

# Legal Systems Access for Persons with Hearing Loss

## An Instructor's Guidebook

**Resources needed for training:** A copy of this manual, the accompanying power point slide presentation, the DVD entitled “Legal Systems Access for Individuals with Hearing Loss,” and a data projector.

**Handouts:** Use the bibliography and resource list at the back of this manual as a handout. You can also review the listing prior to training and print out other handouts found at these web pages that will be helpful to the attendees.

**Time needed for instruction:** Approximately 2 hours.

If you do not have access to the instructional DVD, “Legal Systems Access for Individuals with Hearing Loss,” an online version of the video is available at <http://www.fccdhh.org/legal-systems-accessibility-task-force>.

**Note to Trainer:** If you need assistance to answer inquiries from attendees or have questions prior to presenting this training, please call or email the Florida Coordinating Council for the Deaf and Hard of Hearing at 1-866-602-3275 or [info@fccdhh.org](mailto:info@fccdhh.org).

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## SLIDE 1

To Instructor: Show Video introduction here

### **Legal Systems Access for Persons with Hearing Loss An Instructor Guidebook**

The purpose of this training material is to help us, as members of the legal system, meet our responsibility to protect the public's rights when we come into contact with persons who are deaf, hard of hearing, late-deafened, and deaf-blind. This includes everyone who comes into contact with the public--not only law enforcement, but the judiciary, judicial assistants, bailiffs, members of corrections, probation and parole officers, court personnel, state attorneys, public defenders, victim services personnel, Department of Juvenile Justice and Department of Children and Families personnel, as well as offices of the clerks of the court.

We are required to do this by The Americans with Disabilities Act of 1990 (ADA), which is a federal civil rights law that requires state and local governmental entities as well as places of public accommodation to ensure effective communication with persons who are deaf, hard of hearing, late-deafened, and deaf-blind.

The training video dramatizes some examples of appropriate communications needed by persons who are deaf and who use American Sign Language (ASL) to communicate. The accompanying training material covers the needs of other individuals with varying degrees of hearing loss and who may require different communication methods or technology. Please take advantage of this training opportunity so that you can better protect the rights of those we serve.

These training materials are designed to be interactive, so please feel free to pose any questions you may have. Upon conclusion of your training session, we look forward to your feedback as to the helpfulness of the information.

## SLIDE 2

### **Americans with Disabilities Act**

The Americans with Disabilities Act (ADA) is a federal civil rights law passed in 1990 that prohibits discrimination on the basis of a qualified individual's disability. The act is designed to protect the rights of people with physical or mental disabilities. The law has several "titles" which prohibit discrimination against individuals with disabilities by state and local governmental entities, places of public accommodation, transportation, and telecommunications.

Title II of the ADA applies to state and local governments, including branches of law enforcement, detention centers, the courts, the Department of Children and Families, the public defenders' offices, state attorneys' offices, and other state agencies. Title III of the ADA applies to private attorneys, private ancillary services such as anger management class providers, parenting class providers and other places open to the public. Both Titles II and III require that services, facilities, programs, or activities offered must be accessible.

Most people are familiar with the ADA requirement to remove physical barriers so that people can have access to government buildings and public places to acquire the desired services. However, accessibility also includes the requirement to provide "effective communication." An accommodation may be necessary to allow persons with hearing loss to participate in services provided.

Accommodations that may be provided by a state or local government or a place of public accommodation must be made at no cost to the qualified individual with a disability. Nor can a surcharge be placed on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing an accommodation.

However, the ADA does not require an entity to take any action that would fundamentally alter the nature of a program, service or activity or that would cause an undue financial or administrative burden. An undue burden is defined as a “significant difficulty or expense.” It is evaluated on a case-by-case basis. The undue burden is a financial analysis done on the entire revenue or income of the entity--not just for that one unit--which makes the undue burden defense an EXTREMELY difficult standard to meet. This threshold is also very high for private attorneys to meet. Thus it is wise for an organization to plan for and budget for accommodations before they are actually needed.

Please remember, just because an agency may not be aware of how to provide an accommodation, it does not mean that one is not required by law. Please use the agency’s internal resources or refer to the resources in the back of this manual for assistance.

Section 504 of the Rehabilitation Act of 1973 applies to all entities that receive federal assistance and contains provisions that are nearly interchangeable with the ADA. During the training we will refer to the ADA, but please be advised that if your organization receives federal funding, these same requirements are also mandated by Section 504.

## **Hard of Hearing/Deaf**

### **Distinction between Deaf and Hard of Hearing**

Hearing loss can be classified as mild, moderate, moderately severe, severe and profound. People with hearing loss generally refer to themselves as deaf, hard of hearing or late-deafened. Rather than label a person with one of these terms, ask how he/she refers to self. For example, one person with a profound hearing loss may identify self as hard of hearing whereas another with the same degree of loss may identify self as deaf.

Generally speaking:

**“Hard of hearing”** refers to a person who has a hearing loss that results in the possible dependence on visual methods to communicate in addition to the use of residual hearing, with or without the assistance of technology, such as hearing aids.

**“Late-deafened”** refers to a person who lost his or her hearing any time after the development of speech and language; often after the age of adolescence. Late-deafened persons usually have little or no residual hearing and depend upon their eyes to understand.

**“Deaf”** refers to a person whose sense of hearing is nonfunctional, with or without technology, for the purpose of communication and whose primary means of communication is visual. For those citizens who use a form of visual communication or signed language, there is also an important cultural aspect.

**Note:** There is a distinction between “Deaf” with a capital “D” and “deaf” with a lowercase letter “d,” with “Deaf” referring to those individuals (usually deaf from birth) who use American Sign Language and who consider themselves identified with Deaf culture; and “deaf” referring to individuals

who cannot hear, but who may or may not use American Sign Language. For purposes of this manual, we will use the word “deaf” to refer to everyone, unless the context is in regard to cultural.

There are a number of important distinctions between those who label themselves deaf, and those who label themselves hard of hearing. When providing services, care must be used to avoid stereotyping people with hearing loss by thinking they are all virtually the same because they all have problems hearing.

Also keep in mind that hearing loss does not equate to intelligence. Most often the reality is not that those with hearing loss fail to have the capacity to comprehend, the problem is they cannot hear what is being said aloud.

#### Antiquated terms

The labels “deaf-mute” or “deaf and dumb” are inappropriate terms that are considered demeaning. Additionally the term “hearing impaired” is no longer favored by many in the disability community. The best approach is to ask the person how he or she prefers to be identified. Avoid using these terms in police reports or in court filings or other communications. If you are unsure how to identify an individual, simply *ask* the person.

## SLIDE 4

### **Persons with Hearing Loss-National**

- According to the Centers for Disease Control, one in every ten Americans has hearing loss (over 30 million people in the United States).
- As baby boomers reach retirement age, starting in 2010, this number is expected to climb rapidly and nearly double by the year 2030.

The majority of people with hearing loss require some form of alternate communication method. The methods can range from American Sign Language to Communication Access Real-time Translation (CART) to assistive listening systems to captioning to something as simple as speaking clearly while facing the person.

## SLIDE 5

### Persons with Hearing Loss-State and Local

- Approximately 3 million Florida residents are deaf or hard of hearing
- The Centers for Disease Control lists the prevalence rate for hearing loss in Florida as 16.1% of the population, much higher than the national average due to the aging demographic of Florida

**Note to Trainer:** When conducting this training, find the approximate current population for your county and multiply it by 16.1% to obtain the estimated number of deaf and hard-of-hearing persons in your county.

