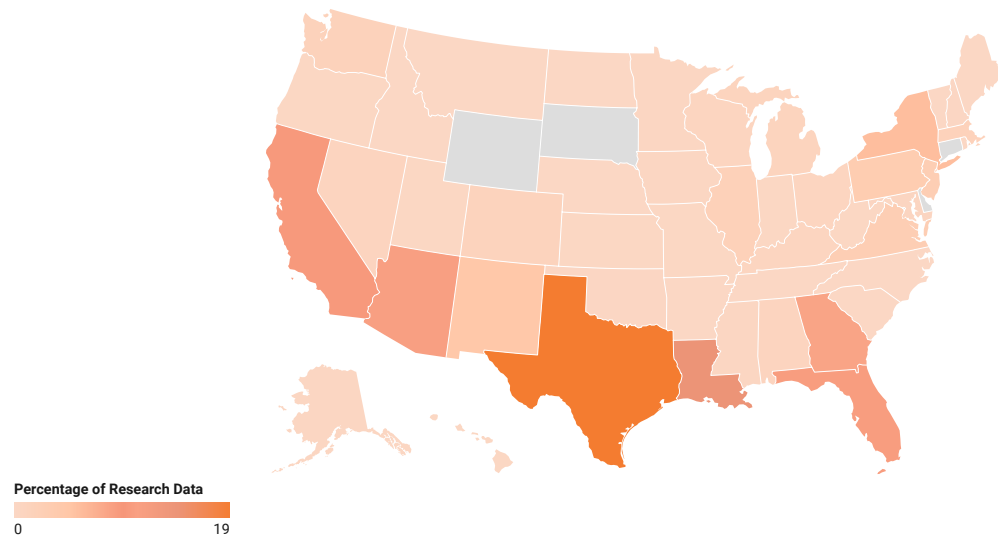


Table 2
Distribution of Country of Origin for Detained Individual Survey Respondents

Country of Origin	Count	Percentage
Afghanistan	2	1.17%
Angola	2	1.17%
Bangladesh	2	1.17%
Brazil	3	1.75%
Burkina Faso	3	1.75%
Burundi	1	0.58%
China	6	3.51%
Colombia	2	1.17%
Cuba	5	2.92%
Democratic Republic of Congo	8	4.68%
Djibouti	1	0.58%
Dominican Republic	6	3.51%
Ecuador	6	3.51%
Egypt	2	1.17%
El Salvador	14	8.19%
Ethiopia	2	1.17%
Georgia	1	0.58%
Guatemala	8	4.68%
Haiti	2	1.17%
Honduras	11	6.43%
Iran	1	0.58%
Kenya	1	0.58%
Kyrgyzstan	1	0.58%
Mali	1	0.58%
Mauritania	10	5.85%
Mexico	28	16.37%
Morocco	1	0.58%
Myanmar	1	0.58%
Nicaragua	12	7.02%
Panama	1	0.58%
Peru	5	2.92%
Russia	4	2.34%
Senegal	4	2.34%
Somalia	1	0.58%
Turkey	4	2.34%
Ukraine	1	0.58%
Venezuela	6	3.51%
Yemen	1	0.58%
Unknown	1	0.58%
Total	171	100.00%

Table 3
Languages Represented by Detained Individual Survey Respondents

Total of 37 languages represented

Language	Count of Fluent Speakers Surveyed	Percent of Speakers Surveyed That Speak Fluently
Amharic	2	0.99%
Arabic	5	2.46%
Bengali	2	0.99%
Bissa	1	0.49%
Chechen	1	0.49%
Chinese (Dialect Not Specified)	3	1.48%
Chinese (Mandarin)	5	2.46%
Chuj	1	0.49%
Dari	1	0.49%
Farsi	1	0.49%
French	12	5.91%
Fula (Fulani)	5	2.46%
Georgian	1	0.49%
Haitian Creole	3	1.48%
Kichwa	3	1.48%
Kikongo	1	0.49%
Kinyarwanda	1	0.49%
Kirundi	1	0.49%
Kurdish	2	0.99%
Kyrgyz	1	0.49%
Lingala	6	2.96%
Mam	2	0.99%
Miskito	3	1.48%
Mooré	3	1.48%
Pashto	1	0.49%
Portuguese	6	2.96%
Pulaar	7	3.45%
Rohingya	1	0.49%
Russian	6	2.96%
Somali	1	0.49%
Soninke	1	0.49%
Spanish	102	50.25%
Swahili	2	0.99%
Tigrinya	1	0.49%
Turkish	4	1.97%
Ukrainian	1	0.49%
Wolof	4	1.97%

Table 4
Compiled Count of Data Sources by Immigration Detention Center

Facility Name	State	Region	Detained Individual Survey	Provider Survey	Individual Interview	FOIA
Adams County Correctional Center	Louisiana	South	3	1	1	7
Adelanto Ice Processing Center	California	West	2		1	15
Alexandria Staging Facility	Louisiana	South			2	2
Allen Parish Public Safety Complex	Louisiana	South	4		2	1
Anchorage Correctional Complex	Alaska	Other				3
Anne Arundel County - Jennifer Rd Detention Center	Maryland	South				1
Atlanta City Detention Center	Georgia	South				3
Arizona - Center Unknown	Arizona	South	1			
Baker County Jail	Florida	South	6	2		19
Bergen County Jail	New Jersey	Northeast				5
Berks County Residential Center	Pennsylvania	Northeast				7
Bluebonnet Detention Facility	Texas	South				3
Boone County Jail	Kentucky	South	3			5
Bossier Parish Correctional Center	Louisiana	South				1
Bristol County Correctional Facility	Massachusetts	Northeast				7
Brooks County Detention Center	Texas	South				1
Broward Transitional Center	Florida	South	13			8
Buffalo (Batavia) Service Processing Center	New York	Northeast	18	3	5	22
Butler County Jail	Kansas	Midwest				1
California - Center Unknown	California	West	1			
Calhoun County Correctional Center	Michigan	Midwest			2	3
Cambria County Jail	Pennsylvania	Northeast				1
Caroline Detention Facility	Virginia	South	5			1
Carver County Jail	Minnesota	Midwest				1
Central Louisiana Ice Processing Center (Lasalle)	Louisiana	South	2		4	21
Central Texas Detention Facility	Texas	South				2
Charleston County Detention Center	South Carolina	South				1
Chippewa County Correctional Facility	Michigan	Midwest				1
Christian County Jail	Missouri	Midwest				1
Cibola County Correctional Center	New Mexico	West				16
Clay County Jail	Indiana	Midwest	1			
Clinton County Correctional Facility	Pennsylvania	Northeast				1
Coastal Bend Detention Center	Texas	South				6
Cobb County Jail	Georgia	South				3
Dekalb County Detention Center	Alabama	South				3
Denver Contract Detention Facility (Aurora)	Colorado	West	5	1		4

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Table 4, continued

Compiled Count of Data Sources by Immigration Detention Center

Facility Name	State	Region	Detained Individual Survey	Provider Survey	Individual Interview	FOIA
Dodge County Jail	Wisconsin	Midwest	2			4
East Hidalgo Detention Center	Texas	South				4
Eden Detention Center	Texas	South				6
El Paso Service Processing Center	Texas	South	8	3		21
El Valle Detention Facility	Texas	South				2
Elizabeth Detention Center	New Jersey	Northeast			1	5
Eloy Federal Contract Facility	Arizona	South	2	18	1	17
Essex County Correctional Facility	New Jersey	Northeast				14
Etowah County Jail	Alabama	South				6
Farmville Detention Center	Virginia	South	1			20
Florence Correctional Center	Arizona	South	2	27	1	23
Folkston Ice Processing Center (Main)	Georgia	South	6			8
Franklin County Jail	New York	Northeast				3
Frederick County Detention Center	Maryland	South				1
Geauga County Jail	Ohio	Midwest				1
Giles W. Dalby Correctional Facility	Texas	South				1
Glades County Detention Center	Florida	South			1	11
Golden State Annex	California	West	11	1	1	3
Hardin County Correctional Center	Iowa	Midwest				3
Henderson Detention Center	Nevada	West				6
Honolulu Federal Detention Center	Hawaii	West				1
Houston Contract Detention Facility	Texas	South				6
Howard County Detention Center	Maryland	South				1
Hudson County Correctional Facility	New Jersey	Northeast				4
IAH Secure Adult Detention Facility (Polk)	Texas	South	2			3
Imperial Regional Adult Detention Facility	California	West				12
Irwin County Detention Center	Georgia	South				27
Jackson Parish Correctional Center	Louisiana	South	3		3	2
James A. Musick Facility	California	West				2
Joe Corley Detention Facility	Texas	South		1		6
Johnson County Detention Facility	Texas	South				3
Kankakee County Jail	Illinois	Midwest				9
Karnes County Immigration Processing Center	Texas	South	1			9
Kay County Detention Center	Oklahoma	South			1	
Kenosha County Detention Center	Wisconsin	Midwest				2
Krome North Service Processing Center	Florida	South	3		1	27
Louisiana - Center Unknown	Louisiana	South	1		1	

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Table 4, continued

Compiled Count of Data Sources by Immigration Detention Center

Facility Name	State	Region	Detained Individual Survey	Provider Survey	Individual Interview	FOIA
La Palma Correctional Center	Arizona	South	1	1		20
Laredo Processing Center	Texas	South		1	1	6
Limestone County Detention Center	Texas	South				2
Madison County Detention Center	Mississippi	South			1	
Marshall County Jail	Iowa	Midwest				1
McHenry County Adult Correctional Facility	Illinois	Midwest				8
Mesa Verde ICE Processing Facility	California	West	1		1	5
Montgomery Processing Center	Texas	South	1		1	17
Morgan County Sheriff's Facility	Michigan	Midwest				1
Morrow County Correctional Facility	Ohio	Midwest				3
Moshannon Valley Processing Center	Pennsylvania	Northeast	15		3	
Nevada Southern Detention Center	Nevada	West				3
Northeast Ohio Correctional Center	Ohio	Midwest				1
Northern Oregon Regional Correctional Facility	Oregon	West				1
New York - Center Unknown	New York	Northeast				1
Okmulgee County Jail	Oklahoma	South	1	2	2	6
Orange County Jail	New York	Northeast		2		38
Otay Mesa Detention Center	California	West	5	2		13
Otero County Processing Center	New Mexico	West	1			
Pennsylvania - Center Unknown	Pennsylvania	Northeast				4
Pike County Correctional Facility	Pennsylvania	Northeast			2	11
Pine Prairie ICE Processing Center	Louisiana	South				1
Pinellas County Jail	Florida	South				8
Plymouth County Correctional Facility	Massachusetts	Northeast				1
Polk County Jail	Texas	South				12
Port Isabel Service Processing Center	Texas	South				1
Puerto Rico - Center Unknown	Puerto Rico	Other				8
Prairieland Detention Facility	Texas	South				3
Pulaski County Jail	Illinois	Midwest	5		2	13
Richwood Correctional Center	Louisiana	South		1		
Rio Grande Detention Center	Texas	South			2	6
River Correctional Center	Louisiana	South				8
Rolling Plains Detention Center	Texas	South				7
San Luis Regional Detention Center	Arizona	South				3
Santa Ana City Jail	California	West				3
Seneca County Jail	Ohio	Midwest				2
Sherburne County Jail	Minnesota	Midwest	10	2	3	3

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Table 4, continued

Compiled Count of Data Sources by Immigration Detention Center

Facility Name	State	Region	Detained Individual Survey	Provider Survey	Individual Interview	FOIA
South Louisiana Detention Center (Basile)	Louisiana	South		1		16
South Texas Family Residential Center	Texas	South	4	1	1	18
South Texas ICE Processing Center (Pearsall)	Texas	South				3
St. Clair County Jail	Michigan	Midwest	8	1		34
Stewart Detention Center	Georgia	South				2
Strafford County Corrections	New Hampshire	Northeast				2
Suffolk County House Of Corrections	Massachusetts	Northeast				14
T. Don Hutto Detention Center	Texas	South	2	1		13
Tacoma ICE Processing Center (Northwest Detention Center)	Washington	West				3
Tallahatchie County Correctional Facility	Mississippi	South				3
Teller County Jail	Colorado	West	2			11
Torrance County Detention Facility	New Mexico	West				1
Virginia Peninsula Regional Jail	Virginia	South				5
Wakulla County Facility	Florida	South		1		4
Webb County Detention Center	Texas	South				1
West Texas Detention Facility	Texas	South				2
Winn Correctional Center	Louisiana	South	10	2	7	18
Worcester County Detention Facility	Maryland	South				2
York County Prison	Pennsylvania	Northeast				2
Yuba County Jail	California	West				2
TOTAL			172	75	54	825

