ADA, Corrections and Effective Communication: Lessons Learned

Mid-Atlantic ADA Corrections and Law Enforcement Network

Robin Ahern, LCSW  267.428.1118 (VP) robin.ahern@prisons.phila.gov
Barry Marano, ADA Coordinator  804.763.9960 (Office Cell)
barry.marano@vadoc.virginia.gov
Correctional facilities have unique issues in providing effective communication to Deaf and hard of hearing inmates. Deaf Offenders in custody of local, county or state facilities or under post-release supervision by corrections have full and equal enjoyment of its services, privileges, facilities, advantages, and accommodations as non-Deaf offenders. The presenters will discuss their experiences with ADA compliance in the correctional environment. Topics addressed will include technology, security, privacy and training.
OBJECTIVES

• Participants will learn that correctional institutions maintain an ADA Coordinator position as required by law; this position is not an option.

• Participants will learn that the institutional ADA Coordinator ensures compliance with ADA mandates and has the responsibility to address disability needs in the facility.

• Participants will learn training needs of staff, contract employees, and shift commanders on the procedures for compliance with the ADA.

• Participants will learn that Deaf offenders will meet with facility administrators on a regularly scheduled basis to discuss ADA concerns and accommodations, which is in compliance with most recent legal settlement agreements.

• Participants will learn names of assistive technology and their role in ensuring effective communication in the correctional environment.
Effective Communication Begins in the Streets

9-1-1
Call if you can, text if you can’t.

STOP-AND-FRISK
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 the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity."
Police Culture vs. Deaf Culture

• Police Culture uses audio; Deaf Culture uses text, email, video
• Police can "hear" in the dark, Deaf need light to "hear" with eyes
• Police "call out" to get attention; Deaf tap on shoulder to get attention
• 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
• Hearing can request lawyer; Deaf can request lawyer and interpreter
• Police use audio alerting system; Deaf use visual/vibrating alerts
Officer N. Palacios, Gallaudet Department of Public Safety

Gallaudet's Public Safety Officers, Asst. Supervisors, and Supervisors are considered "Special Police Officers" and are commissioned by the District of Columbia. They have the same powers as law enforcement officers to arrest without a warrant for offenses committed on the Gallaudet campus. They may also arrest outside of Gallaudet if they are in fresh pursuit for an offense committed on campus.
Effective Communication in Corrections

• 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.

• 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.
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.
• **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.
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.

• 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.
Importance of Effective Communication for Legal Defense

- Importance of having court-room legal terminology explained so that the 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 fingerspelled.

- Printed communication (i.e. CART) may not be enough for a 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.

- 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.
Importance of Effective Communication for Legal Defense

• 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.

• 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.
Certified Deaf 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 ASL interpreter interprets to ASL and the CDI then interprets the ASL message into a visual communiqué that is customized to suit the specific needs of the deaf consumer.

• 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.
Certified Deaf Interpreter - continued

• 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.

• Deaf inmate 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 can be mentally competent to stand trial, but may not be linguistically competent to do so.
VA DOC Deaf Inmate stories

• Felix Garcia, Mr. F, and Mr. T have given us permission to share their stories and images for this presentation.

• We hope to highlight the variety in the Deaf world. Effective communication needs and preferences are unique to each individual.

• Felix grew up orally and uses hearing aids, but prefers the use of ASL for communication.

• Mr. F grew up deaf and using cued speech with his parents. At age 15 he had Cochlear Implant surgery. He now has a CI in both ears.

• Mr. T is culturally and linguistically Deaf (HS grad from a deaf school) and prefers ASL. His hearing parents are very supportive and use sign language.
CART (Communication Access Realtime Translation)

• Instant translation of the spoken word into English text using a stenotype machine, notebook computer and realtime 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.

• 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.
Technology Tools for Effective Communication in Corrections – Teletypewriter (TTY)
What is a TTY?  How do you use it?

To use a TTY, you set a telephone handset onto special acoustic cups built into the TTY (some TTY models can be plugged directly into a telephone line).

Then, type the 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 can read the other person's response on the TTY's text display.

http://abouttty.com/
What is a TTY?  How do you use it?

TTY stands for Text Telephone. It is also sometimes called a TDD, or Telecommunication Device for the Deaf.

TTY is the more widely accepted term, however, as TTYs are used by many people, not just people who are deaf.

A TTY is a special device that lets people who are deaf, hard of hearing, or speech-impaired use the telephone to communicate, by allowing them to type messages back and forth to one another instead of talking and listening.