#### Helpful web pages

Florida Coordinating Council for the Deaf and Hard of Hearing  
[http://www.fccdhh.org/policy\\_recommendation](http://www.fccdhh.org/policy_recommendation)

U. S. Census Bureau [www.census.gov/hhes/www/disability/disability.html](http://www.census.gov/hhes/www/disability/disability.html)

### **Law Enforcement Call**

This portion of the video shows a law enforcement call to a home where a domestic disturbance has been reported. As you watch the video, notice which issues are addressed and what kinds of communication accommodations are provided. As you will see, the video is open-captioned. This is an example of how videos can be made accessible to those with hearing loss.

The video shows an animated sign communication between the couple. Sign language is a visual way of communicating. Showing inflection (such as anger) on the face and in the formation of the signs is part of communicating visually. The actual violence that allegedly occurred is not shown on the video.

After showing the video up to this point, ask participants any of the following questions to promote discussion:

1. How many of you have worked with individuals who are deaf, hard of hearing, late-deafened or deaf-blind?
2. What techniques did you use to communicate?
3. Did you learn anything new from this video?
4. What would you do differently if the female was deaf-blind?
5. If there were children present who could hear and sign, do you think it would be okay to use the children as interpreters? Why or why not?
6. What if the male was hard of hearing and did not use sign language? What techniques could be used to ensure effective communication?

## **American Sign Language (ASL)**

### **American Sign Language**

American Sign Language (ASL) is a complete, complex language that employs signs made with the hands and other movements, including facial expressions and postures of the body. It is the first language of many North Americans who are deaf and one of several communication options available to persons who are deaf. ASL is said to be the fourth most commonly used language in the United States.

ASL is not the same language as English, and ASL cannot be written.

### **Other Types of Signing Systems**

There are other forms of signed systems, including Manually Coded English (MCE), which is a general term used to describe a variety of visual communication methods expressed through the hands that attempt to represent the English language. MCE generally follows the grammar of English, which means everything that is spoken is shown through the hands. Not all deaf people use the same type of signing.

### **Sign Language is Global, but ASL is Not**

Just as there are different spoken languages used in different countries, so there are different sign languages, e.g., Spanish Sign Language, German Sign Language, Russian Sign Language, to name but a few.

## SLIDE 9

### **Interpreters**

There are many types of interpreters used for communication by persons who are deaf, hard of hearing, late-deafened, and deaf-blind.

**Interpreting** means the process of providing accessible communication between and among persons who are deaf, hard of hearing, late-deafened, deaf-blind and those who are hearing and cannot sign. It may involve various other modalities that involve visual, gestural and tactile methods.

**Sign Language Interpreter** means a person who engages in the practice of interpreting using sign language.

**Oral Interpreters** – Qualified oral transliterators have knowledge and abilities in the process of speech reading, speech production and the communication needs of speech readers. Oral interpreters know how to manipulate and adapt environmental and other factors for successful communication and do more than re-mouth the words so that the words can be read on the lips. They have developed articulation skills and techniques that allow for easy understanding by speech readers and have become skilled in employing verbal and non-verbal support techniques, thus assuring that the message is transmitted accurately. Not all deaf people sign, but most use interpreters of some sort.

**Intermediary Interpreter** - A Certified Deaf Interpreter (CDI) or Deaf Interpreter (DI), also known as a relay or intermediary interpreter, can be used in tandem with an ASL interpreter.

**CDIs/DIs are deaf or hard-of-hearing individuals** who are certified or qualified to interpret as part of a team to facilitate communication. CDIs/DIs are extremely helpful when working with individuals with limited language fluency or high visual orientation and for international sign language users and/or those who rely on signs recognized by only those who communicate with the individual regularly -

known as “home signs.” However, the use of CDIs/DIs should not be limited to the above situations, as they are very helpful resources to law enforcement officers when working with children, victims of sexual assault, or victims or defendants who are deaf and are having trouble understanding their legal matter at the requisite level to proceed.

**Tactile or close vision interpreter (for deaf-blind individuals)** – A person who accurately facilitates communication between hearing and deaf-blind individuals; may involve traditional sign language interpreting wherein the deaf-blind individual receives the message tactilely, literally hand over hand. To find out what kind of interpreter or accommodation is needed, simply ask the person who is deaf, hard of hearing, late-deafened, or deaf-blind .

### **Suggested Steps for Securing an Accommodation:**

1. Ask the deaf person what type of interpreter or accommodation provides effective communication.(e.g., ASL, Signed English, oral interpreter, CART, etc.)
2. Call the interpreter vendors on your agency’s list, provide details of why there is a need for an interpreter, the date and location an interpreter is needed, and provide the name of the person who will be using the service.
3. Once the name of the interpreter is provided, ask if the interpreter has any ethical conflicts for interpreting this matter.
4. Document the name of the interpreter used and the interpreter’s credentials, in the file for this matter.
5. Check with the person who used the service and those who were present during the interpretation, to receive their input on whether the interpreter appeared qualified, professional, and should be used again in the future.

## Legal Interpreter

### Why are there different kinds of interpreters?

Because of the potential for harm to the deaf community, the Registry of Interpreters for the Deaf (RID) realized a long time ago there was a need to create a specialty certificate for interpreters working in legal settings. An interpreter who holds a Specialist Certificate: Legal (SC:L) is one who has taken additional training and passed a written/performance test specific to the legal setting.

The best practice for law enforcement, the courts, and attorneys is to contract with interpreter referral agencies that can provide either SC:L interpreters and/or interpreters who have national certification and legal training. If you are unable to secure an SC:L interpreter in your area, then be sure to verify that the interpreter has sufficient legal training—and not just an interpreter who has many years of experience. If the agency you work with does not utilize SC:L interpreters, it is wise to see if another agency can assist.

### Different rules apply for interpreters in legal settings

There are specific requirements interpreters must follow when working in the courts, for law enforcement and in other legal situations. Unless an interpreter is familiar with these requirements, successful prosecution and/or the acquisition of an effective witness statement could be jeopardized. For example, interpreters are generally prohibited from providing interpreting services for law enforcement—and then providing services for the same person on the same matter in court, and/or with the attorney. This is because the interaction with law enforcement is not privileged, and the interpreter could become a witness on the case. When interpreting for a deaf person and his or her attorney, a privilege is available. When an interpreter has both privileged and non-privileged information at the interpreter's disposal, it could affect the neutrality of the interpretation, regardless of how hard the interpreter tries to keep the various types of information separate. *The Model Code of Professional Responsibility for Interpreters in the Judiciary* specifically advises that interpreters should not work at both a law enforcement facility and the court and/or with attorneys for this exact reason.

### **How to Use a Sign Language Interpreter and/or an Oral Interpreter**

The interpreter will need to stand or sit where the speaker can be heard and the person using the interpreter can see the interpreter and be seen. Usually interpreters will try to position themselves near the speaker so that the person using the service need only shift his or her line of sight slightly to watch either the speaker or the interpreter.

While you are speaking, the interpreter will be silently working, most times simultaneously interpreting what you say. Your style of delivery during the presentation probably does not need to be altered at all. Talk to the person who is deaf, hard of hearing, late-deafened or deaf-blind, not to the interpreter.

It is important to maintain eye contact with the person who is deaf, hard of hearing, late-deafened or deaf-blind and not with the interpreter, even in those instances when the interpreter is vocalizing what the deaf person says. Remember the words you are hearing are that of the person utilizing the service, not the interpreter.

Do not ask the interpreter to stop interpreting or to censor information. Pursuant to their ethical code they are not allowed to engage in such censorship. If you do not want the person who is deaf, hard of hearing, late-deafened, or deaf-blind to know what you are saying, then do not say it within hearing distance of the interpreter, as the interpreter will relay this information.