Table 5
State-by-State Distribution of National Average Daily Detained Population and Research Data

State	Percentage of Average Daily Population*	Percentage of Research Data**
Texas	36.14%	18.56%
Louisiana	16.29%	13.94%
California	6.84%	8.97%
Arizona	6.45%	10.75%
Georgia	6.38%	7.99%
Florida	3.76%	8.61%
Pennsylvania	3.74%	3.02%
Mississippi	3.71%	0.36%
New Mexico	3.74%	4.35%
Colorado	2.59%	1.15%
Washington	2.05%	1.42%
New York	1.61%	5.51%
Virginia	1.18%	2.49%
Nevada	0.97%	0.80%
New Jersey	0.60%	2.58%
Michigan	0.68%	0.89%
Kentucky	0.34%	0.71%
Minnesota	0.36%	0.27%
Wisconsin	0.32%	0.71%
Massachusetts	0.50%	1.51%
Ohio	0.31%	0.71%
Oklahoma	0.25%	0.18%
Kansas	0.20%	0.00%
New Hampshire	0.22%	0.18%
Rhode Island	0.16%	0.00%
Iowa	0.14%	0.33%
Indiana	0.11%	0.09%
North Carolina	0.06%	0.00%
Nebraska	0.03%	0.00%
Alabama	0.07%	0.80%
Hawaii	0.05%	0.09%
Idaho	0.02%	0.00%
Guam	0.02%	0.00%
Puerto Rico	0.02%	0.09%
Vermont	0.02%	0.00%
Maine	0.01%	0.00%
Northern Mariana Islands	0.01%	0.00%
South Carolina	0.01%	0.00%

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Table 5, continued

State-by-State Distribution of National Average Daily Detained Population and Research Data

State	Percentage of Average Daily Population*	Percentage of Research Data**
Tennessee	0.02%	0.00%
Utah	0.00%	0.09%
West Virginia	0.01%	0.09%
Arkansas	0.00%	0.00%
Missouri	0.00%	0.09%
Montana	0.00%	0.00%
North Dakota	0.00%	0.00%
Illinois	0.00%	1.78%
Maryland	0.00%	0.44%
Alaska	0.00%	0.27%
Kansas	0.00%	0.09%
Oregon	0.00%	0.09%
Total	100.00%	100.00%

*Detention Facilities Average Daily Population, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE, <https://trac.syr.edu/immigration/detentionstats/facilities.html> (last updated May 13, 2024).

**Research data includes all survey respondents, interviewees, and FOIA complaints reviewed.

Table 6

Regional Distribution of National Average Daily Detained Population and Research Data

Region*	Percentage of Average Daily Population**	Percentage of Research Data***
South	68.20%	65.01%
West	22.72%	17.14%
Northeast	6.86%	12.79%
Midwest	2.17%	4.97%
Other	0.06%	0.09%
Total	100.00%	100.00%

*The regions used for this analysis are those used by the United States Census Bureau. See *Geographic Levels*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/economic-census/guidance-geographies/levels.html#par_textimage_34 (last updated Oct. 8, 2021).

**Detention Facilities Average Daily Population, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE, <https://trac.syr.edu/immigration/detentionstats/facilities.html> (last updated May 13, 2024).

***Research data includes all survey respondents, interviewees, and FOIA complaints reviewed.

Endnotes

- 1 PBNDS 2011 § 6.3(V)(I)(3)(c); NDS 2019 § 6.3(II)(J)(3).
- 2 PHYSICIANS FOR HUM. RTS, “ENDLESS NIGHTMARE”: TORTURE AND INHUMAN TREATMENT IN SOLITARY CONFINEMENT IN U.S. IMMIGRATION DETENTION 1 (Feb. 6, 2024), <https://phr.org/wp-content/uploads/2024/02/PHR-REPORT-ICE-Solitary-Confinement-2024.pdf>; *United States: Overview*, GLOBAL DETENTION PROJECT (May 2021), <https://www.globaldetentionproject.org/countries/americas/united-states>.
- 3 U.S. IMMIGR. & CUSTOMS ENF’T, ICE ANNUAL REPORT 18, 21 (Dec. 29, 2023), <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2023.pdf>.
- 4 *Immigration Quick Facts*, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE, <https://trac.syr.edu/immigration/quickfacts/> (last visited May 21, 2024) (noting that as of May 5, 2024, 36,603 individuals were being detained by ICE).
- 5 U.S. IMMIGR. & CUSTOMS ENF’T, ICE ANNUAL REPORT 18–20 (Dec. 29, 2023), <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2023.pdf> (showing that 60% of all noncitizens detained in FY2023 had no final order of removal). For clarity, we use the term “less common languages” in this report to refer to what are often known as “languages of lesser diffusion” or “minority” languages. This category consists of any language not in the top 20 spoken languages; the list of these languages (for the United States) can be found at *Minority Languages*, INT’L MED. INTERPRETERS ASSOC., https://www.imiaweb.org/divisions/minority_languages.asp (last visited May 24, 2024).
- 6 Exec. Off. for Immigr. Rev., U.S. Dep’t of Just., *Executive Office for Immigration Review Adjudication Statistics: Hearing Language* (Oct. 12, 2023), https://www.justice.gov/d9/pages/attachments/2022/05/26/34_hearings_language.pdf. The number of hearings conducted in other languages has also risen in recent years. *Id.* (showing that only 85% of hearing were conducted in languages other than English in 2014).
- 7 Title VI, Civil Rights Act of 1964, 42 U.S.C. § 2000d (1964); *Lau v. Nichols*, 414 U.S. 563, 566–68 (1974), *abrogated on other grounds by Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978). *See also* Exec. Order No. 13166, 65 Fed. Reg. 50121 (Aug. 11, 2000); Exec. Order No. 13985, 86 Fed. Reg. 7009 (Jan. 25, 2021).
- 8 *Outcomes in Immigration Court Proceedings*, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE, <https://trac.syr.edu/phptools/immigration/closure/> (last visited May 7, 2024) (showing that through March 2024, 81% of noncitizens in the over 1.9 million detained removal cases resolved since FY2001 were not represented by counsel).
- 9 *Commonly Asked Questions*, LIMITED ENGLISH PROFICIENCY, <https://www.lep.gov/commonly-asked-questions> (last visited May 26, 2024) (“Who is a Limited English Proficient (LEP) individual?”).
- 10 U.S. IMMIGR. & CUSTOMS ENF’T, PERFORMANCE BASED NATIONAL DETENTION STANDARDS 2011 §§ 4.3(V)(E), 6.3(II) (2016) [hereinafter “PBNDS 2011”]; U.S. IMMIGR. & CUSTOMS ENF’T, NATIONAL DETENTION STANDARDS, §§ 4.3(II)(G), 6.3(II)(J) 2019) [hereinafter “NDS 2019”]; U.S. IMMIGR. & CUSTOMS ENF’T, LANGUAGE ACCESS PLAN (June 14, 2015), <https://www.ice.gov/sites/default/files/documents/Document/2015/LanguageAccessPlan.pdf>; U.S. IMMIGR. & CUSTOMS ENF’T, ICE LANGUAGE ACCESS PLAN: SUPPLEMENTAL UPDATE COVERING FISCAL YEARS 2019 AND 2020 (July 21, 2020), https://www.dhs.gov/sites/default/files/publications/ice_supplemental_language_access_plan_07-21-20_508.pdf.
- 11 U.S. IMMIGR. & CUSTOMS ENF’T, ICE LANGUAGE ACCESS PLAN: SUPPLEMENTAL UPDATE COVERING FISCAL YEARS 2019 AND 2020, Message from the Director (July 21, 2020), https://www.dhs.gov/sites/default/files/publications/ice_supplemental_language_access_plan_07-21-20_508.pdf; *Language Access Information and Resources*, U.S. IMMIGR. & CUSTOMS ENF’T, <https://www.ice.gov/detain/language-access> (last visited May 14, 2024).
- 12 Marin P. Allen et al., *Language, Interpretation, and Translation: A Clarification and Reference Checklist in Service of Health Literacy and Cultural Respect*, NAT’L ACAD. OF MED. (Feb. 18, 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8406595/pdf/namsp-2020-202002c.pdf>.

13 See, e.g., N.Y. LAWYERS FOR THE PUB. INT., *DETAINED AND DENIED: HEALTHCARE ACCESS IN IMMIGRATION DETENTION* 8 (2017), https://www.nylpi.org/wp-content/uploads/2017/02/HJ-Health-in-Immigration-Detention-Report_2017.pdf; HUM. RTS. WATCH, *et al.*, *CODE RED: FATAL CONSEQUENCES OF DANGEROUSLY SUBSTANDARD MEDICAL CARE IN IMMIGRATION DETENTION* 28–31 (2018), https://www.hrw.org/sites/default/files/report_pdf/us0618_immigration_web2.pdf.

14 See, e.g., Jeremy Slack, Daniel E. Martínez & Josiah Heyman, *Immigration Authorities Systematically Deny Medical Care for Migrants Who Speak Indigenous Languages*, CTR. FOR MIGRATION STUD. OF N.Y. 1–4 (Dec. 2018), <https://cmsny.org/publications/slackmartinezheyman-medical-care-denial/>.

15 See, e.g., Nina Rabin, *Unseen Prisoners: Women in Immigration Detention Facilities in Arizona*, 23 *Geo. Immigr. L.J.* 695 (2009); CAL. DEP'T OF JUST., *THE CALIFORNIA DEPARTMENT OF JUSTICE'S REVIEW OF IMMIGRATION DETENTION IN CALIFORNIA* 1, 18, 29–32 (2021), <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/immigration-detention-2021.pdf>.

16 See *infra*, Table 4; *Detention Facilities Average Daily Population*, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE, <https://trac.syr.edu/immigration/detentionstats/facilities.html> (last updated May 13, 2024). The total number of facilities covered is at least 120, which includes additional detention facilities for which we obtained data through Freedom of Information Act (FOIA) litigation to compel records that included complaints regarding language access issues. This number likely underrepresents the total number of facilities covered, however, as not all FOIA records specified the facility at issue.

17 See, e.g., ACLU, DETENTION WATCH NETWORK & NAT'L IMMIGR. JUST. CTR., *FATAL NEGLIGENCE: HOW ICE IGNORES DEATHS IN DETENTION* 12 (Feb. 2016), https://www.aclu.org/wp-content/uploads/legal-documents/fatal_neglect_acludwnnjic.pdf (“Language and cultural barriers were contributing factors in the failure to address Mr. Gracida’s medical needs, [which resulted in death.]”); *Advocacy groups blame U.S. for immigration detention deaths*, CBS News (Feb. 25, 2016), <https://www.cbsnews.com/news/report-poor-care-in-immigration-detention-leads-to-deaths/> (“[A]dvocates say staff didn’t try to work with a translator to communicate with Gracida-Conte, who spoke an indigenous language and who had been complaining of symptoms for weeks.”); Kendall Taggart, Hamed Aleaziz & Jason Leopold, *More Than 40 Immigrants Have Died In ICE Custody In The Past Four Years. Here Are Thousands Of Records About What Happened*, BUZZFEED NEWS (Oct. 29, 2020), <https://www.buzzfeednews.com/article/kendalltaggart/here-are-thousands-of-documents-about-immigrants-who-died> (“Medical staff at some detention facilities . . . at times did not use an interpreter when treating a detainee with limited English proficiency,” and “[h]e later died while still in ICE custody.”).

