

EFFECTIVE COMMUNICATION WITH DEAF OFFENDERS IN CORRECTIONS AND LAW ENFORCEMENT

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DISCLAIMER

OPINIONS EXPRESSED HEREIN OR OTHERWISE ARE THOSE OF THE SPEAKER AND DO NOT NECESSARILY REFLECT THE VIEWS OF CENTURION, THE PHILADELPHIA DEPARTMENT OF PRISONS, OR THE PHILADELPHIA POLICE DEPARTMENT.

2

CORRECTIONS AND LAW ENFORCEMENT PERSONNEL HAVE UNIQUE ISSUES IN PROVIDING EFFECTIVE COMMUNICATION TO DEAF AND HARD OF HEARING OFFENDERS. DEAF OFFENDERS IN CUSTODY OF LOCAL, COUNTY, OR STATE FACILITIES, OR UNDER POST-RELEASE SUPERVISION BY CORRECTIONS, HAVE AS FULL AND EQUAL ENJOYMENT OF ITS SERVICES, PRIVILEGES, FACILITIES, ADVANTAGES, AND ACCOMMODATIONS AS NON-DEAF OFFENDERS. THE PRESENTER WILL DISCUSS EXPERIENCES WITH ADA COMPLIANCE IN THE CORRECTIONS AND LAW ENFORCEMENT ENVIRONMENT. TOPICS ADDRESSED WILL INCLUDE TECHNOLOGY, SECURITY, PRIVACY AND TRAINING.

3

OBJECTIVES

- Participants will be able to recognize ADA issues in Correctional/Law Enforcement facilities and in courts
- Participants will be able to identify technology and sign language services used in Correctional/Law Enforcement facilities in compliance with the ADA
- Participants will be able to identify current legal trends in ADA cases involving Corrections and Law Enforcement

4

LEGAL REQUIREMENTS FOR CORRECTIONS AND LAW ENFORCEMENT UNDER THE ADA

- Title II of the Americans with Disabilities Act
- "No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by a public entity."
- This applies to State and Local Government and is enforced by the Department of Justice.

5

DUTY TO PROVIDE EFFECTIVE COMMUNICATION

- Law enforcement/corrections must provide communication aids and services needed to communicate effectively with people who are deaf or hard of hearing except when a particular aid or service would result in undue burden or fundamentally change the nature of law enforcement services provided. An alternative aid or service must be provided to ensure effective communication if a particular aid or service would result in an undue burden.

6

ADA COORDINATOR

- ADA Coordinator is a position legally mandated by the Department of Justice. The ADA Coordinator is responsible for coordinating the efforts of the government entity to comply with Title II and investigate any complaints that the entity has violated Title II. The name, office address, and telephone number of the ADA Coordinator must be posted and provided to interested persons.
- ADA Coordinator is responsible to implement a disability tracking system and also track accommodations used by inmates.

7

TITLE II OF THE ADA

- Law Enforcement and Correctional facilities are required to make their programs, activities and services accessible.
- Title II outlines the requirements for self-evaluation and planning; making reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination. Title II of the ADA is regulated by the U.S. Department of Justice.

8

HELPFUL DEFINITIONS

- **Effective Communication** provides Deaf Offenders opportunities to participate in and enjoy benefits of services, programs, and activities substantially equal to that enjoyed by an Offender who is not deaf.
- **Qualified Interpreter** is an interpreter who, via a video remote interpreting (VRI) or video relay service (VRS) or an on-site appearance, is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary.
- **Disability** means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

9

MORE HELPFUL DEFINITIONS

- **Auxiliary Aids and Services** Assistance provided through services, equipment or modifications to provide equal access for disabled or impaired individuals to activities, programs and privileges. These aids and services include, but are not limited to:
 1. Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments.
 2. Qualified readers, taped texts or other effective methods of making visually delivered materials available to individuals with visual impairments.
 3. Acquisition or modification of equipment or devices and other similar services and actions.

10

AUXILIARY AIDS AND SERVICES

- Auxiliary Aids and Services which can be used as visual aids are:
- Notepad and pen/pencil to exchange written notes. Assistive listening systems or devices to amplify sound for hard of hearing persons. Captioning or the use of a certified sign language interpreter for more lengthy and complex communication (i.e. arrests/interrogations/interviews).

11

AUXILIARY AIDS AND SERVICES FOR DEAF/HARD OF HEARING

- Communication Card
- Communication Access Real Time Translation (CART)
- Telephone handset amplifiers
- Videophones / Captioned phones
- Telephone compatible with hearing aids
- Interpreters or CART for CCTV
- Video Remote Interpreting (VRI)
- Qualified interpreters for interrogations / Miranda Warning
- Text to 911
- Other effective methods of making aurally delivered materials available to the Deaf and HOH

12

ILLINOIS – J88 – BEST PRACTICE FOR DEAF DRIVERS

- Deaf person can request "J88" notation be added to driver's license. "J88" will appear on both the front and back of the driver's license.
- Include your driver's license number on your vehicle registration to link the two together.
- If you are stopped by a law enforcement officer, he/she will run your license plate or driver's license number, and a "Deaf/Hard of Hearing; Uses Alternative Communication" message will appear. The officer will then know to use alternative communication.
- You must request the "J88" notation. No Secretary of State personnel will ask you to include it on your driver's license.