Interpreters are trained professionals; they are not helpers or assistants to you or the person using the interpreting service. Their role is to facilitate communication. They are also not attorneys or law enforcement officers. Refrain from asking them to explain forms or concepts, which is the expertise of another party. Also do not assume the interpreter knows the person who is deaf.

### **Important Questions**

Law enforcement, the courts, and other state and local government entities are required to comply with Title II of the ADA and, if they receive federal funding, Section 504 as well. Title II requires governmental entities that have 50 or more employees to designate an ADA Coordinator. The ADA Coordinator is responsible for assisting any person with a disability, such as hearing loss, to obtain access to qualified interpreters or other effective auxiliary aids (communications technology). This requirement is not new; it was included in the ADA upon passage in 1990. The ADA Coordinator's role is only to help people obtain access to services. They are not typically obligated to provide direct services unless that employee holds a dual role and is required to do so.

To ensure that your agency's employees are complying with the ADA requirements, it is recommended to have a written policy in place. A copy of "MODEL POLICY FOR LAW ENFORCEMENT ON COMMUNICATING WITH PEOPLE WHO ARE DEAF OR HARD OF HEARING" can be found at the end of the presentation material. Additionally there are very helpful checklists on the United States Department of Justice ADA website for law enforcement and other Title II entities to use to determine compliance.

Your agency must review all procedures to ensure that accommodations can be made when necessary to assist those who have hearing loss. When it comes to tactical decisions, officer safety is a primary concern when making changes. The Florida Corrections Accreditation Commission and Commission for Florida Law Enforcement Accreditation currently have standards in place requiring policy covering these issues.

Officers, support personnel, detention workers, medical personnel at the jails and other personnel involved with the provision of law enforcement need to be trained on their responsibilities pursuant to the ADA, such as when interpreters or other auxiliary aids are necessary and how to properly interact with interpreters and people who have hearing loss.

In order to comply with the ADA, your agency will need to enter into contracts with private vendors so that qualified interpreters and CART providers are available for callout 24/7. Additionally, various types of technology may need to be purchased and personnel trained to use that equipment when a person with hearing loss requests a specific device to communicate.

The cost of providing interpreters or CART or other accommodations cannot be charged to the person with a hearing loss. Therefore your department should proactively budget for accommodations as required by the ADA and Section 504 of the Rehabilitation Act, as applicable.

**Video Part Three**

- How might staff receive basic training (e.g., Hearing Loss 101) and non-sign language tips on how to provide communications accessibility for persons with hearing loss?
- What topics do you feel would be most important to cover among your staff?
- Would everyone on your staff know how to distinguish between the expressive gestures of sign language and a suspect who was waving his or her hands because the agitation level was escalating?
- Do you think having your detention staff know a few basic signs in ASL might be helpful, such as “Calm yourself,” “Sit/stand/stay right where you are,” “Stop now”? What other key phrases would be important?
- What could be options for affording effective communication if an interpreter or CART provider was not immediately available?
- How might an individual’s grasp of the English language and/or reading level affect these alternative suggestions?
- Is it acceptable to use other inmates or family members as interpreters?

## Accommodations - Auxiliary Aids and Services

### Video Phones (VP)

Generally a videophone is a telephone with a video screen that is capable of a two-way video and/or audio transmission. Many people who are deaf now use a videophone as it allows them to communicate in American Sign Language. They are able to call directly to other videophone users and sign back and forth



### Video Relay Services (VRS)

Video Relay Services (VRS) are used to help a person using a videophone to communicate with people who use a regular phone. The deaf person, using a computer and webcam or a videophone, connects to a live interpreter through the Internet. To facilitate communication, the interpreter relays conversation by vocalizing what the person who is deaf or hard of hearing *signs* and then *signs* what the caller on the other end speaks. There is no fee to use a videophone or a video relay service.

Phone numbers for VRS providers in your area can be found on line by doing an Internet search for “video service providers” and/or by asking the person who needs the accommodation.



## **CART (Communication Access Real-Time Translation)**

CART providers use a laptop computer and a steno machine (like a court reporter uses). The steno machine is typically on a tripod, and the CART provider will need a chair and a bit of table space for the computer, as well as access to an electrical outlet. Most CART providers own their own equipment and will bring it with them. If a single consumer is utilizing CART and the consumer and the CART provider are in the same location, the consumer may use the CART provider's laptop computer to read the CART text.

If the CART provider is not able to be present with the consumer, the service provided is known as "Remote CART." In Remote CART, the CART text is streamed to the Internet, and the consumer is provided with a URL to view the CART text.

CART providers always strive for a verbatim or word-for-word rendering of everything said. They are able to keep up with most speakers and thus provide a complete translation of what was said, as opposed to someone taking notes or writing down what was said. It should be noted that any time CART service is being provided, all parties should slow down the proceedings to give the consumer time to read the screen and follow the proceedings.

## **Video Remote Interpreting (VRI)**

Video Remote Interpreting, VRI, is a fee-based service provided by a variety of interpreter referral agencies throughout the country and is being used in law enforcement and other settings when effective. Because VRI is not regulated or subsidized by the FCC, or any other authority, VRI providers are not required to comply with any federal regulations regarding the locations of any of the call participants. Generally, a law enforcement agency or other agency can enter into a contract with an interpreter referral agency for the provision of VRI services on an as-needed basis. This means the law enforcement personnel and the party or family member with hearing loss will be at the same location, and the interpreter, through the use of video and internet technology, is at a remote location. This provides an alternate approach to complying with the ADA and Section 504 of the Rehabilitation Act requirements for provision of effective communications when an on-site interpreter cannot be located.

It is important to note that a person who is using a TTY/TDD (as described below) cannot call a person who is using a videophone. A TTY/TDD and a videophone are not compatible for direct communication. If the TTY/TDD user requests the TTY/TDD relay system to place the call to the videophone user by calling through the video relay system, the request will be denied as against the regulations of the Federal Communications Commission. If a facility only provides a TTY/TDD as an accommodation, this can adversely affect a person who wishes to contact a person who uses a videophone, which is now the more common telecommunication device. This is a common problem found at Florida detention centers which are only equipped with TTYs.

## **TTY/TDD**

TTY (teletypewriter) and TDD (telecommunication device for the deaf) are two different names for the same device. A TTY/TDD looks like a typewriter keyboard and usually has an acoustic coupler on the top of the device. Using normal analog phone service, the person with hearing loss can communicate directly with someone who has a TTY/TDD by calling the number and placing the phone receiver on the acoustic coupler. They can type back and forth as the device sends Baudot tones over the phone lines and each device changes the tones back to letters upon their reception. It is important to note that the use of these types of devices is decreasing due to the increased use of pagers and PDA's with texting capabilities; however, they are still in use by some.

If a person with hearing loss wants to call a person who does not have a TTY/TDD, the person can dial 711, which is the Florida Relay Service. An operator will then connect the call to the desired person and will “vocalize” what the person types to the other party, and will then subsequently type to the person with hearing loss whatever the hearing person says. Relay services are provided in every state and are free to all users.

One issue to remember with the use of this device is that the person with hearing loss is required to communicate using English, which is a second language for most of the deaf community. Depending on command of English, people whose primary language is ASL may struggle with expressing themselves or in understanding what is communicated to them via TTY/TDD.

## SLIDE 16

### Video Part Four

This section of the video shows the defendant being arraigned on domestic violence charges. As you watch the video, notice the steps the judge takes to ensure that the sign language interpreter is qualified and able to communicate with the defendant.