18 See PBNDS 2011 § 4.3(V)(E); NDS 2019 § 4.3(II)(G).

19 It is important to note that there are other major problems with medical services in ICE detention centers. These problems have long been documented, but they are not addressed in this report. See, e.g., Amy J. Zeidan, *et al.*, *Medical Mismanagement in Southern US Immigration and Customs Enforcement Detention Facilities: A Thematic Analysis of Secondary Medical Records*, 25 *J. IMMIGRANT & MINORITY HEALTH* 1085, 1085 (2023) (“Major themes include inadequate workup, management and treatment of medical conditions, psychiatric conditions, and medical symptoms. Subthemes identified include incorrect workup, failure to refer to a specialist, incorrect medications and/or treatments, missed or incorrect diagnoses, and exacerbation of chronic conditions.”); *Health in Immigration Detention*, N.Y. LAWYERS FOR THE PUB. INT., <https://www.nylpi.org/campaign/immigrant-health-in-detention/> (last visited May 8, 2024) (describing “[d]enials of vital treatment,” “[d]elayed surgeries,” “[m]issed life-threatening diagnoses,” and “[s]urgical errors”); HUM. RTS. WATCH & CMTY INITIATIVES FOR VISITING IMMIGRANTS IN CONFINEMENT, *SYSTEMIC INDIFFERENCE: DANGEROUS & SUBSTANDARD MEDICAL CARE IN U.S. IMMIGRATION DETENTION* 1 (May 8, 2017), https://www.hrw.org/sites/default/files/report_pdf/usimmigration0517_web_0.pdf (“An ICE investigation into the death of Morales-Ramos found that the medical care he received at both facilities failed to meet applicable standards of care in numerous ways.”).

20 Detained Individual Survey Open-Ended Response Question 33; Garaub Basa, Vonessa Phillips Costa & Priyank Jain, *Clinicians’ Obligation to Use Qualified Medical Interpreters When Caring for Patients with Limited English Proficiency*, 19 *AMA J. ETHICS* 245 (2017), <https://journalofethics.ama-assn.org/article/clinicians-obligations-use-qualified-medical-interpreters-when-caring-patients-limited-english/2017-03>.

21 For clarity on our use of the term “less common languages,” see *supra*, note 5.

22 The regional breakdown of languages in this report is based on the United Nations' Standard Country or Area Codes for Statistical Use (M49). See *Standard Country or Area Codes for Statistical Use (M49)*, United Nations Stat. Div., <https://unstats.un.org/unsd/methodology/m49/> (last visited May 31, 2024).

23 U.S. DEP'T HOMELAND SEC. OFFICE OF C.R. AND C.L., INDIGENOUS LANGUAGE ACCESS PLAN: GOALS AND ACTIVITIES FOR STRENGTHENING LANGUAGE ACCESS FOR INDIGENOUS PERSONS OF LATIN AMERICA IN DHS PROGRAMS AND ACTIVITIES 1 (Feb. 2024), [//www.dhs.gov/sites/default/files/2024-02/24_0228_dhs-indigenous-languages-plan-english-508.pdf](https://www.dhs.gov/sites/default/files/2024-02/24_0228_dhs-indigenous-languages-plan-english-508.pdf); Zefitret Abera Molla, *Improving Language Access in the U.S. Asylum System*, CTR. FOR AM. PROGRESS (May 25, 2023), <https://www.americanprogress.org/article/improving-language-access-in-the-u-s-asylum-system/>.

24 See, e.g., Provider Survey Open-Ended Response Question 18 (Florence); Individual Interview No. 015 (Apr. 30, 2024); Detained Individual Survey Open-Ended Response Question 33 (Jackson Parish).

25 See *supra*, note 13; Provider Survey Question 17 (three providers indicating that they were aware of individuals who died because of delayed care caused by language access deficiencies).

26 See *Fong Yue Ting v. United States*, 149 U.S. 698, 730 (1893) (finding that criminal constitutional protections have no application to civil deportation proceedings). Individuals charged with being removable are entitled to legal representation, but only “at no expense to the Government.” 8 U.S.C. § 1362. See also U.S. DEP'T OF JUST., IMMIGRATION COURT PRACTICE MANUAL § 2.1 (Oct. 25, 2023), <https://www.justice.gov/eoir/book/file/1528921/dl?inline> (confirming that “as in most civil or administrative proceedings, the government does not provide legal counsel”).

27 See *Outcomes in Immigration Court Proceedings*, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE, <https://trac.syr.edu/phptools/immigration/closure/> (last visited May 7, 2024) (showing that through March 2024, 81% of noncitizens in the over 1.9 million detained removal cases resolved since FY2001 were not represented by counsel). See also *Who is Represented in Immigration Court?*, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE (Oct. 16, 2017), <https://trac.syr.edu/immigration/reports/485/> (highlighting the stark difference in representation rates between detained and non-detained noncitizens through FY2017).

28 See *Bounds v. Smith*, 430 U.S. 817, 828 (1977) (recognizing that meaningful access to courts requires prison officials to provide adequate access to legal resources). See also U.S. DEP'T OF HOMELAND SEC., ACCESS TO DUE PROCESS, FISCAL YEAR 2021 REPORT TO CONGRESS 6 (2022), <https://www.dhs.gov/sites/default/files/2022-04/ICE%20-%20Access%20to%20Due%20Process.pdf> (discussing access to law libraries as part of DHS's report to Congress on access to due process in immigration detention).

29 See PBNDS 2011 § 4.3(V)(E); NDS 2019 § 4.3(II)(G).

30 Detained Individual Survey Open-Ended Response Question 19 (Krome).

31 *Id.*

32 *Id.*

33 NDS 2019 § 6.3(II)(J); PBNDS 2011 § 6.3(V)(I)(3).

34 See Email from Counsel for Plaintiff to Counsel for ICE (Sep. 5, 2023, 11:58 EST) (on file with author) (asking if “ICE is representing that none of the subject detention facilities have any written procedures implementing [NDS 2019], Standard 6.3(II)(J) and [PBNDS 2011], Standard 6.3(V)(I)(3)"); Email from Counsel for ICE to Counsel for Plaintiff (Sep. 10, 2023, 16:19 EST) (on file with author) (confirming that “[t]his is correct”).

35 See 8 C.F.R. § 208.6.

36 These rules are articulated through ICE's Performance-Based National Detention Standards 2011 (PBNDS 2011) and 2019 National Detention Standards for Non-Dedicated Facilities (NDS 2019), which together govern the majority of immigration detention facilities. *ICE Detention Standards*, U.S. IMMIGR. & CUSTOMS ENF'T, <https://www.ice.gov/factsheets/ice-detention-standards> (last visited May 14, 2024) (noting that “each detention facility with an U.S. Immigration and Customs Enforcement (ICE) contract must comply with one of several national detention standards[,]” including the NDS 2019 and PBNDS 2011); CONG. RSCH. SERV., MEDICAL STANDARDS IN ICE DETENTION FACILITIES 1 (Apr. 2, 2024), <https://crsreports>.

[congress.gov/product/pdf/IF/IF12623](https://www.congress.gov/product/pdf/IF/IF12623) (indicating that the NDS 2019 and PBNDS 2011 collectively govern 90% of ICE facilities that hold adults).

37 *Language Access Information and Resources*, U.S. IMMIGR. & CUSTOMS ENF'T, <https://www.ice.gov/detain/language-access> (last visited May 14, 2024).

38 PBNDS 2011 § 4.3(V)(E); NDS 2019 § 4.3(II)(G).

39 *Id.*

40 PBNDS 2011 §§ 6.3(II)(11); NDS 2019, Foreword. See also NDS 2019 § 6.3(II)(J).

41 PBNDS 2011 § 6.3(II); NDS 2019, Foreword.

42 PBNDS 2011 § 6.3(V)(I); NDS 2019 § 6.3(II)(J). Stipulation and Order, Kathryn O. Greenberg Immigr. Just. Clinic at Benjamin N. Cardozo Sch. of Law v. U.S. Dep't of Homeland Sec., No. 23 Civ. 05601 (S.D.N.Y. Sep. 26, 2023) (stipulation that ICE determined that there were "no records responsive to Plaintiff's Request" for records "from 36 specified detention facilities nationwide reflecting the 'procedures' required to be established by Standard 6.3(V)(I)(3) of ICE's [PBNDS 2011] and Standard 6.3(II)(J) of [NDS 2019] for working with Limited English Proficiency ('LEP') individuals in ICE's custody"); Email from Counsel for Plaintiff to Counsel for ICE (Sep. 5, 2023, 11:58 EST) (on file with author) (asking if "ICE is representing that none of the subject detention facilities have any written procedures implementing [NDS 2019], Standard 6.3(II)(J) and [PBNDS 2011], Standard 6.3(V)(I)(3)"); Email from Counsel for ICE to Counsel for Plaintiff (Sep. 10, 2023, 16:19 EST) (on file with author) (confirming that "[t]his is correct").

43 U.S. IMMIGR. & CUSTOMS ENF'T, LANGUAGE ACCESS PLAN 1 (June 14, 2015), <https://www.ice.gov/sites/default/files/documents/Document/2015/LanguageAccessPlan.pdf>.

44 *Id.* at 3.

45 See, e.g., U.S. DEP'T OF HOMELAND SEC., U.S. DEP'T HOMELAND SEC. LANGUAGE ACCESS PLAN 5 (Nov. 2023), https://www.dhs.gov/sites/default/files/2023-11/23_1115_dhs_updated-language-access-plan.pdf.

46 See Exec. Order No. 13166, 65 Fed. Reg. 50121 (Aug. 11, 2000); Title VI, Civil Rights Act of 1964, 42 U.S.C. § 2000d (1964); Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency; Policy Guidance, 65 FR 50123-01 (Aug. 16, 2000). See also Exec. Order No. 13985, 86 Fed. Reg. 7009 (Jan. 25, 2021)

47 See *Marincas v. Lewis*, 92 F.3d 195, 204 (3d Cir. 1996) (observing that certain due process guarantees "would be meaningless" if language barriers prevented that person from understanding or being understood). See also *B.C. v. Att'y Gen. United States*, 12 F.4th 306, 316 (3d Cir. 2021); *Perez-Lastor v. INS*, 208 F.3d 773, 778 (9th Cir. 2000); *Augustin v. Sava*, 735 F.2d 32, 36–38 (2d Cir. 1984); *Matter of Tomas*, 19 I. & N. Dec. 464, 465 (BIA 1987).

48 *Immigration Quick Facts*, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE, <https://trac.syr.edu/immigration/quickfacts/> (last visited May 21, 2024) (noting that as of May 5, 2024, 36,603 individuals were being detained by ICE); U.S. IMMIGR. & CUSTOMS ENF'T, ICE ANNUAL REPORT 18, 21 (Dec. 29, 2023), <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2023.pdf>.

49 These options vary in scope and type based on different factors, but may exist even for people who have been previously ordered removed and can serve as an "important safeguard" to "ensure a proper and lawful disposition" of immigration proceedings. *Dada v. Mukasey*, 554 U.S. 1, 18 (2008).

50 U.S. IMMIGR. & CUSTOMS ENF'T, ICE ANNUAL REPORT 19 (Dec. 29, 2023), <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2023.pdf> (showing that 60% of all noncitizens detained in FY2023 had no final order of removal).

51 *Id.* at 18–20.

52 *Id.* (with the top ten countries being Venezuela, Mexico, Honduras, Guatemala, Ecuador, Colombia, El Salvador, Senegal, India, and Mauritania); U.S. DEP'T OF HOMELAND SEC. OFFICE OF C.R. AND C.L., INDIGENOUS LANGUAGES PLAN: GOALS AND ACTIVITIES FOR STRENGTHENING LANGUAGE ACCESS FOR INDIGENOUS PERSONS OF LATIN AMERICA IN DHS PROGRAMS AND ACTIVITIES 1, 4 (Feb. 2024), https://www.dhs.gov/sites/default/files/2024-02/24_0228_dhs-indigenous-languages-plan-english-508.pdf.