13



14

TEXT TO 911 - DEAF/DEAF-BLIND/HOH & SPEECH DISABLED

- Alternative to Voice or Sign
- Silent form of communication if flashing light, vibration and audio is turned off on cell phone (will not alert perpetrator)
- If home address is connected with text number for e911 – effective if 911 caller is at home.
- Good for users comfortable with written English
- May not be available in your area, may need to use Videophone Relay, CapTel or TTY instead
- May alert perpetrator if sound, flashing light or vibration is on
- May not be at home when calling 911 – location may not be evident to police. Will need to text exact address to police
- Cannot write/type in ASL

15

INTERPRETER ETIQUETTE

- Always address your comments, questions, and concerns directly to the person with whom you are talking, never to the interpreter.
- Always look directly at a person who has a hearing loss, not the interpreter. Use eye to eye contact.
- Use facial expressions and body language to communicate the emotion of a message, such as displeasure or approval.

16

MORE INTERPRETER ETIQUETTE

- Let the deaf individual determine the best seating arrangement in order for him or her to see the speaker and interpreter.
- Ensure that one person speaks at a time. Interpreters are required to interpret everything regardless of its relevance, including side conversations if audible.

17

AMERICAN SIGN LANGUAGE (ASL) - ORIGIN

- ASL originally came from Paris, France as Langue Signes Française (LSF) to the United States in the early 1800s and has its own sentence structure, grammar and syntax.
- ASL was originally French Sign Language and was based on the French sentence structure. In English we would say "the red car;" However, in France they would say "the car red" since their word order is different. Similarly, a Deaf person would sign the noun before the adjective in ASL.

18

DEAF PERSON MAY THINK OR WRITE IN ASL

- If American Sign Language is a Deaf person's first language, he or she will also be "thinking" in ASL. For instance, "Finish touch SF" is American Sign Language for "I went to San Francisco."
- A Deaf person may also write in ASL – I have seen examples of this on social media ("ASL That!" page on Facebook). A Deaf person may write or type as they are "thinking" in American Sign Language.

19

NO WRITTEN EQUIVALENT OF ASL

- Even though a culturally Deaf person may be writing or thinking in ASL, there is no written equivalent of ASL.
- Hopefully this highlights the importance of having qualified and impartial sign language interpreters for effective communication in Law Enforcement and Corrections, since sign language is not based on the English grammatical structure and word order.

20

POLICE/CORRECTIONAL CULTURE VS. DEAF CULTURE

- | | |
|---|--|
| • Police use audio alerting system | • Deaf use visual/tactile alerts |
| • Police can "hear" in the dark | • Deaf need light to "hear" w/ eyes |
| • Police "call out" to get attention | • Deaf tap on shoulder to "call out" |
| • Police use tone of voice to convey emotion | • Deaf use facial expressions and body language to convey tone |
| • Police do not need eye contact to communicate | • Deaf need eye contact to communicate |
| • Police can request lawyer | • Deaf can request lawyer and interpreter |

21



EXTERNAL ADA CONSULTANT TO PHILADELPHIA POLICE DEPARTMENT

- As an external ADA Consultant to the PPD, I provided practical ways to implement accommodations to Deaf and Hard of Hearing Citizens of Philadelphia and contributed to written policy and procedures developed in compliance with the DOJ settlement agreement with the City of Philadelphia and the PPD.

23

DOJ SETTLEMENT WITH PHILADELPHIA POLICE DEPARTMENT – AUGUST 2018

- DOJ alleged that PPD did not provide effective communication and did not provide auxiliary aids and services to provide effective communication with deaf detainees.
- PPD has made improvements in the provision of effective communication and auxiliary aids and services as part of the DOJ Settlement Agreement.

24

DOJ SETTLEMENT WITH PPD

- PPD has adopted ADA policy and procedures, has trained personnel on the ADA, provided accessible telephone equipment, and has paid eight aggrieved individuals a total of \$97,500.
- In the following slides we will be discussing specific accommodations put into practice by Philadelphia Police Department as part of their settlement agreement.

25

PHILADELPHIA POLICE DEPARTMENT COMMUNICATION CARD



26

COMMUNICATION TIPS

- Get my attention first and make sure we have eye contact.
- Increase volume of your voice, but do not shout. Give me a chance to understand you and what you ask me to do. Repeat, rephrase or write request if necessary.
- Use visual aids such as communication card or other printed information such as a citation.
- I cannot lip-read everything you say. I may only understand sign language.