- After showing the video, ask participants any of the following questions to promote discussion:
- In your functional area, how is the effectiveness of the accommodation provided by the interpreter or CART provider determined?
- Is the determination made by the judge, as it was in the training video?
- Do you use professional certifications / degrees / educational attainment to determine whether the interpreter or CART provider is qualified?
- Do you consider feedback from the involved parties? Why or why not?
- What would you consider the optimal way to determine the effectiveness of the accommodation provided?
- In the video, one interpreter was present. Is it permissible for one interpreter to interpret both communications in open court and also attorney-client discussions? Why or why not? Does the attorney need to hire a second, separate interpreter for courtroom proceedings and, if so, under what circumstances?
- If real-time were being used as an accommodation instead of an interpreter, would it be appropriate to allow one professional to both provide the accommodation and serve as the official court reporter? See Slide 35 for information about the differences in the roles of CART providers and court reporters.

## SLIDE 17

### **Responsibilities of Judge and Attorneys**

Judicial officers, court staff, and clerks' offices must take appropriate steps to ensure that their communications with individuals who are deaf, hard of hearing, late-deafened, or deaf-blind are as effective as communications with persons who do not have a hearing loss. Pursuant to the ADA – and Section 504 of the Rehabilitation Act, when applicable – ensuring effective communication requires the provision of auxiliary aids and services including qualified sign language interpreters, certified deaf interpreters (CDIs), CART services, assistive listening devices, and other aids or services that afford effective communication.

Attorneys, as well as the court system, are required to provide the auxiliary aids and services necessary to ensure effective communication. Public defenders, state attorneys, and other attorneys who work for state or local government entities are covered by Title II of the ADA. Private attorneys are covered by Title III of the ADA. Law firms and attorneys' offices that receive federal assistance are also required to comply with Section 504 of the Rehabilitation Act.

Due to the nature of interactions with the courts and attorneys, in most courtroom proceedings and attorney-client meetings, a qualified American Sign Language interpreter may be the most effective auxiliary aid for a person whose primary language is ASL, and a qualified CART provider may be the most effect auxiliary aid for a person whose primary language is English.

When a state or local government entity is selecting the appropriate auxiliary aid or service, Title II of the ADA requires that *primary consideration* be given to the auxiliary aid or service requested by the individual with the disability. That means the public entity should endeavor to obtain the requested

method of accommodation unless the public entity can demonstrate that another equally effective accommodation is available or that the means chosen would result in a fundamental alteration in the nature of the service, program, or activity.

In addition to the federal requirements, the Florida Evidence Code (see § 90.6063, Fla. Stat.) requires in all judicial proceedings and grand jury sessions that the presiding officer appoint a qualified interpreter or provide another appropriate auxiliary aid for a complainant, defendant, witness, juror, or other party who is deaf. Before appointing the interpreter, the court should make a preliminary determination that the interpreter is able to communicate readily with the deaf person and is able to repeat and translate statements to and from the deaf person accurately. Additionally, the interpreter shall make an oath or affirmation that he or she will make a true interpretation in an understandable manner to the deaf person and will repeat the statements of the deaf person in the English language to the best of the interpreter's skill and judgment.

## **Other Types of Hearing Loss**

The video used in this training depicted two people who are deaf and use American Sign Language as their primary mode of communication. As mentioned at the beginning of this training there are persons with a wide range of levels of hearing loss, language skills, communication methods, and multiple disabilities. What follows is some information about each of these groups. As they are identified, it would be good to discuss how this same situation might have to be handled differently depending on the type of hearing loss and the appropriate accommodations that need to be made. Keep in mind that you should always:

- consult the person with the disability as the first step in evaluating the need for auxiliary aids and services;
- work with the person to identify appropriate auxiliary aids and services and when considering alternatives; and
- consider the preference of the individual with a disability; and
- select the auxiliary aid or service that best serves the needs of the individual and fulfills the purpose of the service or program.

There is a segment of the deaf population, as well as a majority of the hard-of-hearing population, that does not use ASL or any form of a signed system, and they communicate orally. These individuals will speak and attempt to speech read (lip-read) when communicating, and English is typically their primary language. Therefore, they require different accommodations than members of the Deaf community.

## **Hard of Hearing**

Individuals who are hard of hearing face a very difficult quandary because their hearing loss comes in many forms and degrees. There are times when they can hear well and other times when they cannot. The ability to communicate effectively is dependent on the environment, the speaker's voice, the level of anxiety the situation imparts and other factors that the hard-of-hearing person cannot control. As a result, hard-of-hearing people often report that others think they are faking their hearing loss or failing to try hard enough to hear. Many hard-of-hearing individuals will nod their heads and appear to understand what is said when in fact they do not. This behavior is common because they do not want to appear "difficult" or "uncooperative" or are ashamed of their deficient hearing. Many of these individuals constantly struggle to hear, and are often left out of conversations. As a result they may miss large sections of dialogue without always reporting that they could not "hear" what was relayed. Constantly trying to hear and participate in conversations can often lead to fatigue or frustration, which can lead to misunderstandings. Phone conversations or group dialogue may be especially difficult for persons who are hard of hearing, and they must constantly remind others to speak louder, clearer or at a slower pace.

### **The lip-reading myth**

It is a myth that all people who are hard of hearing can speech read (also known as lip-reading.) Those who can speech read have widely varying levels of proficiency. The task of speech reading is very difficult to master, and the ability or inability to lip-read is in no way related to a person's intelligence. Some people who are hard of hearing use speech reading, typically augmented with hearing aids or other devices, as one part of their communication method but not as a stand-alone technique. Each person should be asked which mode of communication he or she prefers and be provided with the appropriate accommodation.

### **Assistive Devices**

It is often common for persons who are hard of hearing to be unfamiliar with the assistive devices or strategies available to help them communicate more readily. As a general rule, effective communication for persons who are hard of hearing is achieved through the provision of Assistive Listening Systems, Communication Access Real-time Translation (CART), slowing the pace, and improving the acoustic dynamics and the lighting of the room. It is wrong to assume that merely speaking slowly or writing on paper to a person who is hard of hearing provides effective communication under the ADA.

SLIDE 20

**Possible Ways to Recognize Hard-of-Hearing Individuals**

- Wears one or two hearing aids (see picture on left, below)
- Wears a cochlear implant processor in one or both ears (see picture on right, below)
- May use a variety of assistive devices to augment hearing aid's effectiveness
- Must face the speaker to facilitate speech reading (also known as lip-reading)
- Needs a light source in front of the speaker to maximize speech reading
- Needs a quiet environment to minimize the background noise that erodes understanding
- Requires the speaker's use of a microphone to amplify speech
- Does not understand public address announcements
- May not respond when spoken to, if the proper visual cues have not been provided
- May respond to questions incorrectly because the question has not been understood
- May bluff when spoken to in order to avoid embarrassment of not hearing
- Has great difficulty hearing on telephones due to lack of visual cues
- May appear aggressive and hostile due to the frustration of struggling to hear
- May become passive and overly dependent on others to hear for them



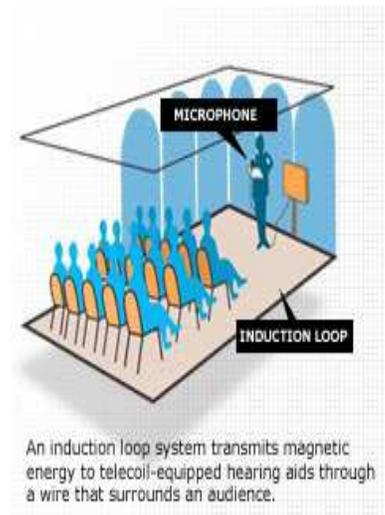
## SLIDE 21

### **Possible Issues Resulting from Hearing Loss**

- Individuals who are hard of hearing may feel left out of mainstream life
- Caught between the hearing world and the deaf world
- Likely do not use or understand sign language
- May feel a sense of isolation and detachment and may become depressed
- May be either unemployed or underemployed due to lack of accommodations
- Are often stigmatized by themselves and others
- Are often dismissed due to difficulty communicating with them
- Are often viewed as “difficult” when they express frustration and anger

## Accommodations for Individuals Who Are Hard of Hearing

- Availability of FM systems, loop systems and infra-red assistive listening systems which interface with hearing aids and cochlear implants (See example of a small-area professional FM system from Harris Communications, pictured below, on the left, and a depiction of the concept and use of an induction loop system, pictured below, on the right)
- Use of CART (Communication Access Real-time Translation) for victim statements, interrogations, depositions, court proceedings, etc.
- Use of microphones in courtroom and other public settings
- Persons who are hard of hearing may need captioning on TV programs, instructional videos or public address systems. For example, a person who is hard of hearing may be unable to hear the video instructions in the jury pool location without captioning or a text transcript.
- Priority seating for persons who are hard of hearing, where they may see and hear better
- Willingness to use pen and paper to communicate as a last resort for very brief interactions or situations involving less serious matters such as asking for directions. (**However**, a pen and paper may not satisfy the requirement of effective communication with all people or in certain situations.)