- 53 *Commonly Asked Questions*, LIMITED ENGLISH PROFICIENCY, <https://www.lep.gov/commonly-asked-questions> (last visited May 7, 2024) (“Who is a Limited English Proficient (LEP) individual?”).
- 54 Exec. Off. for Immigr. Rev., U.S. Dep’t of Just., *Executive Office for Immigration Review Adjudication Statistics: Hearing Language* (Oct. 12, 2023), https://www.justice.gov/d9/pages/attachments/2022/05/26/34_hearings_language.pdf. The number of hearings conducted in other languages has also risen in recent years. *Id.* (showing that only 85% of hearing were conducted in languages other than English in 2014).
- 55 U.S. IMMIGR. & CUSTOMS ENF’T, ICE ANNUAL REPORT 22 (Dec. 29, 2023), <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2023.pdf>.
- 56 PHYSICIANS FOR HUM. RTS., FROM PERSECUTION TO PRISON: THE HEALTH CONSEQUENCES OF DETENTION FOR ASYLUM SEEKERS 1 (June 1, 2003), <https://phr.org/our-work/resources/from-persecution-to-prison/>.
- 57 See *Bridges v. Wixon*, 326 U.S. 135, 160 (1945) (stressing that deportation can “result[] in the loss ‘of all that makes life worth living’”) (quoting *Ng Fung Ho v. White*, 259 U.S. 276, 284 (1922)).
- 58 See *Fong Yue Ting v. United States*, 149 U.S. 698, 730 (1893) (finding that criminal constitutional protections have no application to civil deportation proceedings). Individuals charged with being removable are entitled to legal representation, but only “at no expense to the Government.” 8 U.S.C. § 1362. See also U.S. DEP’T OF JUST., IMMIGRATION COURT PRACTICE MANUAL § 2.1 (Oct. 25, 2023), <https://www.justice.gov/eoir/book/file/1528921/dl?inline> (noting that “as in most civil or administrative proceedings, the government does not provide legal counsel”).
- 59 U.S. IMMIGR. & CUSTOMS ENF’T, NATIONAL DETAINEE HANDBOOK 29 (2023), <https://www.ice.gov/doclib/detention/ndHandbook/ndhEnglish.pdf>.
- 60 AGENCY FOR HEALTHCARE RSCH. & QUALITY, IMPROVING PATIENT SAFETY SYSTEMS FOR PATIENTS WITH LIMITED ENGLISH PROFICIENCY 4 (Sept. 2012), <https://www.ahrq.gov/health-literacy/professional-training/lepguide/index.html>.
- 61 *Id.* at 3. See also Hilal Al Shamsi, *et al.*, *Implications of Language Barriers for Healthcare: A Systematic Review*, NAT’L LIBR. OF MED. (Mar. 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7201401/>.
- 62 Language access is a necessary but not sufficient component of proper medical care. This report recognizes, but does not explore, other consistent reports about inadequacies in medical care in ICE detention. See *supra*, note 19.
- 63 U.S. IMMIGR. & CUSTOMS ENF’T, ICE ANNUAL REPORT 19 (Dec. 29, 2023), <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2023.pdf>.
- 64 *Outcomes in Immigration Court Proceedings*, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE, <https://trac.syr.edu/phptools/immigration/closure/> (last visited May 7, 2024) (showing that through March 2024, 81% of noncitizens in the over 1.9 million detained removal cases resolved since FY2001 were not represented by counsel).
- 65 8 C.F.R. § 1003.33 (“Any foreign language document offered by a party in a proceeding shall be accompanied by an English language translation and a certification signed by the translator”), § 1003.23(b)(1)(i); U.S. DEP’T OF JUST., IMMIGRATION COURT PRACTICE MANUAL § 3.3(a) (Oct. 25, 2023), <https://www.justice.gov/eoir/reference-materials/ic/chapter-3/3> (“All documents filed with the immigration court must be in the English language or accompanied by a certified English translation.”).
- 66 See, e.g., *infra* at 40–41; 8 C.F.R. § 1003.31(h) (explaining that if an application “is not filed within the time set by the Immigration Judge, the opportunity to file that application . . . shall be deemed waived”); *Matter of R-C-R-*, 28 I. & N. Dec. 74 (BIA 2020) (deeming a detained noncitizen’s asylum application waived when he did not file it by the deadline set by the immigration judge).
- 67 See U.S. DEP’T OF JUST., SELF-HELP GUIDE: WHAT IF YOU DISAGREE WITH THE JUDGE’S DECISION? (Jan. 2022), <https://www.justice.gov/eoir/page/file/1480826/dl?inline>.
- 68 See Sarah Stillman, *When Deportation is a Death Sentence*, THE NEW YORKER (Jan. 8, 2018), <https://www.newyorker.com/magazine/2018/01/15/when-deportation-is-a-death->

sentence. In this context as well, language access is a necessary but not sufficient component of access to a law library, the courts, and fair proceedings. This report recognizes but does not explore other consistent reports about inadequacies in law libraries, access to courts, and legal proceedings in the immigration context. See, e.g., ACLU, HUM. RTS. WATCH & NAT'L IMMIGR. JUST. CTR., JUSTICE-FREE ZONES: U.S. IMMIGRATION DETENTION UNDER THE TRUMP ADMINISTRATION 29 (2020), https://www.aclu.org/wp-content/uploads/publications/justice-free_zones_immigrant_detention_report_aclu_hrwnijc_0.pdf; Mirian G. Martinez-Aranda, *Precarious Legal Patchworking: Detained Immigrants' Access to Justice*, SOCIAL PROBLEMS (2023), <https://doi.org/10.1093/socpro/spad009>; Cindy S. Woods, *Barriers to Due Process for Indigent Asylum Seekers in Immigration Detention*, 45 MITCHEL HAMLINE L.R. 319 (2017).

69 *Marincas v. Lewis*, 92 F.3d 195, 204 (3d Cir. 1996). See also *B.C. v. Att'y Gen. United States*, 12 F.4th 306, 316 (3d Cir. 2021); *Perez-Lastor v. INS*, 208 F.3d 773, 778 (9th Cir. 2000); *Augustin v. Sava*, 735 F.2d 32, 36–38 (2d Cir. 1984); *Matter of Tomas*, 19 I. & N. Dec. 464, 465 (BIA 1987).

70 *Fisher v. Univ. of Tex. at Austin*, 570 U.S. 297, 311-12 (2013). The government may only discriminate on these bases if the classification is narrowly tailored to serve a compelling government interest, “a most exacting standard [that] has proven automatically fatal in almost every case.” *Id.* at 316 (quotation marks omitted).

71 Title VI, Civil Rights Act of 1964, 42 U.S.C. § 2000d (1964). As the Supreme Court held in 1974, these language access protections stem from Title VI's prohibition against discrimination on the basis of national origin. *Lau v. Nichols*, 414 U.S. 563, 566–68 (1974), *abrogated on other grounds by Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978).

72 Exec. Order No. 13166, 65 Fed. Reg. 50121 (Aug. 11, 2000); Exec. Order No. 13985, 86 Fed. Reg. 7009 (Jan. 25, 2021).

73 Memorandum from the Attorney General Merrick Garland, *Strengthening the Federal Government's Commitment to Language Access* (Nov. 21, 2022), https://www.justice.gov/d9/pages/attachments/2022/11/21/attorney_general_memorandum_-_strengthening_the_federal_governments_commitment_to_language_access_508-2.pdf.

74 *Id.* at 1.

75 ICE Detention Standards, U.S. IMMIGR. & CUSTOMS ENF'T, <https://www.ice.gov/factsheets/ice-detention-standards> (last visited May 14, 2024) (noting that “each detention facility with an U.S. Immigration and Customs Enforcement (ICE) contract must comply with one of several national detention standards[,]” including the NDS 2019 and PBNDS 2011); CONG. RSCH. SERV., MEDICAL STANDARDS IN ICE DETENTION FACILITIES 1 (Apr. 2, 2024), <https://crsreports.congress.gov/product/pdf/IF/IF12623> (indicating that the NDS 2019 and PBNDS 2011 collectively govern 90% of ICE facilities that hold adults).

76 U.S. IMMIGR. & CUSTOMS ENF'T, LANGUAGE ACCESS PLAN 6–12 (June 14, 2015), <https://www.ice.gov/sites/default/files/documents/Document/2015/LanguageAccessPlan.pdf>. See also U.S. IMMIGR. & CUSTOMS ENF'T, ICE LANGUAGE ACCESS PLAN: SUPPLEMENTAL UPDATE COVERING FISCAL YEARS 2019 AND 2020 6 (July 21, 2020), https://www.dhs.gov/sites/default/files/publications/ice_supplemental_language_access_plan_07-21-20_508.pdf.

77 U.S. DEP'T HOMELAND SEC., U.S. DEP'T HOMELAND SEC. LANGUAGE ACCESS PLAN 5 (Nov. 2023), https://www.dhs.gov/sites/default/files/2023-11/23_1115_dhs_updated-language-access-plan.pdf.

78 See *supra*, note 75.

79 The NDS 2019 apply to “non-dedicated facilities” not solely used for immigration detention (such as contracted space in state and local jails), while the PBNDS 2011 apply to “dedicated facilities” that only hold individuals detained by ICE. *2019 National Detention Standards for Non-Dedicated Facilities*, U.S. IMMIGR. & CUSTOMS ENF'T (last updated Feb. 18, 2022), <https://www.ice.gov/detain/detention-management/2019>; CONG. RSCH. SERV., MEDICAL STANDARDS IN ICE DETENTION FACILITIES 1 (Apr. 2, 2024), <https://crsreports.congress.gov/product/pdf/IF/IF12623>.

80 PBNDS 2011 § 4.3(I). See also NDS 2019 § 4.3(I).

81 PBNDS 2011 § 4.3(V)(A), (E); NDS 2019 § 4.3(II)(A), (G).

- 82 PBNDS 2011 § 4.3(V)(E); NDS 2019 § 4.3(II)(G).
- 83 PBNDS 2011 § 4.3(V)(E); NDS 2019 § 4.3(II)(G).
- 84 PBNDS 2011 § 6.3(V)(D), (E); NDS 2019 § 6.3(II)(B), (H).
- 85 PBNDS 2011 § 6.3(II)(11); NDS 2019, Foreword.
- 86 PBNDS 2011 § 6.3(V)(I)(3); NDS 2019 § 6.3(II)(J).
- 87 PBNDS 2011 § 6.3(V)(I)(3); NDS 2019 § 6.3(II)(J).
- 88 PBNDS 2011 § 6.3(II)(11). *See also* NDS, Foreword.
- 89 PBNDS 2011 § 6.3(II)(11); NDS 2019, Foreword.
- 90 PBNDS 2011 § 6.3(V)(I)(3); NDS 2019 § 6.3(II)(J).
- 91 U.S. IMMIGR. & CUSTOMS ENF'T, ICE LANGUAGE ACCESS PLAN: SUPPLEMENTAL UPDATE COVERING FISCAL YEARS 2019 AND 2020, Message from the Director (July 21, 2020), https://www.dhs.gov/sites/default/files/publications/ice_supplemental_language_access_plan_07-21-20_508.pdf; *Language Access Information and Resources*, U.S. IMMIGR. & CUSTOMS ENF'T, <https://www.ice.gov/detain/language-access>.
- 92 *Language Access Information and Resources*, U.S. IMMIGR. & CUSTOMS ENF'T, <https://www.ice.gov/detain/language-access>.
- 93 Jasmine Aguilera, *Senate Committee Finds Medical Abuse of Detained Women at Georgia ICE Facility*, TIME (Nov. 16, 2022), <https://time.com/6234031/medical-abuse-georgia-women-detained/>.
- 94 Letter from Project South to Joseph V. Cuffari, Inspector Gen., Dep't of Homeland Sec., *et al.* 19–20 (Sept. 14, 2020), <https://projectsouth.org/wp-content/uploads/2020/09/OIG-ICDC-Complaint-1.pdf> (noting that nurses would try to communicate by “googling Spanish or by asking another detained immigrant to help interpret rather than using the language line as medical staff are supposed to”).
- 95 N.Y. LAWYERS FOR THE PUB. INT., DETAINED AND DENIED: HEALTHCARE ACCESS IN IMMIGRATION DETENTION 8 (2017), <https://www.nympi.org/nympi-report-on-medical-neglect-in-immigrant-detention-facilities-inspires-senators-to-demand-a-response-from-the-trump-administration/>; Jeremy Slack, Daniel E. Martinez & Josiah Heyman, *Immigration Authorities Systematically Deny Medical Care for Migrants Who Speak Indigenous Languages*, CTR. FOR MIGRATION STUD. OF N.Y. 1–4 (Dec. 2018), <https://cmsny.org/publications/slackmartinezheyman-medical-care-denial/>; HUM. RTS. WATCH, *ET AL.*, CODE RED: FATAL CONSEQUENCES OF DANGEROUSLY SUBSTANDARD MEDICAL CARE IN IMMIGRATION DETENTION 28–31 (2018), https://www.hrw.org/sites/default/files/report_pdf/us0618_immigration_web2.pdf.
- 96 *See, e.g.*, Rachel Nolan, *A Translation Crisis at the Border*, THE NEW YORKER (Dec. 30, 2019), <https://www.newyorker.com/magazine/2020/01/06/a-translation-crisis-at-the-border>.
- 97 Freddy Martinez & Nick Schwellenbach, *DHS's Secret Reports on ICE Detention*, PROJECT ON GOV'T OVERSIGHT (Aug. 21, 2023), <https://www.pogo.org/investigations/dhss-secret-reports-on-ice-detention> (using internal DHS documents to reveal that the agency found a years-long pattern of ICE failing to provide adequate translation during medical appointments at one detention facility in Texas); CAL. DEP'T OF JUST., THE CALIFORNIA DEPARTMENT OF JUSTICE'S REVIEW OF IMMIGRATION DETENTION IN CALIFORNIA 1, 18, 29–32 (2021), <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/immigration-detention-2021.pdf>; Nina Rabin, *Unseen Prisoners: Women in Immigration Detention Facilities in Arizona*, 23 GEO. IMMIGR. L.J. 695, 695 (2009). *See also* DEP'T OF HOMELAND SEC. OFF. OF INSPECTOR GE., OIG-18-32, CONCERNS ABOUT ICE DETAINEE TREATMENT AND CARE AT DETENTION FACILITIES 4–5 (2017), <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>.
- 98 Scholars have, however, offered important insights through, for example, broad-based analyses of the legal issues, *see, e.g.*, Katherine L. Beck, *Interpreting Injustice: The Department of Homeland Security's Failure to Comply with Federal Language Access Requirements in Immigration Detention*, 20 HARV. LATINO L. REV. 15 (2017), and in-depth research at the state scale, Nina Rabin, *Unseen Prisoners: Women in Immigration Detention Facilities in Arizona*, 23 GEO. IMMIGR. L.J. 695 (2009).