27

MORE COMMUNICATION TIPS

- Avoid shining a flashlight in my face, as it makes it hard for me to see and communicate with you.
- Avoid any background noise as it may drastically reduce my ability to hear and understand.
- A hearing aid or cochlear implant does not allow me to understand everything you say.
- If I am going to be arrested or asked to come in for questioning, I may need:

28

COMMUNICATION ACCOMMODATIONS

- A Pennsylvania certified American Sign Language Interpreter.
- A Stenographer or Communication Access Real-time Translation (CART) for captioning conversations.
- In order to make a phone call, I may need a Videophone, Internet Service, a computer, a CapTel phone, or a cell phone for texting.

29

PHILADELPHIA ADA PREMISE HISTORY

- In Philadelphia a Radio Room Supervisor will create a premise history for the location if applicable, indicating resident having a disability (i.e. deaf, blind, medical issues – seizures, diabetes, or behavioral health issues, etc.).
- Premise History alerts police, fire and EMS that there is a person with a disability in the household through 911 dispatchers and aids the City of Philadelphia in their response.
- <https://www.phillypolice.com/assets/forms-reports/PPD-ADARegistration.pdf>

30

CERTIFIED INTERPRETERS ARE AVAILABLE THROUGH POLICE RADIO

- Certified Interpreters are available through Police Radio
- Radio dispatcher or responding officers: provide as much information as you can about the deaf or hard of hearing individual's preferred choice of communication to the interpreting agency.
- Different types of sign language interpreters may be requested – oral, tactile (deaf-blind), Certified Deaf Interpreter/Hearing interpreter team, etc.

31

DO NOT USE FAMILY MEMBERS AS INTERPRETERS

- As a general rule, family members should never be used as interpreters (except in the case of life-threatening and immediate emergencies), because they may not be able to be impartial in the transmission of information and may not be aware of legal issues. However, with the aid of a certified ASL interpreter, Deaf signers can act as complainants and witnesses.

32



DEAF/HOH ARRESTEE'S COMMUNICATION NEEDS

- When a Deaf/HOH person is to be arrested, absent exigent circumstances (threat to officers' safety), handcuff the individual in front of the body as an accommodation to allow the individual to use sign language or to communicate in writing.
- Establish preliminary communication to advise the suspect the reason for the arrest and to determine need for communication auxiliary aid.

34

TRANSPORTATION OF DEAF/HOH ARRESTEE

- Ask the arrestee if they want someone notified about the arrest and where they are being transported. If desired, attempt to contact family member, friend or other available responsible contact and inform them that prisoner is being transported to Police Department.
- Transport arrestee in Radio Patrol Car instead of Police Van for communication and safety purposes.

35

DOCUMENT DISABILITY AND COMMUNICATION PREFERENCE

- Upon arrival, notify Police Department personnel of the individual's disability (Deaf/Hard of Hearing) and the name/contact information of interpreter or CART service will be included in the Prisoner's Medical Checklist and Security Concerns of Prisoner Flow Chart
- It is critically important to document the individual's disability to ensure the individual receives the appropriate aids and services from other criminal justice agencies.

36

ALLOW DEAF DETAINEE TO MAKE A PHONE CALL

- Once preferred communication is established, advise the prisoner that a Videophone, a Telecommunication Device for the Deaf and/or a Captioned Phone is available to communicate with family or an attorney. Allow the prisoner to make a call.
- Recognize that interpreted calls will take longer than a typical phone call and accommodate prisoners accordingly.

37

PHONE CALLS AND VISITS IN POLICE DEPARTMENT

- Calls made in Police Department cannot be monitored.
- Document all prisoners and equipment used (VP, TDD/TTY and CapTel phone) in the User Log.
- Police Department will arrange visits between deaf/HOH prisoner and any authorized person, including any sign language interpreter or captioning services.

38

COMMUNICATION ACCESS DURING ARRAIGNMENT

- Police Department Personnel will ensure that appropriate auxiliary aids or services (certified sign language interpreters or captioning services) are utilized during the arraignment via CCTV and that court staff are aware that the prisoner is deaf or hard of hearing to ensure effective communication.

39

CRIMINAL INTERROGATIONS AND INTERVIEWS

- Failure to protect the rights of deaf/HOH individuals (i.e. not providing qualified interpreter or captioning services) during interrogations and interviews risks the integrity of any investigation.
- In Pennsylvania (PA) the Sign Language Interpreter & Transliterators State Registration Act requires eligible interpreters to register with Office of Deaf and Hard of Hearing (ODHH).

40

MAKE SURE INTERPRETER IS CERTIFIED AND REGISTERED

- In Pennsylvania, if sign language interpreter is not registered with the Pennsylvania State Interpreter Registry, case may be thrown out of court due to case being compromised.
- Check your state laws, as your state may not require interpreters to be certified and registered with a state agency.
- If this is the case with your state, the fact that an interpreter is not "qualified" may not impact the outcome of the legal case.

41

PENNSYLVANIA STATE LAW

- In addition to ADA requirements, Pennsylvania State Law (42 Pa.C.S. § 4434) requires that "Upon the arrest of any person who is deaf and prior to interrogation, the arresting officer shall make available to the person who is deaf an interpreter who shall be present with the person who is deaf throughout the interrogation."