## **Late-Deafened Persons**

Late-deafened adults (**LDA**) are individuals who lost their hearing any time after the development of speech and language, often after the age of adolescence. Usually, a late-deafened adult has identified with the non-deaf society through schooling and social connections and has little or no residual hearing. Generally the techniques used for people who are hard of hearing will be effective when communicating with late-deafened adults; however, it is always best to ask what works most effectively for that individual.

Many persons who are late-deafened are unfamiliar with Communication Access Real-time Translation (CART) and do not know they can request this service, or they may request “captioning.” (Officers, court personnel and others should refer to the CART section (slides 38-40) of this manual.)

### Possible point of discussion

If a late-deafened adult tells you he or she cannot understand what you are saying, is it always helpful to speak louder?

### **How to Recognize Late-Deafened Adults Possible Issues for Late-Deafened Adults**

The ways to recognize a late-deafened adult are almost completely the same as the information given in the section regarding persons who are hard of hearing. But we will go over a few. Generally speaking, late-deafened adults:

- Have an inability to understand speech without visual cues
- Will not respond when spoken to if they do not see the speaker's face
- Have a dependence on written information to understand communication
- May or may not have sign language skills

Late-deafened individuals are often misunderstood because they speak and usually have little difficulty in making themselves understood verbally. Therefore people assume they can communicate back to the late-deafened individual by simply speaking back. Sometimes late-deafened persons will speech read what was said accurately and other times they will not.

It is important to understand that residual hearing helps to increase the accuracy of speech reading. In other words, the ears and the eyes are working together to understand. Since late-deafened persons often have little or no usable residual hearing, they are using their eyes to understand. Therefore the percentage of speech reading accuracy is lowered as not all words are visible on the lips. In order to make sense of what is being said, late-deafened people will need to guess as they speech read. This skill (guessing) helps to put the sentence together and to compensate for words that cannot be seen on the lips. Filling in the gaps or guessing should not be confused to mean the person is bluffing. Sometimes the person guesses right and sometimes the person guesses wrong without realizing he or she is misunderstanding. It is also important to recognize that the late-deafened individual is using a

tremendous amount of cognitive energy to speech read and therefore has less energy to spend on comprehending the message itself. Even when CART is provided, it is important to give the late-deafened person time to read and process the information.

Usually, late-deafened adults have identified with the non-deaf society through schooling, marriage, work and social connections. They often find it difficult and frustrating to communicate with their hearing friends, family, and co-workers through speech reading alone. The ability to speech read effectively is dependent on a variety of factors over which late-deafened adults have no control, such as language content and the speaker's lip movement.

Attorneys and others should note that many of these clients constantly struggle to understand and are often left out of conversations. As a result they may miss large sections of dialogue without always reporting that they could not understand. Constantly trying to understand and participate in conversations can often lead to fatigue, frustration and misunderstandings.

### **Accommodations for Late-Deafened Adults**

For many late-deafened adults, effective communication is generally achieved by Communication Access Real-time Translation (CART). Some late-deafened individuals know sign language and are comfortable using a sign language interpreter in certain circumstances (i.e. informal meeting). Often, a late-deafened person who signs uses Signed Exact English (ASL signs in English word order). Using clear speech and maintaining eye contact are important; however, those techniques used alone cannot guarantee the late-deafened adult understands.

Later in the manual we provide information as to how to secure a CART provider.

### **Individuals Who Are Deaf-Blind**

- Deaf-blind refers to an array of individuals who have significant combined vision and hearing loss that can affect the way they gain information, communicate, orient and move within the environment and live on a daily basis.
- Deaf-blindness is a comprehensive term that can refer to persons having:
  - 20/200 or less central vision and a limited field of vision of 20 degrees in their best eye,
  - chronic hearing loss so severe that most speech cannot be understood with optimum amplification,
  - progressive visual and/or hearing loss that would lead to these conditions.
- Some children who are deaf-blind also have other complications in cognition, behavior, and health due to various causes of deaf-blindness such as prematurity or complex syndromes, (i.e., CHARGE Syndrome which refers to children with a specific set of birth defects and medical problems, including conditions that usually affect hearing and vision).
- Most people who are deaf-blind have some degree of visual or hearing ability.
- People who are deaf-blind use a wide variety of communication methods to meet their needs. It is important to ask an individual what his or her communication needs are prior to the legal proceedings.

### **Characteristics/Accommodations for Persons Who Are Deaf-Blind**

- May be very literal, especially if the person has limited range of experiences and skill in English; refrain from idioms, such as “cat and mouse games,” or too many visual references for a person with very limited sight.
- Communication may take longer.
- Due to combined sensory loss, persons who are deaf-blind may gain information “part-to-whole,” especially if relying on the sense of touch to explore and communicate. This means that instead of seeing a whole object, they may have to perceive the different parts of the object separately, and then deduce what the entire object appears to be.
- Little or no residual hearing in one or both ears and some degree of vision loss.
- Low vision can affect the distance a person requires to recognize friends or destinations or sign language or print; person may appear aloof and distant, but he or she may be having difficulty recognizing people.
- May need time for eyes to adjust when moving between brightly lit and shaded areas; glare may be an issue so may use sunglasses or a cap with a brim, even indoors.
- If field of vision is reduced, the person may run into items or trip.
- Be aware of lighting and glare; the person may have preferences for certain color combinations (black/yellow; white letters on black field).
- Inability to understand speech without visual or tactile cues; the person may appear to violate personal space by getting close or moving objects close to his or her face.
- May or may not wear hearing aid(s).
- May or may not use a cochlear implant, which is a medical device surgically implanted (sometimes for environmental sounds rather than for speech).
- May or may not use other assistive listening devices and technology (e.g., FM speech amplifiers, amplified telephones, TTY/TTD with large video display, captioned telephones with large video display, video relay systems, CART, etc.)
- May or may not show visible signs of the effort required to make sense of the spoken word.
- May not respond when spoken to if they do not see the speaker’s face or some other large movement (waving hands to get attention or a tapping on the hand, if blind).
- May or may not be accompanied by a Support Service Provider (SSP).