99 The database contains grievances received by the ACLU of Florida and the HOPE Public Interest Resource Center at the University of Miami School of Law (as of May 29, 2023).

100 *Detention Facilities Average Daily Population*, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE, <https://trac.syr.edu/immigration/detentionstats/facilities.html> (last visited May 14, 2024).

101 Compl., Ex. A, Kathryn O. Greenberg Immigr. Just. Clinic at Benjamin N. Cardozo Sch. of Law v. U.S. Dep't of Homeland Sec., No. 23 Civ. 05601 (S.D.N.Y. June 29, 2023).

102 Compl., Ex. A, Am. C.L. Union Found. v. U.S. Dep't of Homeland Sec., No. 22 Civ. 09083 (N.D. Cal. Dec. 12, 2022). (This FOIA litigation is still ongoing, and the research team reviewed records that were produced as of April 4, 2024.)

103 Compl., Ex. A, Am. C.L. Union Found. v. U.S. Immigr. & Customs Enf't., No. 22 Civ. 07534 (N.D. Cal. Nov. 30, 2022). (This FOIA litigation is still ongoing, and the research team reviewed records that were produced as of October 20, 2023.)

104 PBNDS 2011 § 5.6(V)(E); NDS 2019 § 5.4(II)(E).

105 See, e.g., ACLU, *No FIGHTING CHANCE: ICE'S DENIAL OF ACCESS TO COUNSEL IN U.S. IMMIGRATION DETENTION CENTERS 24* (June 2022), https://www.aclu.org/wp-content/uploads/publications/no_fighting_chance_aclu_research_report.pdf.

106 See ACLU, HUM. RTS. WATCH & NAT'L IMMIGR. JUST. CTR., *JUSTICE-FREE ZONES: U.S. IMMIGRATION DETENTION UNDER THE TRUMP ADMINISTRATION 20–21* (2020), https://www.aclu.org/wp-content/uploads/publications/justice-free_zones_immigrant_detention_report_aclu_hrw_nijc_0.pdf.

107 See International Covenant on Civil and Political Rights art. 6, Dec. 16, 1966, 999 U.N.T.S. 171 (“Every human being has the inherent right to life.”); Human Rights Committee, General comment no. 36, Article 6 (Right to Life), U.N. Doc. CCPR/C/GC/36, at 5 (Oct. 30, 2018) (“States parties also have a heightened duty of care to take any necessary measures to protect the lives of individuals deprived of their liberty by the State,” including “individuals held in private incarceration facilities operating pursuant to an authorization by the State. The duty to protect the life of all detained individuals includes providing them with the necessary medical care . . .”).

108 See, e.g., ACLU, *DETENTION WATCH NETWORK & NAT'L IMMIGR. JUST. CTR., FATAL NEGLECT: HOW ICE IGNORES DEATHS IN DETENTION 12* (Feb. 2016), https://www.aclu.org/wp-content/uploads/legal-documents/fatal_neglect_acludwnnijc.pdf (“Language and cultural barriers were contributing factors in the failure to address Mr. Gracida’s medical needs, [which resulted in death.]”); *Advocacy groups blame U.S. for immigration detention deaths*, CBS News (Feb. 25, 2016), <https://www.cbsnews.com/news/report-poor-care-in-immigration-detention-leads-to-deaths/> (“[A]dvocates say staff didn’t try to work with a translator to communicate with Gracida-Conte, who spoke an indigenous language and who had been complaining of symptoms for weeks.”); Kendall Taggart, Hamed Aleaziz & Jason Leopold, *More Than 40 Immigrants Have Died In ICE Custody In The Past Four Years. Here Are Thousands Of Records About What Happened*, BUZZFEED NEWS (Oct. 29, 2020), <https://www.buzzfeednews.com/article/kendalltaggart/here-are-thousands-of-documents-about-immigrants-who-died> (“Medical staff at some detention facilities . . . at times did not use an interpreter when treating a detainee with limited English proficiency,” and “[h]e later died while still in ICE custody.”).

109 See PBNDS 2011 § 4.3(V)(E); NDS 2019 § 4.3(II)(G).

110 It is important to note that there are other major gaps in medical services in ICE detention centers that are not addressed in this report, but have long been documented. See *supra*, note 19.

111 Detained Individual Survey Question 32 (n=176).

112 Detained Individual Survey Open-Ended Response Question 11, Spanish-speaker at Winn (“I had to submit all medical requests in English.”).

113 See, e.g., Attorney Interview No. 003 (Nov. 15, 2023); Detained Individual Survey Open-Ended Response Question 35, Portuguese-speaker at Basile (“There is no Portuguese language even in the Tablet and no officials who speak Portuguese, only English and some Spanish. It is difficult for me to understand anything. I cannot understand anything here.”); Detained Individual Survey Open-Ended Response Question 11, Turkish-

speaker at Basile (“WE TRIED to put it in tablet, but tablet is in all English.”); Detained Individual Survey Open-Ended Response Question 35, Russian- and Kyrgys-speaker at Jackson Parish (“Language barriers also impact use of phone, tablet and communication services--I cannot use anything in English; no one to communicate with. People who work here only speak English or Spanish.”). Requiring requests to be made in writing is also extremely problematic for individuals with limited literacy.

114 Provider Survey Open-Ended Response Question 15; Attorney Interview No. 006 (Apr. 9, 2024).

115 Detained Individual Survey Open-Ended Response Question 35 (Allen Parish).

116 See PBNDS 2011 § 4.3(V)(E); NDS 2019 § 4.3(II)(G).

117 Detained Individual Survey Question 28 (n=176).

118 Detained Individual Survey Open-Ended Response Question 31 (Richwood).

119 Attorney Interview No. 003 (Nov. 15, 2023).

120 FOIA Response, OIG Supplemental Complaint (No. C2311324) (Winn).

121 FOIA Response, OIG Complaint (No. C2010434) (Limestone).

122 FOIA Response, OIG Complaint (No. C1840259) (Farmville).

123 Detained Individual Survey Question 29 (n=176).

124 FOIA Response, CRCL Complaint (No. 20-03-ICE-0252) (Wakulla); FOIA Response, OIG Complaint (No. C2006788) (Wakulla).

125 Detained Individual Survey Open-Ended Response Question 35 (LaSalle).

126 Individual Interview No. 013 (March 15, 2024) (Moshannon).

127 See, e.g., FOIA Response, OIG Supplemental Complaint (No. C2112801) (Moore-speaker detained at Pine Prairie reporting having to speak broken French, a language in which he lacked fluency, in order to seek medical help, since he was not provided interpretation services); Detained Individual Survey Open-Ended Response Question 35 (Miskito-speaker detained at Broward); FOIA Response, CRCL Complaint (Contact-DHS-21-0398) (Lingala-speaker detained at Pearsall and Laredo).

128 FOIA Response, OIG Complaint (No. C2202246) (Aurora).

129 Provider Survey Open-Ended Response Question 15.

130 Individual Interview No. 009 (Nov. 15, 2022) (Winn).

131 Individual Interview No. 005 (Jan. 16, 2023) (Jackson Parish).

132 Detained Individual Survey Open-Ended Response Question 35 (IAH Polk).

133 See *infra* at 31–32.

134 Detained Individual Survey Open-Ended Response Question 35 (Allen Parish).

135 Detained Individual Survey Question 28 (n=176).

136 Individual Interview No. 004 (Dec. 26, 2022) (LaSalle).

137 Detained Individual Survey Open-Ended Response Question 35 (Broward).

138 Provider Survey Question 15 (n=66). See also FOIA Response, OIG Complaint (No. C1714723) (complaint that, at one Wisconsin detention center, Dodge County, “[t]here are interpreters for Spanish but not for other languages,” and, as a result, his psychiatric conditions had not been adequately treated).

139 Detained Individual Survey Question 28 (n=176).

140 Individual Interview No. 001 (Nov 10, 2022) (LaSalle).

141 Detained Individual Survey Question 33 (n=176).

142 Provider Survey Question 16 (n=61).

- 143 See, e.g., FOIA Response, OIG Complaint (No. C2010434) (Limestone); FOIA Response, OIG Complaint (No. C1840259) (Farmville).
- 144 Detained Individual Survey Open-Ended Response Question 34 (Winn).
- 145 See *supra* note 94.
- 146 Detained Individual Survey Open-Ended Response Question 34 (Aurora).
- 147 Detained Individual Survey Open-Ended Response Question 34.
- 148 PBNDS 2011 § 4.3(V)(E); NDS 2019 § 4.3(II)(G). Under these rules, ICE prohibits the use of other detained people as interpreters in all but “emergency” medical situations. *Id.*
- 149 Detained Individual Survey Question 30 (n=176).
- 150 Attorney Interview No. 003 (Nov. 15, 2023).
- 151 Detained Individual Survey Open-Ended Response Question 31 (Baker).
- 152 Detained Individual Survey Open-Ended Response Question 34 (Jackson Parish).
- 153 Detained Individual Survey Open-Ended Response Question 34.
- 154 Individual Interview No. 001 (Nov. 10, 2022) (LaSalle).
- 155 Individual Interview No. 002 (Nov. 14, 2023) (Golden State).
- 156 FOIA Response, CRCL Complaint (No. 21-07-ICE-0361) (LaSalle).
- 157 FOIA Response, OIG Complaint (No. C2113992) (Port Isabel).
- 158 Devna Bose, *Hospitals must now obtain written consent for certain medical exams, new federal guidance says*, PBS (Apr. 1, 2024), <https://www.pbs.org/newshour/health/hospitals-must-now-obtain-written-consent-for-certain-medical-exams-new-federal-guidance-says> (highlighting that U.S. Department of Health and Human Services issued new guidance to “reiterate and provide clarity” that explicit consent is required before performing sensitive procedures such as pelvic and rectal exams, and noting that at least 20 states had already passed laws requiring such consent).
- 159 Provider Survey Question 17 (n=37).
- 160 Provider Survey Open-Ended Response Question 18 (Florence).
- 161 Detained Individual Survey Open-Ended Response Question 35 (Orange County).
- 162 Attorney Interview No. 002 (Nov. 15, 2023).
- 163 Detained Individual Survey Open-Ended Response Question 35 (Aurora).
- 164 Individual Interview No. 017 (May 6, 2024) (Laredo).
- 165 Detained Individual Survey Open-Ended Response Question 34 (Moshannon). See also Detained Individual Survey Open-Ended Response Question 34 (Baker) (a Spanish-speaker detained in Florida experienced significant diabetic foot pain for six weeks because of language barriers). Although not part of the data collected for this report, another troubling case also reveals similar consequences. In *Rosemarie M. v. Morton*, the court ordered ICE to provide an LEP individual detained in Florida with proper medical treatment for a uterine fibroid tumor causing persistent vaginal bleeding that had been left untreated for months. 671 F. Supp. 2d 1311 (M.D. Fl. 2009). While ICE claimed that the individual had declined treatment that had been offered, the court noted that “at worst, the record reflects that [she] was confused as to the content of the various forms she was being asked to sign due to language barriers.” *Id.* at 1313.
- 166 Provider Survey Question 17 (n=31) (three respondents reported this). Death in immigration detention is not uncommon. Often, there are other factors contributing to these deaths, such as medical neglect. Due to the scope of the report, the research team only highlighted deaths in which language access was a factor. See Cara Buchanan et. al., *Deaths in Immigration and Customs Enforcement (ICE) detention: A Fiscal Year (FY) 2021–2023 update*, 11 AIMS PUB. HEALTH 223, 223–24 (2024), <https://www.aimspress.com/aimspress-data/aimsph/2024/1/PDF/publichealth-11-01-011.pdf> (noting that there were 50 officially reported deaths from FY2018 to FY2023, and that “[i]dentification of medically complex individuals released from ICE custody just prior to death and not reported by ICE