42

ASL SIGNING INDIVIDUALS CAN ACT AS WITNESSES

- Officers should keep in mind that individuals who use ASL may struggle with written English. This should not disqualify them from being a witness. With the aid of a certified ASL interpreter, they can act as witnesses.
- Once the preferred mode of communication is established, notify the individual that it will take time for an interpreter or captioning (CART) services to arrive and request through the Police Radio that a Certified Interpreter or CART services to be dispatched to the interrogation or interview location.

43

CRIMINAL INTERROGATION AND INTERVIEW NOTES

- Ensure that all written notes made between the investigator and any suspects or witnesses are included in the investigative file and scanned into PIIN (Police Integrated Information Network) along with the name and contact information of any certified interpreter or CART services used during the interrogation or interview. Report will indicate that a sign language interpreter or CART is needed for court and will include the type of sign language used.

44

DEAF RECEIVE EQUAL ACCESS WHEN FILING COMPLAINTS

- Any deaf or hard of hearing person who wishes to file a complaint regarding communication access, or the discharge of Departmental duties, shall receive the same level of service as any non-disabled person.
- If a sign language interpreter was used to communicate and the investigation is sustained, ensure that the Police Board of Inquiry (PBI) is notified that a sign language interpreter, along with type of sign language or CART services needed for any PBI hearing involving the complainant.

45



TELETYPEWRITER (TTY)



- To use a TTY, you set a telephone hand set onto special acoustic cups built into the TTY or plug it directly into a telephone line. Type message you want to send on the TTY's keyboard. As you type, the message is sent over the phone line, just like your voice would be sent over the phone line if you talked. You read the other party's response on the TTY's text display. TTY is 60 years old and is being phased out in favor of VP.

46



CAPTIONED PHONE - CAPTEL

- Users enjoy natural telephone conversations, and can check the captions for added clarity. Can turn off the captions feature to use as a traditional telephone. Captions appear simultaneously with the spoken words. Includes an amplified handset and tone control for clarity. Can use WIFI or Internet for connection.

47

HOW TO USE A VIDEOPHONE (VP)



48



TELECOMMUNICATIONS RELAY SERVICE FACTS

- Costs to reimburse Telecommunications Relay Service (TRS) interpreters/relay operators come from a small charge on your telephone bill. This charge goes to the FCC's TRS Fund to pay for the relay centers which transmits and translate calls for Deaf/Hard of Hearing and Speech impaired persons.
- Because of this arrangement between the FCC and TRS, there is no charge to the Deaf/HOH or Speech Impaired users of the TDD/TTY, IP Relay, Internet Captioning or VRS calls made in the USA.

50

VIDEO RELAY SERVICE (VRS) IN CORRECTIONS

- If VRS phone call is made to another room, inmate intake/medical/mental health/legal interviews can be interpreted 24/7
- VRS used for in-house communications such as ADA, PREA (Prison Rape Elimination Act) and Suicide Hotlines (requires ten digit phone number)
- VRS used with Mobile Psychiatry calls or behavioral health appointments. (FCC Rule is that persons on the call have to be in separate rooms.)

51

VIDEO RELAY SERVICE WITH LANGUAGE LINE

- VRS used with Language Line (Inmate's spoken Foreign language interpreted to English and English interpreted to sign language by VRS sign language interpreter for Deaf/HOH staff).
- VRS has interpreters who are bilingual in Spanish and ASL or trilingual in Spanish, English and ASL

52

VIDEO RELAY SERVICE FACTS

- VRS allows Deaf/HOH inmates to communicate via sign language (or voice, using Voice Carry Over) to Deaf/hard of hearing (American Sign Language users) and hearing (English/Spanish voice speaking) people
- Hearing inmates can also call Deaf/HOH signing family members via VRS (with a special waiver signed for this purpose)

53

DOUBLE RELAY - TTY TO RELAY (711) TO VRS TO VP

- Can use two relay services (TTY and VRS) to relay information when the technology (VP) is not available for use in correctional facility.
- Can have calls from TTY to Relay (711) with Communication Assistant (CA) who calls Video Relay Service (VRS) who calls the Videophone (VP) number.

54

CORRECTIONAL SECURITY ISSUES FOR TTY AND VP

- Conversations printed on TTY tape for record of calls
- Videophone calls are recorded
- Written consent on file for recipients of TTY and VP phone calls
- Inmates are allowed to have privacy when making TTY or VP calls

55

SECURITY ISSUES FOR TTY AND VP

- Inmates need to type on TTY or sign on VP in the beginning of the call: "This call is being recorded, you are consenting to the recording", so that the consent of both parties is documented
- TTY and VP communications are slower than voice communication, so if there are time limits, extra time for translation is needed

