



DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS

PROGRAM STATEMENT

OPI: DIRECTOR
Number: 3800.3
Date: September 30, 2003
Subject: ADA: Communications for
Deaf and Hearing
Impaired

1. **PURPOSE AND SCOPE.** To establish and implement a program within the DC Department of Corrections (DOC) that provides auxiliary aids and services, whenever necessary, to ensure effective communications with inmates, visitors, and members of the public who are deaf or hearing impaired.
2. **POLICY.** It is the policy of DOC to take appropriate steps to ensure that communications with the hearing disabled are as effective as communications with others.
3. **APPLICABILITY.** This policy applies to services, programs, and activities provided or operated by the DOC and to contractors who provide services, programs and activities to DOC inmates, visitors and members of the public.
4. **NOTICE OF NON-DISCRIMINATION.** In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Code section 2.1401.01 et seq., ("the Act") the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.
5. **OBJECTIVES**
 - a. DOC will furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, services, programs or activities conducted by DOC.
 - b. DOC shall ensure by contract or other arrangements that all services, programs, or activities provided or operated by contractors are in compliance with the Americans with Disabilities Act. Contracts with those entities that fail or refuse to comply with the ADA shall be subjected to formal termination proceedings.

6. DIRECTIVES AFFECTED

a. **Rescinded.** None

b. **Referenced**

- 1) PS 1220.1B Customer Service (5/30/02)
- 2) PS 2920.1B Fire Safety Program (3/9/01)
- 3) DO 3800.2 Handicapped Americans with Disabilities Act Accommodations, Section 504 (8/10/92)
- 4) DO 4030.1E Grievance Procedures, Inmate (IGP) (5/4/92)
- 5) DO 4070.1A Telephone Access, Inmate (4/8/94)
- 6) PS 4080.1B Visiting Regulations, Inmates (3/7/00)

7. AUTHORITY

- a. Title 2 Americans with Disabilities Act (ADA) of 1990, USC §§ 12131-12134 and 28 C.F.R. § 35.104.
- b. DC Code 2-1901 DC Interpreters for Hearing Impaired and Non-English Speaking Persons Act.
- c. Section 504 of the Rehabilitation Act of 1973.
- d. DC Code § 24-211.02 Powers; Promulgation of Rules (formerly § 24-442).

8. STANDARDS

- a. American Correctional Association 3rd Edition, Standards for Adult Local Detention Facilities: 3-ALDF-1D-04, 3-ALDF-1D-05, 3-ALDF-2F-03, 3-ALDF-3C-14, 3-ALDF-3E-06, 3-ALDF-3D-21, 3-ALDF-3E-04, 3-ALDF-3E-11, 3-ALDF-4B-03 and 3-ALDF-5D-09.
- b. American Correctional Association 4th Edition, Standards for Adult Correctional Institutions: 4-4079, 4-4142, 4-4169, 4-4243, 4-4277, 4-4284, 4-4288, 4-4303, 4-4344, 4-4394, 4-4399, 4-4429, 4-4475, 4-4497 and 4-5599.
- c. National Commission on Correctional Health Care Standards for Health Services in Prisons 1997: P-08, P-31, P-34, P-51 and P-59.

9. DEFINITIONS

- a. **Communication-Impaired Person.** A person whose hearing is impaired or who does not speak English.
- b. **Hearing-Impaired Person.** A person who, because of a hearing impairment, cannot readily understand oral communications or who cannot communicate effectively through speech.
- c. **Non-English Speaking Person.** A person who is unable to understand oral and written communications in the English language or who cannot communicate effectively in the *spoken* English language.
- d. **Qualified Interpreter.** An individual who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.
- e. **Intermediary Interpreter.** Any person, including any hearing-impaired person, who is able to assist in providing an accurate interpretation between spoken English and sign language or between variants of sign language (ex: American Sign Language vs. Signed English) by acting as an intermediary between a hearing-impaired person and a qualified interpreter.
- f. **Telecommunications Relay Services (TRS).** TRS allows an individual who is deaf, hard of hearing, or speech disabled to communicate with a hearing person who does not have a TTY system. A Communications Assistant (CA) will place the call from the inmate who is typing the message using the DOC TTY phone, and speak the words to the individual receiving the call. The CA will then type the spoken words from that individual so the inmate can read the returned message.
- g. **Videoconferencing.** Videoconferencing allows two or more people at different locations to see and hear each other at the same time. This is the service that will primarily be used for DOC contracted interpreting services.