## Types of interpreters and accommodations which individuals who are deaf-blind may use:

- Close vision (ASL, Signed English, Oral lip-reading, large print, CART with large font)
- Tactile (ASL, Signed English, fingerspelling, Tadoma [tactile lip-reading which is rarely used], Cued Speech, Braille)
- Oral/aural (speech, assistive listening devices)
- Support Service Providers (SSPs)
- May use assistive technology to have face-to-face conversation, Braille display and printed word if person is blind and uses sign language (Screen Braille Communicator or DB Communicator Brailnote® or TTY with Braille display). (Note to trainer, be prepared to define these types of communications--see the web pages in the back of this Manual to assist with the definitions and explanations.)
- When at a distance and the person has low vision, may use a device such as a magnifier to bring information closer onto a laptop for viewing when it is impractical to move items or people closer (i.e., ABISee Zoom Twix or Freedom Scientific portable CCTV with camera and laptop).
- May use CART services with modifications, such as:
  - High contrast display (bold white or yellow letters on a black background)
  - LARGE and/or **BOLD** fonts
  - Special refreshable Braille device that can convert the streaming text from CART to Braille. [www.deafblind.com/display.html](http://www.deafblind.com/display.html)

### **Possible Characteristics of People Who Are Deaf-Blind**

Persons who are deaf-blind sometimes express feelings of being caught between the blind/vision loss world and the deaf/hearing loss world and not really being understood by either group.

- Deaf-blindness is its own unique category and is more than the sum of deafness and blindness.
- Due to the difficulty in communicating, many people do not speak to or allow a person who is deaf-blind to speak for him or herself and make decisions.

Persons who are deaf-blind may feel isolated when friends, family, and co-workers converse by spoken language or when sign language is not visually clear or tactilely accessible. They may tend to withdraw from challenging listening situations. It is easier to communicate one-on-one, rather than with large groups.

Anger and frustration may be present when attempting to hear or be understood in challenging communication environments.

- Often there is a lot of “down” time and waiting when interpreting for a person who is deaf-blind due to the process needed to relay information.
- A person who is deaf-blind may be unaware of a dangerous situation. In that case, develop a cue, e.g., “X” on person’s back that means, “Come with me now; will explain later.”
- Some persons who are deaf-blind may refuse to use a cane when with friends who are deaf, because they do not want to appear different (especially teens).
- People who are deaf-blind may need to have landmarks (e.g., wall or chair) to travel in an environment instead of moving through wide open spaces. This is also relevant when the Support Service Provider (SSP) needs to remove themselves from a situation briefly (i.e., to use the restroom).
- Often even family members may have limited means of communication with the person.
- Be aware that you transmit a lot of feelings through tactile contact; relax!

### **Etiquette for Interacting with Individuals Who Are Deaf-Blind**

- Always identify yourself by name/name sign.
- Do not leave a person who is deaf-blind without letting the person know you are going. Always let the person know when you return.
- Inform the person of things, activities and people in their environment.
- When providing what is known as “sighted guide,” the individual holds onto you. You should not move the person around without the individual’s awareness and consent. The person usually holds the guide’s elbow and aligns so the two of you create a 1.5 – to double the width of the person. When guiding, walk at a smooth pace to indicate “all clear,” slow down in crowded areas, and drop your arm behind your back to indicate a narrow passage. Pause before changing terrain (e.g., going onto stairs, into elevator, concrete to grass, etc.)

## Communication Access Real Time Translation (CART) Services

The following slides provide in-depth information about CART, who can benefit from CART, and how CART works.

A comprehensive guide entitled “CART in the Courtroom: Model Guidelines,” originally produced in a joint project by the American Judges Foundation and the National Court Reporters Association, is available for free download at <http://fcraonline.org/CART/guidelines.pdf>.

Many times the individuals who can benefit from Communication Access Real-time Translation (CART) will request “captioning” or “real-time captioning” or possibly a “transcriptionist” or “note-taker.” Please be aware that these terms are often used interchangeably with “CART services.”

*\*Note to trainer:* You may eliminate the lengthy explanation of slide 44, pertaining to the difference between CART providers and court reporters, if you feel the group being trained will not be tempted to use court reporters in place of trained CART providers. It may be tempting to use a court reporter rather than a CART provider, especially when budgets are tight. However, a specially trained CART provider is the professional who is most qualified to provide an accommodation for a person with hearing loss.

## Communication Access Real-Time Translation

Individuals who may need CART services include:

- Persons who are late-deafened or hard of hearing
- Persons who are oral deaf and grew up speaking and reading lips rather than using ASL or sign language. The native language of an English-speaking oral deaf person is English, as opposed to ASL. Since CART services provide English in a written form, it can be an effective tool for persons who are oral deaf.
- Persons who are deaf-blind and may read Braille but are not proficient in tactile ASL. There is a refreshable Braille device that can receive CART input. Link for refreshable Braille display: <http://www.deafblind.com/display.html>
- Cochlear implant recipients and “lip-readers” (lip-reading is only approximately 25% - 30% effective).

If you are not sure what accommodation will ensure effective communication, ask the person with hearing loss.

### **Why CART is Not Effective for Everyone**

Culturally Deaf consumers, who comprise approximately 4.8% of all persons with hearing loss and usually use ASL, may not be able to use CART for effective communication.

- American Sign Language (ASL) is their native language; CART is in English word order, unlike ASL, which is not in English word order.
- CART requires reading speed and reading skills that may be beyond the level of someone whose first language is ASL.
- Many culturally Deaf consumers do not use their voice to communicate. CART is primarily a “receptive” service. The CART provider translates the words spoken, audible environmental sounds, and some visual cues to the consumer. The consumer will read the CART screen to understand what is being said, then will most likely use his or her own voice to speak.

## Understanding CART

- CART providers are specially trained in working with persons with hearing loss.

This training involves communication strategies, cultural sensitivity, ethics regarding confidentiality, conveyance of vital concepts like sarcasm, translation of visual cues the consumer may miss while reading the screen (i.e., which prospective juror made a particular statement), and conveyance of sounds and noises like fire alarms, thunder and laughter.

- CART providers use computers and writing devices to display and create the text.

CART providers use a laptop computer and a steno machine (like a court reporter uses). The steno machine is typically on a tripod, and the CART provider will need a chair and a bit of table space for the computer, as well as access to an electrical outlet. CART providers have their own equipment and will bring it with them. Usually, no equipment needs to be purchased when a CART provider is on site and providing CART for a single consumer. (Remote CART and the equipment needed will be explained below.)

- CART is a word-for-word (verbatim) speech-to-text translation service.

CART providers always strive for a verbatim or word-for-word rendering of everything said. This differs from American Sign Language (ASL), which is more conceptual and does not follow English word order.

CART providers are able to keep up with most speakers and thus provide a complete rendering of what was said, as opposed to someone taking notes or writing down what is being said.

- CART is a one-way communication service

Most CART consumers speak or “voice” for themselves. In the event a consumer of CART does not voice for himself or herself, the CART provider may arrange for the consumer to type his/her comments into the CART computer, and the CART provider will voice for the consumer.

### Understanding CART-Continued

- Court reporters use the same equipment as CART providers, but their jobs, skills and ethical responsibilities are very different.

A court reporter's job is to make a verbatim record of the official proceedings. The court reporter must be able to prepare an official transcript from his/her steno notes, no matter how difficult those notes may be for a computer or another person to read. The court reporter looks up spellings of proper names and new terms after the proceedings when the transcript is being prepared.