56

EFFECTIVE COMMUNICATION PROFILES – PAUL SINGLETON

- Hearing – Hears, Speaks & Reads English / No accommodation
- HOH – Speaks/Reads English, No ASL, Hearing aids / Text-based phone
- HOH – Speaks/Reads English, ASL/Oral, Hearing aids / Text or VRS w/ VCO
- Deaf – Speaks/Reads English, ASL, Hearing aids / Text or VRS w/ VCO
- Deaf – Speaks some, May/may not read English, ASL, No hearing aids / VRS w/ some VCO
- Deaf – Doesn't Speak, May/may not read English, ASL, No hearing aids / VRS, no VCO

57

CONTACT INFORMATION FOR PAUL SINGLETON

- Paul.Singleton@purple.us is his email address.
- <https://www.purplevrs.com/> for information about VRS
- <https://signlanguage.com/vri/> for information about VRI
- <https://signlanguage.com/> for in-person interpreters/CART info
- Paul installs Videophones in correctional facilities nationwide. Paul will also work with you to help you understand VRS/VRI and how they can be used in corrections and law enforcement.

58

PURPLE IS PREMIER ADA COMMUNICATION SOLUTION FOR DEAF OFFENDERS

- **ADA services** Purple Communications offers to jails/prisons:
 - **Video Relay Services (VRS)**- free ADA program for deaf prisoners to have ASL interpreters relay their calls – free to prisons.
 - **Video Remote Interpreting (VRI)**- an "on-line" ASL interpreter for 1:1 communication- billable to prisons.
 - **On-Site Interpreting**- an "on-site" ASL interpreter who comes to prison facilities to interpret in person-billable to prisons.
 - **Customer Care** is available during normal business week days- 877-885-3172.

59

VIDEO REMOTE INTERPRETING (VRI)



60

VIDEO REMOTE INTERPRETING – PRIVATELY FUNDED

- Many spoken languages are supported by VRI, not only ASL
- VRI is privately funded and is more likely to be used in critical situations such as medical care, courts and first responders
- Enables two people who speak different languages, in the same location (room), to communicate via a remote interpreter (i.e. an VRI app on a police officer's smart phone or tablet).

61

VIDEO REMOTE INTERPRETING REQUIREMENTS

- All parties are able to see each other, both patient and caregiver are able to see the remote interpreter
- Requires high speed Internet and a computer with a webcam or a cell phone with a camera and a VRI app.
- Next slide delineates Federal Requirements for VRI.
- If VRI doesn't meet Federal Requirements, must use a live in-person interpreter

62

FEDERAL REQUIREMENTS FOR VRI

- 1) Real-time, full-motion video/audio over high speed, wide-bandwidth, video/wireless connection that delivers high-quality video that does not produce lags, blurry or grainy images, or pauses in communication.
- 2) A sharply delineated image large enough to display interpreter's face, arms, hands and fingers, and participating individual's face, arms, hands and fingers, regardless of body position.
- 3) A clear audible transmission of voices.
- 4) Adequate training to users of technology so that staff may quickly and efficiently set up and operate the VRI equipment.

63

CANNOT USE VRI IF FOLLOWING CONDITIONS EXIST

- 1) Deaf person cannot see the screen.
- 2) The VRI screen is too small; Deaf person cannot understand interpreter.
- 3) The VRI machine keeps freezing and/or pixelating; Deaf person cannot understand interpreter.
- 4) The VRI Interpreter cannot hear you and therefore cannot interpret.
- 5) The VRI machine has disconnected too many times. It is not reliable.
- 6) Personnel do not know how to set up the VRI machine.

64

VRS CAN BE USED AS VRI ONLY IN THE CASE OF A LIFE THREATENING EMERGENCY

- There is no requirement for VRS providers to provide VRI under any circumstance, including 911 calls and emergency responders on site.
- When a Deaf person calls 911, VRS can be used as VRI **only in the case of a life-threatening medical emergency** when Emergency Personnel (Police, EMT, Fire) arrive at the scene. This is a pro bono service at the discretion of the VRS agency.
- Law Enforcement cannot use VRS as VRI to take a police report. They must provide a live in-person or VRI interpreter (paid for by the law enforcement department requesting the service). The ADA obligation is on the responding agency who sends the first responders.

65

CART (COMMUNICATION ACCESS REALTIME TRANSLATION) – CAPTIONING SERVICES

- Instant translation of the spoken word into English text using a stenotype machine, notebook computer and real time software.
- Follows National Court Reporters Code of Professional Ethics, similar to Code of Ethics of ASL interpreters.
- CART was created in 1982 by a man who was a friend of SHHH, now known as Hearing Loss Association of America.

66

CART FIRST USED IN NATIONAL CONFERENCE IN 1984

- He figured out a way to tie the court-reporting (steno) machine to a computer, which was then attached to a projector. It was first used at a national conference in 1984.
- CART can also be done wirelessly and/or remotely.

67

COVID-19 AND VRI AS A SOLUTION

- Deaf/HOH unable to lip-read C/Os & Police Officers due to wearing masks.
- VRI is a two-pronged solution: 1) Allowing inmates/detainees and staff to keep masks on and keep a socially safe distance of six feet. 2) Allowing Deaf/HOH inmates to “hear” via sign language interpreters on mobile tablet or smartphone.