10. REQUIREMENTS

- a. **Contracts for the Provision of Interpreting Services**
 - 1) DOC has contracted with an interpreter service to provide an effective means to ensure that qualified interpreters are available, when required, without delay.
 - 2) DOC may, but shall have no obligation to, hire or otherwise contract with

qualified interpreters in a staff position.

- 3) Staff interpreters must be qualified as set forth in § 10, "Procedures, subsection "e" of this directive.
- b. **Policies and Security Concerns.** Nothing in this policy shall require that an electronic device or piece of equipment used as an appropriate auxiliary aid be used when or where its use may be inconsistent with DOC policies or pose security concerns.

For instance, closed-captioned televisions are provided consistently for inmates with hearing disabilities with the same duration and frequency as televisions are provided to the other inmates classified in the same status within DOC. No inmate is provided a television if his/her status would not otherwise permit him/her access to one.

- c. **Equal Service Provisions.** Inmates and visitors who are provided with staff interpreters must have the same level of coverage (for both duration and frequency) as DOC is otherwise obligated to provide under this Policy. DOC may assign other duties as appropriate to staff interpreters.

11. RESPONSIBILITIES

- a. **Director.** The Director shall ensure the following:
- 1) The Auxiliary Aids and Services (AAS) Program is conducted in accordance with requirements and procedures in accordance with this directive.
 - 2) The Director designates operational compliance of the AAS Program to the Deputy Director. This responsibility may be further delegated.
- b. **Deputy Director.** The Deputy Director shall ensure that:
- 1) The *DOC AAS Coordinator(s)* shall provide program oversight. The Coordinator(s) shall work with the Central Detention Facility (CDF) Warden and the DOC Office of Contract Services to determine the appropriate auxiliary aids and services that are necessary, and the timing, duration and frequency with which they will be provided. Auxiliary aids and services include qualified interpreters, note takers, transcription services, written materials, assistive listening devices, assistive listening systems, or other effective methods of making aurally delivered materials available to individuals who are deaf or hard of hearing.
 - 2) The *Office of Contract Services* ensures contract facility compliance with

the AAS program outlined in Section "c" below, and shall ensure that contractors develop and issue similar operational procedures.

- c. **CDF Warden.** The Warden shall ensure the following requirements are accomplished:
- 1) The Warden shall within 45 days of the issuance of this directive, develop a CDF Institutional Supplement (IS) that defines specific procedures and personnel assignments for operational implementation and compliance as outlined in this directive.
 - 2) The Warden shall forward the IS to the Office of Internal Controls, Compliance and Accreditation for policy, program, operational, and legal sufficiency prior to issuance.
- d. **AAS Coordinator(s).** AAS Coordinator(s) shall:
- 1) Maintain all necessary information about access to the AAS program to include a system of documentation for inquiries regarding the provision of auxiliary aids and services and responses.
 - 2) Maintain all necessary information about the operation of the AAS program to include knowing where the appropriate auxiliary aids are stored, how to obtain services, how to operate them, and shall be responsible for their maintenance, repair, replacement, and distribution.
 - 3) Publicize its purpose and telephone number broadly within DOC and to the public.
 - 4) Provide appropriate assistance regarding immediate access to and proper use of the appropriate auxiliary aids and services available under the Program.
- e. **Employee.** Employees shall:
- 1) An employee, who is made aware of or who has any reason to believe that an inmate or visitor is deaf or hard of hearing, shall advise the person that appropriate auxiliary aids and services will be provided.
 - 2) The employee shall direct that person to the appropriate Auxiliary Aids and Services Program Coordinator(s).
 - 3) Likewise such information must be forthcoming in response to any overt request for appropriate auxiliary aids or services.