indicates that reported deaths underestimate total deaths associated with ICE detention”); U.S. DEP’T. HOMELAND SEC., ICE AND CBP DEATHS IN CUSTODY DURING FY 2021 3 (Feb. 1, 2023), <https://www.oig.dhs.gov/sites/default/files/assets/2023-02/OIG-23-12-Feb23.pdf> (highlighting problems with ICE handling or providing “timely and appropriate care” to two of five individuals who died in ICE custody in 2021).

167 See *Fong Yue Ting v. United States*, 149 U.S. 698, 730 (1893) (finding that criminal constitutional protections have no application to civil deportation proceedings). Individuals charged with being removable are entitled to legal representation, but only “at no expense to the Government.” 8 U.S.C. § 1362. See also U.S. DEP’T OF JUST., IMMIGRATION COURT PRACTICE MANUAL § 2.1 (Oct. 25, 2023), <https://www.justice.gov/eoir/book/file/1528921/dl?inline> (confirming that “as in most civil or administrative proceedings, the government does not provide legal counsel”).

168 See *Outcomes in Immigration Court Proceedings*, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE, [HTTPS://TRAC.SYR.EDU/PHPTOOLS/IMMIGRATION/CLOSURE/](https://trac.syr.edu/PHPTOOLS/IMMIGRATION/CLOSURE/) (LAST VISITED MAY 7, 2024) (SHOWING THAT through March 2024, 81% of noncitizens in the over 1.9 million detained removal cases resolved since FY2001 were not represented by counsel). See also *Who is Represented in Immigration Court?*, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE (Oct. 16, 2017), <https://trac.syr.edu/immigration/reports/485/> (highlighting the stark difference in representation rates between detained and non-detained noncitizens through FY2017).

169 See *Bounds v. Smith*, 430 U.S. 817, 828 (1977) (recognizing that meaningful access to courts requires prison officials to provide adequate access to legal resources). See also U.S. DEP’T OF HOMELAND SEC., ACCESS TO DUE PROCESS, FISCAL YEAR 2021 REPORT TO CONGRESS 6 (2022), <https://www.dhs.gov/sites/default/files/2022-04/ICE%20-%20Access%20to%20Due%20Process.pdf> (discussing access to law libraries as part of DHS’s report to Congress on access to due process in immigration detention).

170 See PBNDS 2011 § 6.3(V)(I)(3); NDS 2019 § 6.3(II)(J)(3).

171 See PBNDS 2011 § 6.3(V)(I). See also NDS 2019 § 6.3(II)(J).

172 Detained Individual Survey Question 17 (n=69).

173 See Detained Individual Survey Open-Ended Response Question 19 (Krome); Detained Individual Survey Open-Ended Response Question 19 (Broward); Detained Individual Survey Open-Ended Response Question 19 (Buffalo); Detained Individual Survey Open-Ended Response Question 19 (Baker).

174 Detained Individual Survey Open-Ended Response Question 19 (Winn); Detained Individual Survey Open-Ended Response Question 19 (LaSalle); Detained Individual Survey Open-Ended Response Question 19 (Aurora); Detained Individual Survey Open-Ended Response Question 19 (El Paso).

175 Individual Interview No. 003 (Nov. 1, 2022) (Winn).

176 PBNDS 2011 § 6.3(V)(A), (E); NDS 2019 § 6.3(II)(A), (H), (J).

177 Detained Individual Survey Question 8 (n=176).

178 Attorney Interview No. 002 (Nov. 15, 2023); Attorney Interview No. 003 (Nov. 15, 2023); Provider Survey Question 5 (n=59).

179 Provider Survey Question 5 (n=59).

180 Attorney Interview No. 001 (Nov. 6, 2023).

181 Detained Individual Survey Question 9 (n=176).

182 PBNDS 2011 § 6.3(V)(A); NDS 2019 § 6.3(II)(A).

183 Detained Individual Survey Question 9 (n=176).

184 Attorney Interview No. 002 (Nov. 15, 2023); Attorney Interview No. 003 (Nov. 15, 2023).

185 *Immigration Detention Quick Facts*, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE, <https://trac.syr.edu/immigration/quickfacts/> (last visited May 9, 2024) (ranking as of April 21, 2024).

186 See ACLU, HUM. RTS. WATCH & NAT’L IMMIGR. JUST. CTR., JUSTICE-FREE ZONES: U.S. IMMIGRATION DETENTION UNDER THE TRUMP ADMINISTRATION 20–21 (2020), https://www.aclu.org/wp-content/uploads/publications/justice-free_zones_immigrant_detention_report_aclu_hrwn_nijc_0.pdf.

- 187 Detained Individual Survey Open-Ended Response Question 11 (Aurora).
- 188 Detained Individual Survey Open-Ended Response Question 11 (Eloy). *See also* Detained Individual Survey Open-Ended Response Question 11 (a Spanish-speaker detained at Golden State reported that the facility did not allow detained individuals any time to access the law library).
- 189 General law library access was not a primary focus of our research, however, and these are just some of the issues that detained LEP individuals specifically cited as impacting them.
- 190 Detained Individual Survey Question 12 (n=107).
- 191 Detained Individual Survey Open-Ended Response Question 11 (Broward). *See also* Detained Individual Survey Open-Ended Response Question 11 (another Spanish-speaker detained at Broward describing how he tried to ask for access to the law library, but the guards just told him they do not speak Spanish).
- 192 Detained Individual Survey Open-Ended Response Question 11 (Moshannon).
- 193 Detained Individual Survey Open-Ended Response Question 11 (Basile).
- 194 Even when tablets do contain some translated materials, these materials are often still inaccessible to detained LEP individuals given the lack of translation of features of the tablet itself, such as menu options and keyboards. Moreover, these tablets are simply inaccessible to individuals who cannot read or write in any language.
- 195 Detained Individual Survey Open-Ended Response Question 11. *See also* Detained Individual Survey Open-Ended Response Question 11 (Broward) (“[T]here’s no point in me going to the library because they do not have someone there to help me in Spanish.”).
- 196 *See* Detained Individual Survey Open-Ended Response Question 11 (Krome); Detained Individual Survey Open-Ended Response Question 15 (Adelanto).
- 197 PBNDS 2011 § 6.3(V)(E); NDS 2019 § 6.3(II)(H), (J).
- 198 Detained Individual Survey Question 18 (n=69).
- 199 Attorney Interview No. 001 (Nov. 6, 2023); Detained Individual Survey Open-Ended Response Question 25 (Baker). *See also* Detained Individual Survey Open-Ended Response Question 11 (Moshannon).
- 200 Detained Individual Survey Question 14 (n=124).
- 201 Attorney Interview No. 002 (Nov. 15, 2023); Attorney Interview No. 003 (Nov. 15, 2023).
- 202 Individual Interview No. 005 (Jan. 16, 2023) (Jackson Parish).
- 203 Detained Individual Survey Open-Ended Response Question 15 (Mossi-speaker detained at LaSalle); Individual Interview No. 003 (Nov. 1, 2022) (Spanish-speaker detained at Winn).
- 204 Individual Interview No. 003 (Nov. 1, 2022) (Winn).
- 205 Detained Individual Survey Open-Ended Response Question 15 (Aurora).
- 206 Detained Individual Survey Open-Ended Response Question 15 (Broward).
- 207 Detained Individual Survey Open-Ended Response Question 11 (El Paso).
- 208 Attorney Interview No. 002 (Nov. 15, 2023); Attorney Interview No. 003 (Nov. 15, 2023).
- 209 Attorney Interview No. 004 (Nov. 16, 2023).
- 210 Detained Individual Survey Question 14 (n=124).
- 211 PBNDS 2011 § 6.3(II)(11); NDS 2019, Foreword.
- 212 Detained Individual Survey Question 14 (n=124).
- 213 Detained Individual Survey Open-Ended Response Question 15 (Winn).

- 214 Attorney Interview No. 004 (Nov. 16, 2023).
- 215 Detained Individual Survey Open-Ended Response Question 11. These facilities include Adelanto, Aurora, Baker, Broward, Golden State, LaSalle, Mesa Verde, Stewart, and Torrance.
- 216 Detained Individual Survey Question 7 (n=158).
- 217 Individual Interview No. 004 (Dec. 26, 2022) (South Louisiana, LaSalle, Eloy).
- 218 Detained Individual Survey Open-Ended Response Question 11 (Eloy).
- 219 Detained Individual Survey Question 17 (n=69).
- 220 *Id.*
- 221 U.S. IMMIGR. & CUSTOMS ENF'T, ICE ANNUAL REPORT 19 (Dec. 29, 2023), <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2023.pdf> (showing that 60% of all noncitizens detained in FY2023 had no final order of removal).
- 222 See *Outcomes in Immigration Court Proceedings*, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE, <https://trac.syr.edu/phptools/immigration/closure/> (last visited May 7, 2024) (showing that through March 2024, 81% of noncitizens in the over 1.9 million detained removal cases resolved since FY2001 were not represented by counsel).
- 223 8 C.F.R. § 1003.33 (“Any foreign language document offered by a party in a proceeding shall be accompanied by an English language translation and a certification signed by the translator”), § 1003.23(b)(1)(i); U.S. DEP’T OF JUST., IMMIGRATION COURT PRACTICE MANUAL § 3.3(a) (Oct. 25, 2023), <https://www.justice.gov/eoir/reference-materials/ic/chapter-3/3> (“All documents filed with the immigration court must be in the English language or accompanied by a certified English translation.”).
- 224 Emails from Sarah Gillman, Dir. of Strategic U.S. Litig., Robert F. Kennedy Hum. Rts, to Lindsay Nash *et al.*, Cardozo Rsch. Team (May 25, 2023, 9:25 EST – Apr. 3, 2024, 11:02 EST) (on file with author).
- 225 *Id.*
- 226 *Id.*
- 227 See U.S. DEP’T OF JUST., BOARD OF IMMIGR. APPEALS PRACTICE MANUAL §§ 2-4, <https://www.justice.gov/eoir/book/file/1528926/dl?inline> (chapters last updated June 1, Oct. 25, & Nov. 7, 2023, respectively).
- 228 Emails from Sarah Gillman, Dir. of Strategic U.S. Litig., Robert F. Kennedy Hum. Rts, to Lindsay Nash *et al.*, Cardozo Rsch. Team (May 25, 2023, 9:25 EST – Apr. 3, 2024, 11:02 EST) (on file with author).
- 229 These challenges are all the more pronounced for LEP individuals who cannot read or write in any language and require oral interpretation of all documents.
- 230 Detained Individual Survey Open-Ended Response Question 19 (Aurora); Detained Individual Survey Open-Ended Response Question 35 (Stewart, Aurora).
- 231 Detained Individual Survey Open-Ended Response Question 35 (Richwood).
- 232 *Id.*
- 233 Individual Interview No. 013 (Mar. 15, 2024) (Moshannon).
- 234 *Id.*
- 235 Detained Individual Survey Open-Ended Response Question 19 (Moshannon).
- 236 Detained Individual Survey Open-Ended Response Question 19 (Krome, Buffalo/Batavia, Golden State, Broward, Moshannon, Baker).
- 237 Detained Individual Survey Open-Ended Response Question 19 (Buffalo/Batavia).
- 238 I.N.A. § 101(a)(42)(a) (to qualify for asylum, an applicant must have a well-founded fear of future persecution); 8 C.F.R. § 208.13(a) (burden of proof in asylum case is on the applicant to establish a credible fear of persecution); 8 C.F.R. § 208.13(b) (eligibility requirements for asylum).

