



# Washington State Auditor's Office

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## Whistleblower Investigation Report Department of Corrections

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December 28, 2015

Dan Pacholke, Secretary  
Department of Corrections

### Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. WB 15-023 at the Department of Corrections.

The State Auditor's Office received an assertion of improper governmental activity at the Agency. This assertion was submitted to us under the provisions of Chapter 42.40 of the Revised Code of Washington, the Whistleblower Act. We have investigated the assertion independently and objectively through interviews and by reviewing relevant documents. This report contains the result of our investigation.

Questions about this report should be directed to Whistleblower Manager Jim Brownell at (360) 725-5352.

Sincerely,

TROY KELLEY  
STATE AUDITOR  
OLYMPIA, WA

cc: Vicki DeBoer, Audit Director/Ethics Administrator  
Governor Jay Inslee  
Kate Reynolds, Executive Director, Executive Ethics Board  
Justin Brackett, Investigator

# WHISTLEBLOWER INVESTIGATION REPORT

## Assertion and results

Our Office received a whistleblower complaint asserting a superintendent at a Department of Corrections (Department) correctional center (facility) failed to provide interpreters to educate limited English proficient offenders regarding their rights under the Federal Prison Rape Elimination Act (PREA).

We found no reasonable cause to believe the subject committed an improper governmental action. However, we found delivery of required education was temporarily delayed to limited English proficient offenders.

## Background

The Federal Prison Rape Elimination Act is a set of national standards adopted by the Department of Justice to prevent, detect, and respond to prison rape. PREA requires each correctional facility to educate offenders regarding their rights to be free from sexual abuse. The education must be given within 30 days of the offender's arrival at each facility, and must be presented in a format understood by the offender.

At the facility limited English proficient offenders receive the education in a classroom setting through a video, with an interpreter present to answer questions. Because the facility is not budgeted funds for a full-time interpreter, it relies on employee volunteers who are certified to interpret. The education classes are scheduled according to the availability of the volunteer interpreters.

## About the Investigation

We examined the records of 100 limited English proficient offenders with PREA education deadlines between October 2014 and June 2015. We found 22 offenders did not receive the education within 30 days of arrival because the facility did not have volunteer interpreters to conduct the classes from January 12 to March 16, 2015.

The facility relied on two volunteers to interpret for the limited English proficient PREA class, both of whom stopped volunteering on November 13, 2014, and January 12, 2015, respectively. The first volunteer informed the scheduling office on November 13, 2014, but this information did not reach facility management until late January. The second interpreter said he may have waited between two or three weeks after he stopped volunteering before informing the scheduling office.

When PREA program management learned they had no interpreters on January 27, 2015, they immediately began the process of recruiting and training new volunteers. The process took six weeks to complete, during which time no limited English proficient PREA classes were held.

Although the facility could have used an outside interpreter, the manager responsible for the PREA program said that is a difficult process and the facility's resources were focused instead on the long-term solution of training new volunteers. The facility currently has two certified interpreters for the PREA classes.

It was not until late February that the superintendent became aware of the problem. Although he took responsibility for the missed deadlines, we found he was not directly responsible for administering the classes nor was he apprised of the situation when it occurred.

## **Recommendation**

We recommend the Department strengthen its ability to comply with federal law by developing contingencies to prevent future gaps in interpretive services.

## **Agency's Plan of Resolution**

*The Department of Corrections (DOC) thanks the State Auditor's Office for your investigation regarding offenders receiving federally required Prison Rape Elimination Act (PREA) information.*

*Although, the investigation found the subject did not violate federal standards, DOC takes its responsibility very seriously, and as a result has taken several steps to address issues raised during this investigation including:*

- *Training and mobilizing additional certified translators at the facility in question.*
- *Recommendations are being considered for a bilingual staff person in each facility mail room, not only for use with verbal translation services, but also when written interpretation is needed.*
- *Effective July 1, 2015, DOC entered into new statewide interpretive service agreements with vendors through the Department of Enterprise Services. All vendors providing interpretive services to offenders must complete department required PREA training. These contracted resources will allow the department to continue providing services when internal resources are unavailable.*

*Contracted vendors can provide interpretive services to offenders, in-person, and by telephone, and are available through an "Interpretation Vendor Portal" accessible from the department's website. The Department has communicated the availability of additional interpretive resources to staff so they can quickly access them when needed. By providing several interpretive alternatives, the Department can ensure offenders have access and are oriented to required information from local, state, and federal levels.*

## **State Auditor's Office Concluding Remarks**

We thank Agency officials and personnel for their assistance and cooperation during the investigation.

## WHISTLEBLOWER INVESTIGATION CRITERIA

We came to our determination in this investigation by evaluating the facts against the criteria below:

### 28 CFR Part 115.33(b), (d)

(b) Within 30 days of intake, the agency shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.

(d) The agency shall provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.

### RCW 72.09.135 Adoption of standards for correctional facilities

The department of corrections shall, no later than July 1, 1987, adopt standards for the operation of state adult correctional facilities. These standards shall be the minimums necessary to meet federal and state constitutional requirements relating to health, safety, and welfare of inmates and staff, and specific state and federal statutory requirements, and to provide for the public's health, safety, and welfare. The need for each standard shall be documented.

### DOC Policy# 490.800 §3A-Offender Accommodations

Professional interpreter or translation services are available to assist offenders in understanding this policy, reporting allegations, and/or participating in investigations of sexual misconduct per DOC 450.500 Language Services for Limited English Proficient (LEP) Offenders.