12. PROCEDURES

a. Initial Communication Assessment

- 1) When the employee has reason to believe or is informed that a newly admitted inmate or a visitor, with whom the employee is communicating or attempting to communicate with, has a hearing impairment, the employee shall immediately take the following steps:
 - a) Ascertain, through the exchange of written notes or by other means, whether the individual has a hearing impairment.
 - b) Notify the individual through the exchange of a written note or standardized notice (Attachment A) that a free, qualified sign language interpreter will be provided if the inmate desires via videoconferencing.
 - c) If the individual expresses a preference for the use of written communication, the employee shall provide a pad and pen or pencil and shall communicate with the individual in writing; permitting the individual to communicate back to the employee in writing.
 - d) If the individual expresses a belief, through the exchange of written notes or otherwise, that a qualified sign language interpreter is necessary for effective communication, the employee shall ascertain whether the individual uses American Sign Language or Signed English to communicate.
 - e) The AAS Coordinator or designee shall contact appropriate interpreter services to provide assistance.
- 2) Written communication cannot be used as a substitute where the individual has expressed a preference for a sign language interpreter.
- 3) If the individual appears to be unable to express a preference or to otherwise communicate without a qualified sign language interpreter, a qualified sign language interpreter shall be contacted by means of videoconferencing as outlined in Section e. 4 below.

b. Determination of Auxiliary Aid or Service

- 1) DOC shall provide to inmates and visitors who are deaf or hard of hearing, an appropriate auxiliary aid or service that may be necessary for effective communication as soon as practicable after determining that the

aid or service is necessary.

- 2) When an auxiliary aid or service is required to ensure effective communication, DOC shall provide an opportunity for an individual with a disability to request the auxiliary aid or service of his or her choice and DOC shall give primary consideration to the choice expressed by the individual. DOC shall honor the expressed choice, unless it can show that another equally effective means of communication is available, or that use of the means chosen would result in a fundamental alteration in the nature of its service, program, or activity or in undue financial and administrative burdens.
- c. **Individual Notice in Absence of Request.** If an inmate or a visitor who is deaf or hard of hearing does not request appropriate auxiliary aids or services, but DOC personnel have reason to believe that the person would benefit from appropriate auxiliary aids or services for effective communication, DOC shall inform the individual, through the exchange of a written note, standardized, posted notice that appropriate auxiliary aids and services are available free of charge.
 - d. **Communication with Inmates and Visitors.** DOC shall take appropriate steps to ensure that all employees having contact with an inmate or visitor who is deaf or hard of hearing are made aware of the person's disability so that effective communication with the person will be achieved.
 - e. **Provision of Qualified Interpreters**
 - 1) DOC shall provide or ensure provision of qualified interpreters when necessary for effective communication with, or effective participation in, DOC programs and activities by inmates and visitors who are deaf or hard of hearing. Procedures for providing qualified interpreter service via videoconferencing is outlined in Section 4 below.
 - 2) A qualified interpreter means an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.
 - a) Someone who has only a rudimentary familiarity with sign language or finger spelling is not a "qualified interpreter" under this policy.
 - b) Likewise, someone who is fluent in sign language but who does not possess the ability to process spoken communication into the proper signs or to observe someone else signing and change their signed or finger spelled communication into spoken words is not a qualified sign language interpreter.