68

COVID-19 AND OTHER ACCOMMODATIONS

- Medical, mental health and legal communications require VRI or CART.
- If Deaf/HOH and don't know ASL, can get automatic captions on apps such as “App MyEar”, “AVA” or OTTER.AI for brief “non legal” communications.
- Clear face shields or FDA approved clear masks used for lip-reading purposes.

69

CERTIFIED DEAF INTERPRETER WORKS AS A TEAM WITH HEARING INTERPRETER

- The CDI is a deaf person who has been certified to provide interpreting services to deaf consumers who may have linguistic impairments that prevent them from fully utilizing a traditional ASL interpreter.
- The CDI works as a part of team with a hearing ASL interpreter. The hearing interpreter interprets to ASL and the CDI then interprets the ASL message into a visual communicate that is customized to suit the specific needs of the deaf consumer.

70

CERTIFIED DEAF INTERPRETER

- The CDI may make use of mime, props, circumstantially-relevant language entities, and other mechanisms to ensure that the message is effectively communicated to the deaf consumer.
- Using a CDI can make for the most efficient use of time and clarification of linguistic or cultural confusion that may occur with some deaf inmates

71

NOT USING CERTIFIED DEAF INTERPRETER MAY LEAD TO MISDIAGNOSIS

- Deaf inmate or detainee may need CDI (Certified Deaf Interpreter) due to education and language barriers.
- If qualified CDI is not provided, there is a risk of misdiagnosis – deaf inmate or detainee can be mentally competent to stand trial, but may not be linguistically competent to do so.

72

LEGAL CASES CHALLENGING THE USE OF QUALIFIED INTERPRETERS VS. SIGNING THERAPISTS

- **Tugg v. Towey (S.D. Fla. 1994) and Belton v. Georgia (N.D. Ga. 2012)** addresses the importance of having a signing therapist over a hearing therapist with an interpreter for mental health counseling, alleging injuries including psychological stress that could lead to suicide, satisfied "irreparable injury requirement".
- A signing therapist would have a knowledge of Deaf Culture (understanding that Deaf Culture is not a disability) and Deaf Language.

73

HOW THIS IMPACTS CORRECTIONS

- How this impacts Corrections:
- 1) Signing therapist would be on-site during normal working hours and available for an Emergent Mental Health crisis involving a signing deaf or hard of hearing inmate who is having thoughts to harm self (suicidal ideation) or to harm others (homicidal ideation), hearing voices (auditory hallucinations) or seeing things (visual hallucinations).

74

PROS OF HAVING A SIGNING THERAPIST

- 2) Signing therapist would have knowledge of family dynamics (whether parents or other family members are deaf/hearing) and how that impacts communication needs for calls with family and friends (Videophone, CapTel or TTY) and decrease the risk of suicide.
- Interpreter testified that due to ASL being a pictorial language, there is a greater chance of misinterpretation between therapist and client when an interpreter is used.

75

RISK OF NOT HAVING A SIGNING THERAPIST

- This risk is also compounded by the likelihood that a therapist will use different sign language interpreters for each therapeutic session.
- A lack of continuity increases the chance that an interpreter new to a therapist-client pair will fail to grasp the true meaning of what the parties are trying to convey.
- For example, there is no specific sign for Hallucination in ASL, different interpreters may sign the word differently, leaving the Deaf client confused.

76

CONFIDENTIALITY AND COMMUNICATION ISSUES

- A deaf client's awareness that he may later encounter an interpreter (in a different setting) with whom he has divulged personal information may make the deaf client less inclined to reveal such information to the therapist.
- Tugg stated: "I believe it is important for a counselor to have direct one-on-one communication with a patient so that the counselor can obtain the correct understanding of what I am trying to communicate."

77

MORE PROS OF HAVING A SIGNING THERAPIST

- Hearing parents and grandparents of Deaf children have testified to seeing marked improvement in their behavior after seeing a signing therapist for individual therapy.
- The courts found for the plaintiff that: In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities.

78

PRIMARY CONSIDERATION SHOULD BE GIVEN TO REQUEST FOR A SIGNING THERAPIST

- In this case, primary consideration should be given to the request for a signing therapist.
- The defendant in this case was not able to prove that it would be an undue financial burden on the Deaf Services Bureau administration of Department of Health and Rehabilitative Services ("HRS").
- Please consider hiring a signing therapist if you have a cluster of Deaf inmates in your facility.

79

SIGNING THERAPIST INTERESTED IN WORKING IN CORRECTIONS

- Luba, Deaf social worker, graduated from Texas State University with a MSW degree (with a concentration in corrections).
- Luba completed a one year internship as a Clinical Social Worker in Austin, Texas at the Travis County Jail.
- Luba has five years of experience working with Deaf/HOH inmates, families, children and deaf students.