- 239 Detained Individual Survey Open-Ended Response Question 19 (Buffalo/Batavia).
- 240 Provider Survey Question 13 (n=53).
- 241 8 C.F.R. § 1003.33 (“Any foreign language document offered by a party in a proceeding shall be accompanied by an English language translation and a certification signed by the translator”), § 1003.23(b)(1)(i); U.S. DEP’T OF JUST., IMMIGRATION COURT PRACTICE MANUAL § 3.3(A) (Oct. 25, 2023), <https://www.justice.gov/eoir/reference-materials/ic/chapter-3/3> (“All documents filed with the immigration court must be in the English language or accompanied by a certified English translation.”).
- 242 See *Preparing the Asylum Declaration*, IMMIGRATION EQUALITY, <https://immigrationequality.org/asylum/asylum-manual/application-process-preparing-the-asylum-declaration/> (last visited May 11, 2024) (“Every application for asylum should include a declaration, or narrative from the client, detailing their experiences in their country of origin, reasons for fleeing, and reasons that they fear returning. This document is the single most important component of the written asylum application because it allows the client to tell their story completely and, as much as possible, in their own words.”).
- 243 Detained Individual Survey Open-Ended Response Questions 15, 19 (Broward).
- 244 *Id.* In a case involving similar issues, the Ninth Circuit upheld an immigration judge’s denial of an asylum application and specified that not being able to speak English does not qualify as an extraordinary circumstance justifying a late filing, assuming—contrary to our findings here—that “the government makes translators available to immigrants who do not speak or read English.” *Toj-Culpatan v. Holder*, 612 F.3d 1088–89, 1091 (9th Cir. 2010).
- 245 Detained Individual Survey Open-Ended Response Question 19 (El Paso). See also *Yan Juan Chen v. Holder*, 658 F.3d 246, 252–53 (2d Cir. 2011) (upholding denial of asylum claim where applicant failed “to present reasonably available corroborating evidence to support her application”).
- 246 Provider Survey Question 13 (n=53).
- 247 Detained Individual Survey Open-Ended Response Question 17 (Mesa Verde, Winn).
- 248 Detained Individual Survey Open-Ended Response Question 17 (Winn).
- 249 Provider Survey Question 13 (n=53).
- 250 Detained Individual Survey Open-Ended Response Question 19 (Broward, Adams County); Detained Individual Survey Open-Ended Response Question 35 (Unknown Detention Center).
- 251 Detained Individual Survey Open-Ended Response Question 19 (Broward).
- 252 FOIA Response, CRCL Complaint (T. Don Hutto).
- 253 Detained Individual Survey Open-Ended Response Question 19 (Adams County).
- 254 Detained Individual Survey Open-Ended Response Question 35 (Winn).
- 255 Detained Individual Survey Open-Ended Response Question 11 (Buffalo/Batavia); Detained Individual Survey Open-Ended Response Question 17 (Adelanto)
- 256 Letter from Yvette Clark, Representative, U.S. House of Representatives, to Alejandro Mayorkas, Sec. of Dep’t Homeland Security, *et al.*, Mar. 15, 2024, <https://drive.google.com/file/d/1BS-N6hRly4e4am4iGwoeUYw0CpJgJHrd/view>.
- 257 Individual Interview No. 014 (Mar. 20, 2024) (Buffalo/Batavia).
- 258 *Id.*
- 259 Detained Individual Survey Open-Ended Response Question 19 (Baker). See also FOIA Response, CRCL Complaint (South Texas Family Residential Center).
- 260 See, e.g., Jennifer Gieselmann, *An Invisible Wall: How Language Barriers Block Indigenous Latin American Asylum-Seekers*, 27 *TRANSNAT’L L. & CONTEMP. PROBS.* 451, 470 (2018) (documenting several additional instances of how the dearth of translation services in detention causes many detained LEP individuals, particularly speakers of languages indigenous to Latin America face prolonged detention); Katherine M. Becker, *Linguistic Refoulement*, *N.Y.U. REV. L. & SOC. CHANGE* (forthcoming 2024) (manuscript at 80–81),

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4416699.

261 PBNDS 2011 § 6.3(II)(8), (11); NDS 2019, Foreword, § 6.3(II)(J).

262 Detained Individual Survey Question 7 (n=164).

263 *Id.*

264 *Id.*

265 Detained Individual Survey Open-Ended Response Question 11 (Orange County).

266 *Id.*

267 *Id.*

268 See 2023-ICLI-00007 1449 (produced in response to FOIA request at Compl., Ex. A, Am. C.L. Union Found. v. U.S. Immigr. & Customs Enf't., No. 22 Civ. 07534 (N.D. Cal. Nov. 30, 2022) (on file with author) (ICE facility inspection documents suggesting that “helping the detainee obtain assistance from other detainees with appropriate language, reading and writing abilities in using the law library” is sufficient for compliance, despite the robust requirements of PBNDS 2011 § 6.3(II)(11)); Letter on behalf of R. to U.S. Dep’t of Homeland Sec. Off. of C.R. and C.L. 11 (July 7, 2023) (on file with author) (email from ICE claiming compliance with PBNDS 2011 because “bilingual detainees are available and can be scheduled to assist detained noncitizens in the law library to prepare their cases”).

269 See *supra* at 16–18. While the PBNDS and NDS generally require facilities to “permit detainees to assist other detainees in researching and preparing legal documents upon request,” that does not vitiate their responsibility to provide “meaningful access” to the law library, which means accurate and reliable interpretation and translation through “professional interpretation and translation services” or “bilingual staff.” PBNDS 2011 § 6.3(II)(11); see also NDS 2019, Foreword (“Meaningful access may be accomplished through professional in-person or telephonic interpretation and translation services or bilingual personnel. Except in emergencies, other detainees should not be used as interpreters or translators.”).

270 Individual Interview No. 012 (Mar. 14, 2024) (Winn).

271 *Id.*

272 *Id.*

273 Detained Individual Survey Open-Ended Response Question 11 (Adelanto).

274 Individual Interview No. 001 (Nov. 10, 2022) (LaSalle).

275 See Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 75 Fed. Reg. 34465, 34470 (June 17, 2010) (“Competency requires more than self-identification as bilingual When using interpreters, recipients should ensure that they . . . [h]ave knowledge in both languages of any specialized terms or concepts peculiar to the entity’s program or activity and of any particularized vocabulary and phraseology used by the LEP person”).

276 *Id.*

277 Attorney Interview No. 007 (Feb. 8, 2024).

278 *Id.*

279 Katherine M. Becker, *Linguistic Refoulement*, N.Y.U. REV. L. & SOC. CHANGE (forthcoming 2024) (manuscript at 42), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4416699.

280 See Form I-589, Application for Asylum and for Withholding of Removal, <https://www.uscis.gov/sites/default/files/document/forms/i-589.pdf> (specifying that applicants “must provide a detailed and specific account of the basis of [their] claim to asylum . . . to the best of your ability, provide . . . descriptions about each event of action described”).

281 See 8 C.F.R. § 208.6; U.S. DEP’T OF JUST., IMMIGRATION COURT PRACTICE MANUAL § 4.9(a) (Oct. 25, 2023), <https://www.justice.gov/eoir/book/file/1528921/dl?inline>.

282 Detained Individual Survey Open-Ended Response Question 19 (Baker).

- 283 Detained Individual Survey Open-Ended Response Question 19 (Baker).
- 284 Per I.N.A. § 208(b)(1)(B)(iii), immigration judges must consider “internal consistencies” of noncitizens accounts in making credibility determinations, which are critical to obtaining any type of relief from deportation.
- 285 Detained Individual Survey Open-Ended Response Question 19 (Krome) (previously detained in Essex County).
- 286 *Id.*
- 287 *Id.*
- 288 See, e.g., Matter of Y-I-M-, 27 I. & N. Dec. 724 (BIA 2019) (upholding the denial of an individual’s asylum claim based on an adverse credibility finding due to inconsistencies in the record).
- 289 Detained Individual Survey Open-Ended Response Question 11 (El Paso), 15 (Winn), 25 (Richwood).
- 290 Email from Laura Belous, Florence Immigrants’ Rts. Project, to Lindsay Nash, Cardozo Rsch. Team (Mar. 7, 2024, at 6:05PM) (on file with author).
- 291 See, e.g., Marouf v. Lynch, 811 F.3d 174, 178 (6th Cir. 2016) (involving case in which immigration judge denied asylum to a family due to their use of the words “accident” and “attack” to describe the same incident and to their dating of this incident to 2006 or 2007 in different accounts). Fortunately, the judge’s negative credibility determination in *Marouf* was eventually overturned on appeal, but there—unlike in most detained cases—the family used a professional interpreter and was represented by an attorney. *Id.*
- 292 Detained Individual Survey Open-Ended Response Question 19 (Winn).
- 293 Detained Individual Survey Open-Ended Response Question 19 (Baker); Detained Individual Survey Open-Ended Response Question 35 (Unknown).
- 294 See *supra* at 64–65 (highlighting the challenged the research team faced in contacting detained LEP individuals).
- 295 See PBNDS 2011 § 6.3(V)(I)(3); NDS 2019 § 6.3(II)(J)(3).
- 296 Detained Individual Survey Open-Ended Response Question 19 (Baker); Detained Individual Survey Open-Ended Response Question 35 (Unknown). See also Individual Interview No. 013 (March 15, 2024) (Moshannon).
- 297 See *Franco-Gonzalez v. Holder*, No. CV 10-02211 DMG DTBX, 2013 WL 3674492 (C.D. Cal. Apr. 23, 2013); *National Qualified Representative Program*, U.S. DEP’T OF JUST., <https://www.justice.gov/eoir/national-qualified-representative-program-nqrp> (last visited May 12, 2024).
- 298 Provider Survey Open-Ended Response Question 17 (Eloy, LaPalma).
- 299 Provider Survey Question 14 (n=52).
- 300 *Id.*
- 301 *Id.*
- 302 *Id.*
- 303 PBNDS 2011 § 4.3(V)(E); NDS 2019 § 4.3(II)(G).
- 304 See *supra* at 22–28.
- 305 Detained Individual Survey Question 32 (n=176).
- 306 Detained Individual Survey Question 29 (n=176).
- 307 Detained Individual Survey Question 28 (n=176).
- 308 *Id.*
- 309 PBNDS 2011 § 4.3(V)(E); NDS 2019 § 4.3(II)(G).
- 310 See *supra* at 29–30.