- c) An employee who signs “pretty well” should not be considered an interpreter until he or she possesses the proper skills to observe someone signing and change their signed or finger spelled communication into spoken words and vice versa.
 - d) A DOC employee should not be allowed to interpret if his or her presence poses a conflict of interest or raises confidentiality and privacy concerns.
 - e) On occasion, an inmate may possess the skill level necessary to provide interpreting services; however, the impartiality concerns remain, and in many--if not most--situations, inmate interpreters should not be used due to confidentiality, privacy, and security reasons.
- 3) The following list of circumstances where interpreters may be required is neither exhaustive nor mandatory, and shall not imply that there are not other circumstances when it may be appropriate to provide interpreters for effective communication. Except in the case of the initial intake and initial medical encounter, emergency medical encounters, sick call, or other emergent encounters, the responsible employee shall request interpreter videoconferencing service via the AAS Coordinator three (3) business days in advance of the below activities:
- a) Initial intake
 - b) Classification processing;
 - c) Regularly scheduled health care appointments and programs (medical, dental, visual, mental health, and drug and alcohol recovery services);
 - d) Treatment and other formal programming;
 - e) Educational classes and activities;
 - f) Parole board hearings (USPB);
 - g) Disciplinary board hearings;
 - h) Criminal investigations (to the extent controlled by DOC);
 - i) Classification review interviews;
 - j) Grievance interviews; and
 - k) Formal investigations conducted by DOC staff.
- 4) The following information shall be maintained in the offices of the AAS Coordinator(s), Command Center, Receiving and Discharge, Visitor’s

Control, Staff Entrance, Housing Unit Control Bubble, Unit Manager, Case Manager, Chaplain and the health services contractor:

- a) A list of employees who are qualified interpreters, along with their work locations and phone numbers.
- b) The phone number and information for the contract interpreting service that provides videoconferencing or in-person assistance:

Sign Language Associates, Inc.
11160 Veirs Mill Road, Suite 506
Silver Spring, MD 20902
Contact: Mary Capold Carr
(301) 946-9710
Direct (301) 962-3066
TTY (301) 946-9710
Fax (301) 946-9685
E-mail: mcarr@signlanguage.com

- c) Telecommunications Relay Services provider telephone number or the national TRS number of 711.

- 5) The AAS Coordinator(s) may request the interpreter to provide in-person services at the Central Detention Facility (CDF) when deemed appropriate.

f. **Other Means of Communication for Unscheduled Circumstances.**

Between the time that an interpreter is requested and the interpreter is contacted by means of videoconferencing service, DOC personnel shall continue to try to communicate with the inmate or visitor who is deaf or hard of hearing for such purposes and to the same extent as they would have communicated with the person but for the hearing impairment, using all available methods of communication.

- 1) For instance, seeking the services of an interpreter shall not mean that medical treatment will be delayed until an appropriate interpreter service is available.
- 2) In addition, upon connection of the videoconference or arrival of the interpreter, personnel shall review and confirm with the inmate all information that was communicated prior to the interpreter's intervention.
- 3) This provision in no way lessens DOC's obligation to provide qualified interpreter videoconferencing or interpreters in a timely manner as required by this Policy.

- g. **Ongoing Communication Assessment.** The AAS Coordinator(s) shall conduct a minimum of two (2) monthly routine assessments of each inmate with hearing or speech disability regarding the provision of appropriate auxiliary aids and services. The AAS Coordinator(s) shall keep appropriate records that reflect the ongoing assessments.
- h. **Complaint Resolution**
 - 1) Inmates shall be informed in writing at initial classification that he or she can file complaints regarding the provision of auxiliary aids and services through the Inmate Grievance Program.
 - 2) DOC shall provide notice to other individuals who access facilities of complaint and resolution procedures.

13. HEARING AIDS AND BATTERIES

- a. **Replacement Batteries.** The AAS Coordinator(s) shall purchase and keep appropriate types of hearing aid batteries in stock in the medical supply room during the length of time an inmate(s) who wears a hearing aid is in the custody of DOC. AAS Coordinator(s) shall provide replacement hearing aid batteries to inmates requesting them as soon as possible but no later than 24 hours after such request.
- b. **Hearing Aid Repairs.** The AAS Coordinator(s) shall send inmate hearing aids to a hearing aid repair company as soon as possible but no later than 24 hours (excluding weekends and holidays) following a request by an inmate for repair of his or her hearing aid. The AAS Coordinator(s) shall inform the inmate as soon as possible when the hearing aid was sent for repair and when it is expected to be returned by the repair company. The AAS Coordinator(s) shall provide the inmate with written documentation of all hearing aid repairs, including detailed information regarding the vendor used, the date of the repair, and the specific repairs performed.