A TTY is required at both ends of the conversation in order to communicate.
How to use Videophone (VP)

1. Deaf user signs to the interpreter
2. Interpreter speaks to the hearing user
3. Hearing user speaks to interpreter
4. Interpreter signs to deaf user
Video Relay Service (VRS) in Corrections

- If VRS phone call is made to another room (cost covered by FCC/ADA), inmate intake/medical/mental health/legal interviews can be interpreted 24/7
- Educational webinars (with phone in option) interpreted through VRS
- VRS used for in-house communications such as ADA, PREA (Prison Rape Elimination Act) and Suicide Hotlines (requires ten digit number)
- 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 used with Mobile Psychiatry calls
Video Relay Service (VRS) in Corrections - continued

• 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

• VRS can be mobile (tablet with a wireless Internet connection) and can make Emergency translation more accessible to inmates and staff

• Hearing inmates can also call Deaf/HOH family members (with a special waiver signed for this purpose)
Video Remote Interpreting (VRI)

- 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
- 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
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.
Captioned Phones - CapTel

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

- **Cochlear Implants** – surgically implanted listening aid.


- **Assistive Listening Systems** – FM, phone amplifier, TV headphones
Assistive Technology in Corrections

• **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.

• **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
Assistive Technology in Corrections

• **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)
Assistive Technology in VA DOC

• Headphones
• Ear bud
• Amplifier/receiver
• Surge protectors
• Video cables (and connections to allow devices to operate)
• Remote controls
• 15 inch TVs (13 inch in the past) must have closed/open captioning ability
• DVD Players
Assistive Technology in VA DOC

- Ear hair trimmers
- Electronic dictionary
- Hearing Aid maintenance supplies such as dehumidifiers and cleaning supplies
- DVDs (religious, music & educational)
- Digital radios are under consideration (allows hearing impaired/deaf to read radio programs such as PBS and weather)
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.
Effective Communication in Probation, Parole and Post-Release

- 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
Checklist for Effective Communication

• 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 is charged.

• Obtain full data on exactly how the police administered the Miranda Waiver. Often this is not administered with a certified interpreter.

• 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.
Checklist for Effective Communication (cont.)

• 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 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.

• 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.
Checklist for Effective Communication (cont.)

• 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.

• 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.

• 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.
Deaf Visor Card, Deaf License and other Resources
Officer, I am deaf. This means that I normally communicate using American Sign Language. My speech is limited, and often slurred, so you may not be able to understand me. I may try to speechread (lipread) you, but my speechreading skills are far from perfect. If you or a fellow officer cannot sign, either write your instructions on a piece of paper for me, or get me a qualified ASL interpreter.

Note: In the event of a medical emergency or police proceedings, I am entitled to have a qualified sign language interpreter provided under the Americans With Disabilities Act (ADA). (See Section 504, Rehab. Act/Title II of ADA.)

To facilitate effective communication, whether speechreading or signing, be sure there is enough light for me to see your face/hands clearly. If not, move under a streetlight or into a lighted area. Also, don’t shine your flashlight in my eyes. I need to see YOUR face/hands to “hear” you.
Officer, I am hard of hearing. This means that I speak normally. I do NOT use sign language. I communicate using what hearing I have, and may supplement it with hearing aids, with various assistive devices and by speechreading (lipreading). None of these work perfectly, so if I still miss key words or instructions, please write them on a piece of paper for me.

Here's some specific ways you can effectively communicate with me:

» Try to eliminate background noise, or wait for a pause in the traffic.
» Look directly at me when you speak to me. Do not cover your mouth with your hands or papers.
» If you have a mustache, beard or accent, and/or I can't understand you, let me try to hear/speechread your partner instead. Some people are much easier for me to speechread/hear/understand than others.
» Speak slowly and clearly. Speak up, but don't shout. If I need you to talk louder, I'll say so.
» Be sure there is enough light for me to see your face clearly. If not, move under a streetlight or into a lighted area.
» Don't shine your flashlight in my eyes. I need to see YOUR face to “hear” you.
» Get close. This helps me both hear and speechread you better.
» If all else fails, write down key words.
Deaf Visor Card, Deaf License and other Resources

• (DC) – Metropolitan Police Department (Visor)

• (DE) – Delaware Office of the Deaf and Hard of Hearing (Visor)
  https://www.dmv.de.gov/services/driver_services/drivers_license/pdfs/visor_card_app_deaf_hoh.pdf?081512

• (MD) – Maryland Deaf Driver Visor Card Program
  https://www.youtube.com/watch?v=3YejAS01DR8https://www.youtube.com/watch?v=3YejAS01DR8 Designation on Driver’s License
  http://www.mva.maryland.gov/about-mva/info/26300/26300-43T.htm
Deaf Visor Card, Deaf License and other Resources – continued

• (PA) – Center for Hearing Loss Help (Visor)
  Designation on driver's License
  https://www.dot.state.pa.us/public/dvspubsforms/BMV/BMV%20Forms/mv-145.pdf

• (VA) – VA Department of Motor Vehicles (Visor)
  http://www.dmv.state.va.us/drivers/#disability/visor_alert.asp
  Designation on Driver’s License

• (WV) – State of WV Driver Licensing Handbook (Designation on Driver’s License)
Deaf Visor Card, Deaf License and other Resources – continued