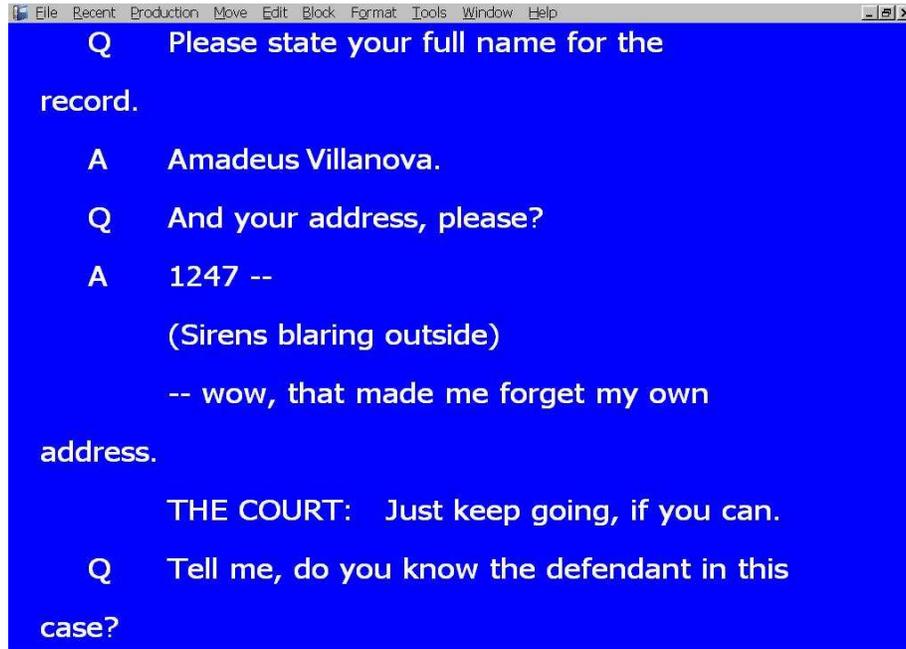
A CART provider's job is to ensure that "effective communication" is taking place between the person with hearing loss and the others present. This means the CART provider may do things that are foreign to most court reporters, such as finger spelling. Finger spelling means the CART provider spells out a word or proper name, letter by letter, when it is not in the CART provider's computer program. It must appear to the consumer as if it translated like the rest of the words.

A CART provider facilitates communication between a plaintiff or defendant who is deaf and his/her counsel or between a juror who is deaf and the other jurors during deliberations. A court reporter does not report these events.

In addition to confidentiality, a CART provider's ethical obligations include advising the parties if the CART provider is not qualified to provide CART services in a particular setting. A court reporter may not be aware of this requirement or even the fact that he/she is not qualified.

- The ADA recognizes CART as an assistive technology that affords effective communication access for some people with hearing loss.
- CART services may be provided in person (on-site) or remotely, if necessary, using telephones and/or the Internet. This is particularly helpful when there are no qualified CART providers available at the location where the services are needed.

## EXAMPLE OF PROCEEDINGS, BY A CART PROVIDER:



THE SAME PROCEEDINGS, BY A REAL-TIME COURT REPORTER:

The screenshot displays a real-time court reporting software interface. At the top, there is a menu bar with options: File, Recent, Production, Move, Edit, Block, Format, Tools, Window, and Help. Below the menu bar is a toolbar containing various icons for editing and navigation. The main area shows a transcript of a hearing with the following text:

Q 2 Q Please state your full name for the  
 3 record.  
 A 4 A AUPL day usville Nova.  
 Q 5 Q And your address, please?  
 A 6 A 1247~-- wow, that made me forget my own  
 7 address.  
 S 8 THE COURT: Just keep going, if you can.  
 Q 9 Q Tell me, do you know the defendant in this  
 10 case?

On the right side, there is a sidebar with a list of entries and a search bar. The list includes the following text:

Entries: 116  
 Untranslates: 1  
 Conflicts: 0  
 A/I Selected: 0  
 WPM:   
 Audio 1:   
 Audio 2:   
 O U F  
 K W EU D  
 P HRA EU  
 T O E  
 STKPHRAO  
 H O\* U F  
 K EU D  
 TK O UF  
 ST P H  
 EUFPELGT  
 EUF  
 T W O  
 A PE  
 S H E  
 H A  
 T HRAO E  
 # \*

### **Hiring CART Providers**

The Florida Court Reporters Association, through its CART Committee, has developed a brochure called “Legal System Accessibility in Florida for Persons with Hearing Loss – CART,” and has compiled and distributed a Best Practices Guide.

This CART Best Practices information is being distributed to the legal community and the Florida State Courts System by the Florida Court Reporters Association.

- “CART Best Practices Guide” is available for free download at <http://fcraonline.org/CART/>
- Certified CART Providers hold the CCP certification from the National Court Reporters Association
- Florida CCPs are listed at <http://fcraonline.org/CART/>

# MODEL POLICY FOR LAW ENFORCEMENT ON COMMUNICATING WITH PEOPLE WHO ARE DEAF OR HARD OF HEARING

This information is modified from the model policy published on the U.S. Department of Justice/ADA Homepage. (It has also been edited to include the term “hard of hearing” and to add references to CART as an acceptable accommodation.)

## OVERVIEW

It is the policy of this law enforcement agency (Agency) to ensure that a consistently high level of service is provided to all community members, including those who are deaf or hard of hearing. This Agency has specific legal obligations under the Americans with Disabilities Act [*insert the following text if your agency receives financial assistance from the Federal government:* and the Rehabilitation Act] to communicate effectively with people who are deaf or hard of hearing. To carry out these policies and legal obligations, the Agency instructs its officers and employees as follows:

- People who are deaf or hard of hearing are entitled to a level of service equivalent to that provided to other persons.
- The Agency will make every effort to ensure that its officers and employees communicate effectively with people who are deaf or hard of hearing.
- Effective communication with a person who is deaf or hard of hearing and involved in an incident whether as a victim, witness, suspect, or arrestee is essential in ascertaining what actually occurred, the urgency of the matter, and type of situation.
- Various types of communication aids known as “auxiliary aids and services” are used to communicate with people who are deaf or hard of hearing. These include use of gestures or visual aids to supplement oral communication; use of a notepad and pen or pencil to exchange written notes; use of an assistive listening system or device to amplify sound for persons who are hard of hearing; use of a qualified oral or sign language interpreter; or use of a qualified CART (Communication Access Real-time Translation) provider. CART is real-time speech to text, sometimes called “captioning.”
- The type of aid that will be required for effective communication will depend on the individual’s usual method of communication, and the nature, importance, and duration of the communication at issue.

- In many circumstances, oral communication supplemented by gestures and visual aids or an exchange of written notes will be an effective means of communicating with people who are deaf or hard of hearing. In other circumstances, a qualified CART provider or qualified sign language or oral interpreter may be needed to communicate effectively with persons who are deaf or hard of hearing. The more lengthy, complex, and important the communication, the more likely it is that a qualified interpreter or CART provider will be required for effective communication. For example:

If there has been an incident and the officer is conducting witness interviews, a qualified sign language interpreter may be required to communicate effectively with someone whose primary means of communication is sign language. A qualified oral interpreter may be required to communicate effectively with someone who has been trained to speech read (read lips). For someone who has hearing loss, a qualified CART provider may be required to communicate effectively.

If a person is asking an officer for directions to a location, gestures or an exchange of written notes will likely be sufficient to communicate effectively.

- To serve each individual effectively, primary consideration should be given to providing the type of communication aid or service requested by the individual. Officers should find out from the person who is deaf or hard of hearing what type of auxiliary aid or service he or she needs. Officers should defer to those expressed choices, unless:
  - there is another equally effective way of communicating, given the circumstances, length, complexity, and importance of the communication, as well as the communication skills of the person who is deaf or hard of hearing; or
  - doing so would fundamentally alter the nature of the law enforcement activity in question or would cause an undue administrative or financial burden; only the Agency head or his or her designee may make this determination.
- The input of people who are deaf or hard of hearing who are involved in incidents is just as important to the law enforcement process as the input of others. Officers must not draw conclusions about incidents unless they fully understand -- and are understood by -- all those involved, including people who are deaf or hard of hearing.
- People who are deaf or hard of hearing must not be charged for the cost of an auxiliary aid or service needed for effective communication.