14. TELEPHONES

- a. **Telecommunications Typewriters (TTY)** also known as Telecommunications Device for the Deaf (TDD). The Warden shall ensure that written procedures are developed and implemented to provide telecommunication devices ("TTYs") for inmates who are deaf or hard of hearing in a manner that ensures effective access to telephone services. These procedures shall also provide that inmates have access to TTYs to communicate with family members or friends who are deaf or hard of hearing.

b. **TTYs in Visiting Areas**

- 1) DOC shall make at least one TTY device available in each of the visiting areas.
- 2) DOC can either permanently install the required TTYs or make available a sufficient number of portable TTYs. Wherever portable TTYs are made available as an alternative to installed TTYs, and wherever there is a bank of three or more pay telephones, DOC shall provide a shelf and an electrical outlet.
- 3) Wherever pay telephones are available but TTYs are not permanently installed, DOC shall post permanent signs to indicate the location of the nearest portable or permanently installed TTY.

c. **TTYs in Housing Units and Other Areas.**

- 1) DOC shall promptly provide TTY units to all deaf and hard of hearing inmates residing in housing units to the extent that pay telephones are available to other inmates.
- 2) In those situations where DOC provides portable TTYs, the housing staff shall promptly provide the units upon the inmate's request, unless precluded due to emergency circumstances such as a facility lock-down.
- 3) DOC shall also make a TTY unit(s) available whenever a pay telephone is made available to inmates in other areas than housing units.

d. **Telecommunications Relay Services.** TRS calls from payphones are free of charge for local calls. TRS calls are available by dialing 711. Notice shall be posted near all pay telephones.

e. **Time limits on TTY calls.** In light of the fact that telephone calls placed via a TTY unit take three to five times longer than telephone calls placed using standard voice telephone equipment, DOC shall not impose on TTY calls a time limit of less than four times the time allowed for voice telephone calls.

f. **Volume Control and Hearing Aid Compatible Telephones.** DOC shall ensure that no less than twenty-five (25) percent of all of its pay telephones are equipped with volume control mechanisms. DOC shall ensure that volume control phones are dispersed among all pay telephones throughout DOC. DOC shall ensure that appropriate universal signs are displayed at each volume control telephone.

15. VISUAL AND TACTILE ALARMS

- a. DOC shall ensure that in areas where there are audible emergency alarms and it is anticipated that individuals who are deaf or hard of hearing have access, visual alarms are also provided.
- b. To the extent that the present capabilities of an existing audible alarm system are not sufficient to handle an electrical load that would allow a retrofit to include visual alarms without extensive re-wiring, such visual alarms shall be added within two (2) years of the effective date of this Policy.
- c. DOC shall place visual emergency alarms in rooms where inmates who are deaf may reside alone or work alone to ensure that they will always be alerted when an emergency alarm is activated. To be effective, such devices must be located and oriented so that they will spread signals and reflections throughout a space or raise the overall light level sharply. Note: Activation of a building alarm system can be accomplished either by a separate circuit activating an auditory alarm, which would, in turn, triggers the visual alarm or by a signal transmitting through an ordinary 110-volt outlet.
- d. DOC shall ensure that housing units that have audible alarms shall also have visual signal devices and bed vibrators, whenever necessary, to alert inmates who are deaf or hard of hearing to announcements (e.g., security checks). Note: To be effective, visual alarms more than seven times brighter (110 candela v. 15 candela, at the same distance) are required to awaken sleepers in a normal daytime illuminated room.