• (IL) J88 designation on Driver’s License  
  http://speakuplibrarian.blogspot.com/2012/02/j88-drivers-license-designation.html

• (FL)  
  https://www.flsenate.gov/Session/Bill/2016/0487/Analyses/h0487d.EAC.PDF

• Marlee Matlin – “Know your rights: Deaf rights – What to do when dealing with the police.”  
  (Marlee is a Deaf actor and a wife of a police officer.)
Deaf Visor Card, Deaf License and other Resources – continued

• Deaf Prison Inmates: A Time to be Heard
  http://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1585&context=llr

• Smart911.com https://smart911.com/

• Transition from TTY to Real Time Text Technology
  https://www.federalregister.gov/articles/2016/05/25/2016-12057/transition-from-tty-to-real-time-text-technology

• What You Need to Know About Text to 911
  https://www.fcc.gov/consumers/guides/what-you-need-know-about-text-911
Resources for Deaf and HOH

• (DC) Department on Disability Services  http://dds.dc.gov/
• (DE) Office for the Deaf and HOH https://dvr.delawareworks.com/dodhh.php
• (MD) The Governor’s Office of the Deaf and HOH  http://odhh.maryland.gov/
  Division of Rehabilitation Services http://servingtogetherproject.org/services/maryland-division-of-rehabilitation-services/
Resources for Deaf and HOH - continued

- (PA) – Disability Rights Network “Rights of Deaf and Hard of Hearing People – Police and Jails”
- Office for the Deaf and Hard of Hearing (ODDH)
  - http://www.dli.pa.gov/Individuals/Disability-Services/odhh/Pages/default.aspx
- Office of Vocational Rehabilitation
- (VA) VA Department for the Deaf and Hard of Hearing
Resources for Deaf and HOH - continued

- Purple Videophone Vendor for Corrections: [Paul.Singleton@purple.us](mailto:Paul.Singleton@purple.us)
- ADA Coordinator Requirements [https://www.ada.gov/pcatoolkit/chap2toolkit.pdf](https://www.ada.gov/pcatoolkit/chap2toolkit.pdf)
- Department of Justice website [http://www.ada.gov](http://www.ada.gov)
- Department of Justice Title II regulation: [www.ada.gov/reg2.html](http://www.ada.gov/reg2.html)
- Pittsburgh article about Tablets being used in the Allegheny County Jail [http://www.pennlive.com/midstate/index.ssf/2015/03/pa_county_to_give_apple_ipads.html](http://www.pennlive.com/midstate/index.ssf/2015/03/pa_county_to_give_apple_ipads.html)
Resources for Deaf and HOH - continued

• VA Department of Corrections Webinar Presentation For ADA Compliant Deaf Offender Care
  http://www.adainfo.org/sites/default/files/Corrections-ADA-1-slide-per-page-handout_0.pdf

• Deaf in Prison Documentary (Al Jazeera America) on YouTube
  https://www.youtube.com/watch?v=AstF5kMaH_w

• HEARD – Helping Educate to Advance the Rights of the Deaf
  http://www.behearddc.org/


• Felix Garcia update: https://deafinprison.com/2016/04/03/important-update-felix-garcia-transfered-to-va/
Resources for Deaf and HOH - continued

• Video Relay Service (VRS) Fact Sheet robin.ahern@prisons.phila.gov
• Captioned Phones www.captel.com / www.clearcaptions.com
• https://nad.org/issues/telephone-and-relay-services/relay-services/captioned-telephone-services/registration
• White House Forum on Criminal Justice Reform and Disability http://tinyurl.com/jqrbklf
• Gallaudet Department of Public Safety www.gallaudet.edu/dps
Resources for Deaf and HOH - continued

• **www.ssa.gov** Social Security Administration


• Online Article: Basic Legal Issues in Handling the Cases of Deaf Defendants by McCay Vernon and Jean Andrews THE CHAMPION ([www.NACDL.org](http://www.NACDL.org))

• National Association of the Deaf [www.nad.org](http://www.nad.org)

• Hearing Loss Association of America
  [https://www.facebook.com/HearingLossAssociation/](https://www.facebook.com/HearingLossAssociation/)
Books on Deaf Culture/Language

• 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
YouTube Resources

• "Deaf Sensitivity Training Video for Police Officers" by DEAF Inc (In collaboration with St. Louis University) June 8, 2012
• "Marlee Matlin on Deaf and Police Interaction" by ACLUVIDEOS (In collaboration with HEARD) April 23, 2014
• Marlee Matlin: Why you need to know your rights" By ACLUVIDEOS (April 21, 2014) (https://www.aclu.org/deafrights)
• "Driving while Deaf" By ACLUVIDEOS (April 23, 2014)(https://www.aclu.org/deafrights)
• Sign Petition: Urge the DOJ to provide critical guidance on how the police engage with the Deaf (http://tinyurl.com/ltdnw6z)