80

LUBA DOUZIECH, MSW

- Consider hiring her for your agency!
- Luba's contact information:
- Phone: 914.340.3350
- E-mail: lubamariadouziech@gmail.com



81

CUFF DEAF INMATES IN FRONT OR UNCUFF FOR SIGN LANGUAGE USE

- Use waist restraints with cuffs in the front, to allow Deaf inmates who use American Sign Language (ASL) to communicate with their hands.
- If mental health staff deem that the Deaf ASL user is not at risk for harm to himself or others, inmate may be uncuffed for sign language use.
- Housing deaf people on the same block reduces feelings of isolation and seclusion. Mainstreaming Deaf ASL users in hearing blocks is not an effective strategy for deaf inmates.
- “Mainstreaming” into predominantly hearing populations (known as “least restrictive setting”) often results in miscommunications that can lead, unnecessarily, to the use of seclusion and restraints.

82

DEAF WITH MENTAL ILLNESS HAVE A HIGH RATE OF TRAUMA HISTORY

- Studies have shown that Deaf individuals with mental illness have a high rate of physical or sexual abuse trauma history.
- Because identifying and addressing past trauma is critical both to providing effective treatment and reducing the use of seclusion and restraints, providers should assume that Deaf people have a history of trauma in planning admissions and developing treatment plans.
- PREA guideline that the same sex monitoring a Deaf patient when on a 1:1 in a psychiatric setting is good public safety and mental health practice.
- Effective communication prevents unnecessary seclusion and restraint.

83

LEGAL CASE - FELIX GARCIA – 1983 CONVICTION

- Felix Garcia – trial one year before CART was used for the first time in a public conference setting. Did not know ASL at the time – could not benefit from sign language interpreters. CART was not available yet. Felix was given hearing aids, but was not able to hear well enough with hearing aids in order to effectively communicate in court on his own behalf. This is an unique example of linguistic incompetence. Note, this is very different from being “mentally competent to stand for trial”.

84

LEGAL CASE - FELIX GARCIA

- Due to lack of effective communication in court, Felix answered “yes” to all questions, without realizing that he was admitting to guilt for the crime. He was sentenced for a murder he allegedly did not commit in 1981.
- The earliest Felix Garcia could be released from prison is still Aug. 10, 2025, but his legal team continues to seek an earlier date.
- [Bit.ly/FelixParole2020](https://bit.ly/FelixParole2020) is a link to write a Parole Support Letter on Felix’s behalf. Thanks HEARD! (Helping to Educate and Advance Rights of Deaf).

85

IMPORTANCE OF HAVING COURT-ROOM LEGAL TERMINOLOGY EXPLAINED

- Importance of having court-room legal terminology explained so that the signing defendant can understand and effectively participate in their own legal defense. ASL is a pictorial, iconic language, many legal terms are abstract in their meaning and do not have an ASL “sign” for the abstract word and need to be finger spelled.

86

CAPTIONING SERVICES MAY NOT BE ENOUGH FOR SIGNING DEFENDANT

- Printed communication (i.e. CART) may not be enough for a signing deaf person to be able to participate in their own defense – need to understand complex legal terms in order to make appropriate responses in the courtroom.
- Signing deaf person will need a certified signing interpreter in order to effectively participate in their own legal defense.

87

ONUS IS ON JUDGE AND LEGAL TEAM TO PROVIDE EFFECTIVE COMMUNICATION

- Need to allow for time for "expanded" interpretation of legal terminology – onus is on the judge and legal team to provide effective communication for the defendant.
- Not having effective communication when being investigated or questioned by a detective can make or break a case – a person may have his or her confession suppressed in court if effective and impartial communication was not provided.

88

LACK OF EFFECTIVE COMMUNICATION MAY AFFECT OUTCOME OF CASE

- Or the opposite may happen – a person may have his confession upheld in court, if he or she says "Yes, I did it" in a courtroom when, in reality, he or she did not "hear" the judge's question (i.e. without effective and impartial communication) and answered in the affirmative, even though he or she did not commit the crime.
- This is essentially what happened in Felix Garcia's case.

89

LEGAL INTERPRETING SHOULD BE DONE CONSECUTIVELY

- Legal Interpreting should be done consecutively, not simultaneously. With consecutive interpreting, participants have a chance to reflect on what is being said and then react appropriately.
- In consecutive interpreting: the message is repeated twice, once in the source language (i.e. English) and then into the target language (i.e. ASL)

90

OBTAIN EDUCATIONAL AND LINGUISTIC LEVEL OF CLIENT

- Obtain valid data on educational and linguistic level of the client from school system, teacher, reading specialist or educational psychologist.
- Find out the IQ of the client. A low IQ can support the argument for linguistic incompetence to stand trial and can support vulnerability of client to being led astray, taken advantage of, and not being fully aware of the significance of the crime with which he or she is charged.

91

TIPS FOR LEGAL PROCEEDINGS

- A certified interpreter should be present during trial or legal proceedings. Deaf defendants with poor English skills may require a certified deaf interpreter (CDI) in addition to a certified hearing interpreter.
- During trial, an interpreter should be made available to the defense so that the deaf defendant and the defense lawyer can interact with one another privately.
- Some deaf defendants who have lost hearing later in life and have excellent reading skills prefer captioning rather than a sign language interpreter. The attorney should make this request.