16. TELEVISIONS

DOC shall provide and maintain closed captioned television decoders (or built-in decoder televisions) in television rooms to enable inmates who are deaf or hard of hearing to enjoy the same opportunity for television viewing as that afforded to other inmates.

17. NOTICE

- a. **Signs.** DOC shall post and maintain signs of conspicuous size and print at all facilities, and wherever other posters or flyers are required by law to be posted. Such signs shall be to the following effect:
 - 1) Sign language and oral interpreters, TTYs, and other auxiliary aids and services are available free of charge to people who are deaf or hard of hearing.

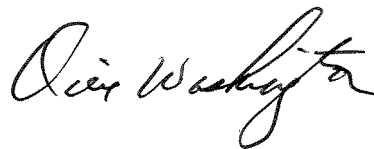
- 2) For assistance, please contact any DOC personnel or the Auxiliary Aids and Services Coordinator at _____ (voice/TTY), Room _____.
 - 3) These signs will include the international symbols for "interpreters" and "TTYs." An example is attached hereto as Exhibit ____.
- b. **Verbal Notification.** An employee, who is made aware of or who has any reason to believe that an inmate or visitor is deaf or hard of hearing, shall advise the person that appropriate auxiliary aids and services will be provided.
18. **Inmate Handbook.** DOC will include in all future printings of its Inmate Handbook (or equivalent) and all similar publications a statement to the following effect:
- a. To ensure effective communication with inmates and their visitors who are deaf or hard of hearing, we provide appropriate auxiliary aids and services free of charge, such as: sign language and oral interpreters, TTY's, note takers, computer-assisted real time transcription services, written materials, telephone handset amplifiers, assistive listening devices and systems, telephones compatible with hearing aids, closed caption decoders, and open and closed captioning of DOC programs.
 - b. Please ask your case manager for assistance, or contact the Auxiliary Aids and Service Coordinator at _____ (voice or TTY), room _____.
19. **TRAINING**
- a. **Comprehensive Training.** DOC shall provide training sessions for all DOC personnel having contact with deaf or hard of hearing inmates and all management or administration staff regarding all relevant policies and procedures implementing this Policy.
 - b. **Content**
 - 1) Such training shall be sufficient in duration and content to train a reasonable number of DOC personnel in access to the Program, use of the Program, and sensitivity to the needs of the deaf and hard of hearing inmate population.
 - 2) Such training shall include topics relevant to the health care needs of the deaf and hard of hearing inmates, such as:
 - a) The various degrees of hearing impairment, language and cultural diversity in the deaf community,

- b) Dispelling myths and misconceptions about persons who are deaf or hard of hearing,
- c) Identification of communication requirements of persons who are deaf or hard of hearing,
- d) The unique needs and problems encountered by late-deafened individuals,
- e) Psychological implications of hearing loss and its relationship to interaction with hearing health care professionals,
- f) Types of auxiliary aids and services as required under this Policy,
- g) The proper use and role of qualified sign language interpreters,
- h) Procedures and methods for accessing the AAS Program for providing interpreters, making and receiving calls through TTY's and the Maryland Relay or other relay service providers,
- i) Third party resources that can provide additional information about people who are deaf or hard of hearing, the existence of DOC's complaint resolution process.

20. TERMINATION OF CONTRACT WITH NONCOMPLYING ENTITIES

DOC shall ensure by contract or other arrangements that all services, programs, or activities provided or operated by contractors are in compliance with the Americans with Disabilities Act. Contracts with those entities that fail or refuse to comply with the ADA shall be subjected to formal termination proceedings.

Illustration: DOC has a contract with a State university for providing post secondary education to inmates, and the university refuses to provide a qualified interpreter to ensure effective participation in the program by an inmate who is deaf. DOC shall 1) offer to provide for the services as required, or 2) terminate the contract or shall itself provide the necessary auxiliary aids and services for individuals with who are deaf or hard of hearing.



Odie Washington
Director