## **ON-CALL INTERPRETING AND CART SERVICES**

- The Agency shall maintain a list of sign language and oral interpreting services and CART services that are available (on-call 24 hours per day) and willing to provide qualified interpreters as needed. Each of these services will be chosen after having been screened for the quality and skill of its interpreters and CART providers, its reliability, and other factors such as cost. The Agency will update this list annually.
- A qualified sign language or oral interpreter is one who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Accordingly, an interpreter must be able to sign to the deaf individual (or interpret orally to the person who speech reads) what is being said by the officer and be able to voice to

the officer what is being signed or said by the deaf individual. The interpreter must be able to interpret in the language the deaf person uses (e.g., American Sign Language or Signed English) and must be familiar with law enforcement terms and phrases. Because a qualified interpreter must be able to interpret impartially, a family member, child, or friend of the individual who is deaf may not be qualified to render the necessary interpretation because of factors such as professional, emotional, or personal involvement, or considerations of confidentiality. Additionally, although a “qualified” interpreter may be certified, a certified interpreter is not necessarily “qualified,” if he or she is not a good communications match for the deaf person (e.g., where the deaf person uses Signed English and the interpreter uses American Sign Language) or for the situation (e.g., where the interpreter is unfamiliar with law enforcement vocabulary).

A Certified CART Provider (CCP) is governed by rules of confidentiality and is specifically trained to render verbatim, English speech into instant text and provides a laptop computer on which is clearly displayed all text. A Certified Real-time Reporter (CRR) may be qualified; the investigating officer should ascertain by viewing the text screen that effective communication is taking place before proceeding. Judges and court staff should refer to the State Court System's Policy on Court Real-Time Transcription Services for Persons Who Are Deaf or Hard of Hearing, which is available online in the Title II Guidelines for the State Courts System of Florida at [http://www.flcourts.org/gen\\_public/pubs/adamain.shtml](http://www.flcourts.org/gen_public/pubs/adamain.shtml).

## **TTY AND RELAY SERVICES**

- In situations when a nondisabled person would have access to a telephone, officers must provide persons who are deaf or hard of hearing the opportunity to place calls using a teletypewriter (TTY, also known as a telecommunications device for deaf people, or TDD). Officers must also accept telephone calls placed by persons who are deaf or hard of hearing through the Telecommunications Relay Service.

## **TECHNIQUES FOR OFFICERS TO COMMUNICATE EFFECTIVELY**

- Officers may utilize the following auxiliary aids, when available, to communicate effectively:
  - Use of gestures;
  - Use of visual aids;
  - Use of a notepad and pen or pencil;
  - Use of a computer or typewriter;
  - Use of an assistive listening system or device;
  - Use of a teletypewriter (TTY);
  - Use of a qualified oral or sign language interpreter;

--Use of a qualified CART provider.

- Officers must review and have a working knowledge of the publication *Communicating with People Who Are Deaf or Hard of Hearing: ADA Guide for Law Enforcement Officers*. This document reviews how officers should communicate effectively in the types of situations officers will encounter.

## **Bibliography and Helpful Resources**

(edited January, 2010)

The information for this training was compiled from many sources. This list below is provided to acknowledge contributors and to credit their work. This list has also been augmented with other resources that may be helpful to those striving to provide effective communication in the legal system.

### **Deafness and Hearing Loss**

Hearing Loss Association of America (HLAA) – [www.hearingloss.org](http://www.hearingloss.org)

National Association for the Deaf – [www.nad.org](http://www.nad.org)

Association of Late-Deafened Adults – [www.alda.org](http://www.alda.org)

Florida Coordinating Council for the Deaf and Hard of Hearing - [www.fccdhh.org](http://www.fccdhh.org)

Florida Association of the Deaf - [www.fadcentral.org](http://www.fadcentral.org)

Hearing Loss Association of Florida – [www.hla-fl.com](http://www.hla-fl.com)

### **Working with Deaf-blind Individuals**

National Consortium on Deaf Blindness – [www.nationaldb.org](http://www.nationaldb.org)

Florida Deaf- Blind Association- [www.fldeafblind.org](http://www.fldeafblind.org)

### **ASL/Deaf Culture Information**

National Association for the Deaf – [www.nad.org](http://www.nad.org)

Florida Coordinating Council for the Deaf and Hard of Hearing- [www.fccdhh.org](http://www.fccdhh.org)

### **Assistive Technology**

Telecommunications on Deaf and Hard of Hearing Inc. (TDI) - [www.tdi-online.org](http://www.tdi-online.org)

Florida Coordinating Council for the Deaf and Hard of Hearing - [www.fccdhh.org](http://www.fccdhh.org)

Florida Telecommunications Relay Inc.- [www.ftri.org](http://www.ftri.org)

Job Accommodation Network – [www.jan.wvu.edu](http://www.jan.wvu.edu)

Sorenson Video Relay Service- [www.SorensonVRS.com](http://www.SorensonVRS.com)

CSD Video Relay Service - [www.zvrs.com](http://www.zvrs.com)

### **Communication Access Real-time Translation (CART)**

Florida Court Reporters Association- [www.fcraonline.org](http://www.fcraonline.org)

“Communication Access Real-time Translation (CART) in the Courtroom: Model Guidelines,” which was a joint project by the American Judges Foundation and the National Court Reporters Foundation <http://fcraonline.org/CART/guidelines.pdf>

Florida Coordinating Council for the Deaf and Hard of Hearing- [www.fccdhh.org](http://www.fccdhh.org)

## **INTERPRETERS**

Registry of Interpreters for the Deaf – [www.rid.org](http://www.rid.org)

Florida Registry of Interpreter for the Deaf - [www.fridcentral.org](http://www.fridcentral.org)

Model Code of Conduct for Interpreters Working in the Judiciary,

National Center for State Courts - [www.ncsc.org](http://www.ncsc.org)

Florida Coordinating Council for the Deaf and Hard of Hearing- [www.fccdhh.org](http://www.fccdhh.org)

Communicating Effectively with Deaf, Hard of Hearing and Deaf/Blind clients: A Manual for Florida Attorneys, found at [www.jaxlegalaid.org/v2/resources.pdf](http://www.jaxlegalaid.org/v2/resources.pdf), and on the Florida Bar web page

### **Legal Obligations When Serving these Communities**

Department of Justice – [www.ada.gov](http://www.ada.gov)

National Association for the Deaf – [www.nad.org](http://www.nad.org)

Florida State Courts System’s ADA Guidelines – [www.flcourts.org](http://www.flcourts.org)

Job Accommodation Network – [www.jan.wvu.edu](http://www.jan.wvu.edu)

National Center for State Courts - [www.ncsc.org](http://www.ncsc.org)

Florida Coordinating Council for the Deaf and Hard of Hearing- [www.fccdhh.org](http://www.fccdhh.org)

Communicating Effectively with Deaf, Hard of Hearing and Deaf/Blind clients: A Manual for Florida Attorneys, found at [www.jaxlegalaid.org/v2/resources.pdf](http://www.jaxlegalaid.org/v2/resources.pdf), and on the Florida Bar web page.

Commission For Florida Law Enforcement Accreditation, Inc. - [www.flaccreditation.org](http://www.flaccreditation.org)

### **Other Helpful Web Pages**

Commission For Florida Law Enforcement Accreditation, Inc.- [www.flaccreditation.org](http://www.flaccreditation.org)

U.S. Census Bureau – [www.census.gov/hhes/www/disability/disability.html](http://www.census.gov/hhes/www/disability/disability.html)

DBTAC: Southeast ADA Center- [www.sedbtac.org](http://www.sedbtac.org)

National Technical Institute for the Deaf - [www.ntid.rit.edu](http://www.ntid.rit.edu)