92

ANY INTERROGATION SHOULD BE VIDEOTAPED AND AUDIOTAPED

- Trial should be videotaped and audiotaped. This allows for a record of what was said in sign language during the trial. This also allows for assessment of the competence of the interpreter and exactly what the interpreter signed.
- Any interrogation of a deaf defendant should be videotaped and audiotaped. Using videotape with a deaf person is the legal equivalent of using audiotape with a hearing person.

93

MAKE VIDEOTAPES AND AUDIOTAPES AVAILABLE TO THE DEFENSE TEAM

- If law enforcement made videotapes at the time of arrest or interrogation, the defense should obtain copies, so that they may be examined with the help of an interpreter. Any initialized legal documents should be examined for reading grade level.
- Also: obtain full data on exactly how the police administered the Miranda Waiver. Often this is not administered with a certified interpreter.

94

EFFECTIVE COMMUNICATION IN PROBATION, PAROLE AND POST-RELEASE PROGRAMS

- Substance abuse programs
- Half-way houses
- Case Management Interviews
- Transitional / Diversion Centers
- Adult Basic Education
- Re-entry Programs
- Vocational Education Programs / Work Programs
- Rehabilitative Programs
- Mobile Emergency Team

95

ASSISTIVE TECHNOLOGY IN CORRECTIONS

- **Deaf ID Cards** – ID for Deaf, best practice to be housed on same block. **Deaf sign language is NOT a “street gang” language; deaf can be housed on the same block, just as Spanish speaking inmates can be housed together.**
- **Written Materials** i.e. legal papers, facility rules, schedule of accommodations
- **Hearing Aids** are not contraband and are allowed as an assistive device.

96

MORE ASSISTIVE TECHNOLOGY

- **Cochlear Implants** – surgically implanted listening aid.
- **CART** (Communication Access Real Time) Services – in-person, Wireless/Remote court stenography language.
- **Assistive Listening Systems** – FM, phone amplifier, TV headphones

97

TELECOMMUNICATIONS (TV/PHONE)

- **TV** – open and closed captioning (on larger TV screens for larger captions)
- **Phone** – Videophones, Telephone Device for the Deaf (TDD), Teletypewriter (TTY) and CapTel phones using VCO. Additional time needed for phone calls (for interpretation/relaying of messages). 711 is national Relay Number for TTD/TTY services. Communications are monitored and recorded.

98

IMPORTANCE OF HAVING QUALIFIED INTERPRETERS

- **Qualified Interpreter** – for legal (Disciplinary/PREA), medical and mental health, may need CDI (Certified Deaf Interpreter) due to education and language barriers.

If QI is not provided, there is a risk of misdiagnosis – can be mentally competent to stand trial, but may not be linguistically competent to do so.

- **Video Remote Interpreting (VRI)** – good for emergency situations (24/7 access to sign language interpreters)

99

VISUAL/TACTILE ALERTING SYSTEM



100

ASSISTIVE TECHNOLOGY IN VA DOC BARRY MARANO, ADA COORDINATOR

- **Visual/Tactile Alerting Systems** – LED text messages for announcements, vibrating/flashing light alarm clock, notification of cell doors opening and closing, emergency evacuation notification.
- **Portable Tablets** – with captioned educational, vocational and treatment software (downloaded). Can buy on commissary.

101

ASSISTIVE TECHNOLOGY IN VA DOC

- Ear hair trimmers
- Electronic dictionary
- Hearing Aid maintenance supplies such as dehumidifiers and cleaning supplies
- DVDs (religious, music & educational - with captions)
- Digital radios are under consideration (allows hard of hearing/deaf to read radio programs such as PBS and weather)

102

MORE ASSISTIVE TECHNOLOGY IN VA DOC

- Alert/alarm clocks (allowing impaired to have a vibration and flashing light) to alert them of events scheduled. Often provided by VA Department of Deaf and Hard of Hearing.
- Lamp attachment for alert alarm clock.
- LED message boards.

103

BOOKS ON DEAF CULTURE/LANGUAGE AND MASS INCARCERATION

- The Mask of Benevolence: Disabling the Deaf Community By Harlan Lane
- For Hearing People Only By Matthew S. Moore & Linda Levitan
- Communication Access for Persons with Hearing Loss Edited by Mark Ross
- A Journey into the Deaf World By Harlan Lane, Robert Hoffmeister and Ben Bahan
- When the Mind Hears by Harlan Lane
- The New Jim Crow: Mass Incarceration in the Age of Colorblindness by Michelle Alexander

104

LINKS TO VIDEOS IN PRESENTATION

- <https://www.aclu.org/video/marlee-matlin-deaf-and-police-interaction> (Slide 22)
- <https://www.youtube.com/watch?v=I9aNpMRHH2c> (Slide 33)
- <https://www.youtube.com/watch?v=jsl6X8Jg6eg> (Slide 49)

105

THANK YOU!

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