- 311 Detained Individual Survey Question 30 (n=176).
- 312 See PBNDS 2011 § 6.3(II)(1)–(11); NDS 2019 § 6.3(II)(A)–(P).
- 313 See *supra* at 34–36.
- 314 Detained Individual Survey Question 9 (n=176).
- 315 Detained Individual Survey Question 18 (n=69).
- 316 Detained Individual Survey Question 14 (n=124).
- 317 *Id.*; Attorney Interview No. 002 (Nov. 15, 2023); Attorney Interview No. 003 (Nov. 15, 2023).
- 318 PBNDS 2011 § 6.3(II)(11); NDS 2019, Foreword.
- 319 See *supra* at 37–39.
- 320 Detained Individual Survey Question 18 (n=69).
- 321 Detained Individual Survey Question 14 (n=124).
- 322 Detained Individual Survey Question 7 (n=164).
- 323 See 2023-ICLI-00007 1449 (produced in response to FOIA request at Compl., Ex. A, Am. C.L. Union Found. v. U.S. Immigr. & Customs Enf’t., No. 22 Civ. 07534 (N.D. Cal. Nov. 30, 2022) (on file with author) (ICE facility inspection documents suggesting that “helping the detainee obtain assistance from other detainees with appropriate language, reading and writing abilities in using the law library” is sufficient for compliance, despite the robust requirements of PBNDS 2011 § 6.3(II)(11)); Letter on behalf of R. to U.S. Dep’t of Homeland Sec. Off. of C.R. and C.L. 11 (July 7, 2023) (on file with author) (email from ICE claiming compliance with PBNDS 2011 because “bilingual detainees are available and can be scheduled to assist detained noncitizens in the law library to prepare their cases”).
- 324 Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 75 Fed. Reg. 34465, 34470 (June 17, 2010).
- 325 See *supra* at 43–45.
- 326 See PBNDS 2011 § 6.3(V)(I)(3); NDS 2019 § 6.3(II)(J).
- 327 See Stipulation and Order, Kathryn O. Greenberg Immigr. Just. Clinic at Benjamin N. Cardozo Sch. of Law v. U.S. Dep’t of Homeland Sec., No. 23 Civ. 05601 (S.D.N.Y. Sep. 26, 2023); Email from Counsel for Plaintiff to Counsel for ICE (Sep. 5, 2023, 11:58 EST) (on file with author) (asking if “ICE is representing that none of the subject detention facilities have any written procedures implementing [NDS 2019], Standard 6.3(II)(J) and [PBNDS 2011], Standard 6.3(V)(I)(3)”; Email from Counsel for ICE to Counsel for Plaintiff (Sep. 10, 2023, 16:19 EST) (on file with author) (confirming that “[t]his is correct”).
- 328 See *supra* at 35–36.
- 329 Detained Individual Survey Question 14 (n=124).
- 330 PBNDS 2011 § 6.3(V)(I)(3); NDS 2019 § 6.3(II)(J).
- 331 Detained Individual Survey Question 14 (n=124).
- 332 *Id.*
- 333 See U.S. IMMIGR. & CUSTOMS ENF’T, LANGUAGE ACCESS PLAN 1 (June 14, 2015) <https://www.ice.gov/sites/default/files/documents/Document/2015/LanguageAccessPlan.pdf>; U.S. IMMIGR. & CUSTOMS ENF’T, ICE LANGUAGE ACCESS PLAN: SUPPLEMENTAL UPDATE COVERING FISCAL YEARS 2019 AND 2020, Message from the Director (July 21, 2020), https://www.dhs.gov/sites/default/files/publications/ice_supplemental_language_access_plan_07-21-20_508.pdf.
- 334 U.S. IMMIGR. & CUSTOMS ENF’T, LANGUAGE ACCESS PLAN 3 (June 14, 2015) <https://www.ice.gov/sites/default/files/documents/Document/2015/LanguageAccessPlan.pdf>. See also U.S. IMMIGR. & CUSTOMS ENF’T, ICE LANGUAGE ACCESS PLAN: SUPPLEMENTAL UPDATE COVERING FISCAL YEARS 2019 AND 2020 1 (July 21, 2020), https://www.dhs.gov/sites/default/files/publications/ice_supplemental_language_access_plan_07-21-20_508.pdf.

335 See U.S. DEP'T HOMELAND SEC., U.S. DEP'T HOMELAND SEC. LANGUAGE ACCESS PLAN 11–13 (Nov. 2023), https://www.dhs.gov/sites/default/files/2023-11/23_1115_dhs_updated-language-access-plan.pdf.

336 See, e.g., *B.C. v. Att'y Gen. United States*, 12 F.4th 306, 316 (3d Cir. 2021) (“Failing to provide an interpreter when needed makes meaningless a noncitizen’s right to due process.”); *Perez-Lastor v. INS*, 208 F.3d 773, 778 (9th Cir. 2000) (“It is long-settled that a competent translation is fundamental to a full and fair hearing. If [a noncitizen] does not speak English, deportation proceedings must be translated into a language the [noncitizen] understands.”); *Augustin v. Sava*, 735 F.2d 32, 37 (2d Cir. 1984) (“A hearing is of no value when the [noncitizen] and the judge are not understood.”); *Matter of Tomas*, 19 I. & N. Dec. 464, 465 (BIA 1987) (“The presence of a competent interpreter is important to the fundamental fairness of a hearing, if the [noncitizen] cannot speak English fluently.”).

337 *Fisher v. Univ. of Tex. at Austin*, 570 U.S. 297, 311-12 (2013); see also *Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency; Policy Guidance*, 65 FR 50123-01 (explaining, in a different context, that the “failure to assure that people who are not proficient in English can effectively participate in and benefit from programs and activities may constitute national origin discrimination”). The government may only discriminate on these bases if the classification is narrowly tailored to serve a compelling government interest, “a most exacting standard [that] has proven automatically fatal in almost every case.” *Id.* at 316 (quotation marks omitted).

338 See PBNDS 2011 § 6.3(V)(I)(3); NDS 2019 § 6.3(II)(J).

339 See Stipulation and Order, Kathryn O. Greenberg Immigr. Just. Clinic at Benjamin N. Cardozo Sch. of Law v. U.S. Dep’t of Homeland Sec., No. 23 Civ. 05601 (S.D.N.Y. Sep. 26, 2023); Email from Counsel for Plaintiff to Counsel for ICE (Sep. 5, 2023, 11:58 EST) (on file with author) (asking if “ICE is representing that none of the subject detention facilities have any written procedures implementing [NDS 2019], Standard 6.3(II)(J) and [PBNDS 2011], Standard 6.3(V)(I)(3)”; Email from Counsel for ICE to Counsel for Plaintiff (Sep. 10, 2023, 16:19 EST) (on file with author) (confirming that “[t]his is correct”).

340 Ivana Čeňková, *Sight interpreting/translation*, ROUTLEDGE ENCYCLOPEDIA OF INTERPRETING STUDIES 374 (2015).

341 Detained Individual Survey Open-Ended Response Question 35 (IAH Polk, Mesa Verde, Broward, Winn, Clay, Dodge, Moshannon, Baker, Golden State, Montgomery, Richwood, Allen Parish).

342 *Id.* (LaSalle, Winn, Basile, Broward, Buffalo/Batavia, Adelanto, Adams County, Richwood).

343 U.S. DEP'T HOMELAND SEC., U.S. DEP'T HOMELAND SEC. LANGUAGE ACCESS PLAN 11 (Nov. 2023), https://www.dhs.gov/sites/default/files/2023-11/23_1115_dhs_updated-language-access-plan.pdf.

344 See 5 U.S.C. § 553 (describing rulemaking process).

345 While CRCL has an online portal for complaints, that may be difficult or impossible for people in detention and is not accessible in many of the languages that this report indicates are most in need of assistance. See U.S. Dep’t Homeland Security, *File a Civil Rights Complaint*, <https://www.dhs.gov/submit-civil-rights-complaint-using-fillable-complaint-form> (last accessed May 14, 2024).

346 U.S. DEP'T OF JUST., *LANGUAGE ACCESS IN IMMIGRATION COURT*, DM 23-02, 1 (June 6, 2023), <https://www.justice.gov/eoir/book/file/1586686/dl>.

347 *Id.* at 3.

348 *Id.* at 3–4.

349 *Id.*

350 8 C.F.R. § 1003.35(b)(1).

351 The database contains grievances received by the ACLU of Florida and the HOPE Public Interest Resource Center at the University of Miami School of Law (as of May 29,

2023). The database data did not record language of each complaint made at the time, but the researchers reviewed the logs for relevant data that explicitly mentioned language access issues in the law library and medical care contexts.

352 While all survey and interview respondents were not compensated, Dr. Peacock was paid for his services.

353 For a detailed assessment of ICE's shortcomings in providing detained individuals access to counsel, see ACLU, *NO FIGHTING CHANCE: ICE'S DENIAL OF ACCESS TO COUNSEL IN U.S. IMMIGRATION DETENTION CENTERS* (June 2022), https://www.aclu.org/wp-content/uploads/publications/no_fighting_chance_aclu_research_report.pdf.

354 Compl., Ex. A, Kathryn O. Greenberg Immigr. Just. Clinic at Benjamin N. Cardozo Sch. of Law v. U.S. Dep't of Homeland Sec., No. 23 Civ. 05601 (S.D.N.Y. June 29, 2023).

355 Compl., Ex. A, Am. C.L. Union Found. v. U.S. Dep't of Homeland Sec., No. 22 Civ. 09083 (N.D. Cal. Dec. 12, 2022).

356 Compl., Ex. A, Am. C.L. Union Found. v. U.S. Immigr. & Customs Enf't., No. 22 Civ. 07534 (N.D. Cal. Nov. 30, 2022).

357 PBNS 2011 § 6.3(V)(I)(3); NDS 2019 § 6.3(II)(J).

358 Compl. at ¶ 20, Kathryn O. Greenberg Immigr. Just. Clinic at Benjamin N. Cardozo Sch. of Law v. U.S. Dep't of Homeland Sec., No. 23 Civ. 05601 (S.D.N.Y. June 29, 2023)

359 See Email from Counsel for Plaintiff to Counsel for ICE (Sep. 5, 2023, 11:58 EST) (on file with author) (asking if "ICE is representing that none of the subject detention facilities have any written procedures implementing [NDS 2019], Standard 6.3(II)(J) and [PBNS 2011], Standard 6.3(V)(I)(3)"); Email from Counsel for ICE to Counsel for Plaintiff (Sep. 10, 2023, 16:19 EST) (on file with author) (confirming that "[t]his is correct").

360 Stipulation & Order, Kathryn O. Greenberg Immigr. Just. Clinic at Benjamin N. Cardozo Sch. of Law v. U.S. Dep't of Homeland Sec., No. 23 Civ. 05601 (S.D.N.Y. Sept. 26, 2023).

361 Compl., Ex. A, Am. C.L. Union Found. v. U.S. Dep't of Homeland Sec., No. 22 Civ. 09083 (N.D. Cal. Dec. 12, 2022).

362 *Id.*

363 CRCL produced 117 pages of complaints; OIDO produced 21 pages of complaints; OIG produced 27 pages of complaints and 358 rows of spreadsheet data (358 rows of complaints).

364 Compl., Ex. A, Am. C.L. Union Found. v. U.S. Immigr. & Customs Enf't., No. 22 Civ. 07534 (N.D. Cal. Nov. 30, 2022).

365 For the regional distribution, see *infra*, Table 6 at 74. The regions used for this analysis are those used by the United States Census Bureau. See *Geographic Levels*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/economic-census/guidance-geographies/levels.html#par_textimage_34 (last updated Oct. 8, 2021).

366 *Detention Facilities Average Daily Population*, TRANSACTIONAL REC. ACCESS CLEARINGHOUSE, <https://trac.syr.edu/immigration/detentionstats/facilities.html> (last visited May 14, 2024).

367 *Language Access Information and Resources*, U.S. IMMIGR. & CUSTOMS ENF'T., <https://www.ice.gov/detain/language-access> (last visited May 14, 2024).

368 See, e.g., ACLU, *NO FIGHTING CHANCE: ICE'S DENIAL OF ACCESS TO COUNSEL IN U.S. IMMIGRATION DETENTION CENTERS* 24 (June 2022), https://www.aclu.org/wp-content/uploads/publications/no_fighting_chance_aclu_research_report.pdf ("Requiring a scheduled appointment to visit in person also creates significant hurdles for attorneys who may be traveling several hours to meet with clients at remote detention facilities.").

369 See ACLU, HUM. RTS. WATCH & NAT'L IMMIGR. JUST. CTR., *JUSTICE-FREE ZONES: U.S. IMMIGRATION DETENTION UNDER THE TRUMP ADMINISTRATION 20-21* (2020), https://www.aclu.org/wp-content/uploads/publications/justice-free_zones_immigrant_detention_report_aclu_hrw_nijc_0.pdf.

370 See *infra* at 73.

371 See *id.*

