



National Consortium of Interpreter Education Centers

FACT SHEET

Use of Interpreters in a Law Enforcement Setting

There are a number of issues that arise with the use of interpreters in a law enforcement setting, including a deaf individual's ability to understand the Miranda warning, the qualification and types of interpreters required, and the importance of preserving a visual record of interactions with a deaf suspect. The American with Disabilities Act (ADA) specifically requires the provision of auxiliary aides and services to allow for effective communication with deaf individuals. This document briefly examines the issues that arise in the use of interpreters in this unique setting and how law enforcement officers can ensure compliance with the ADA.

Issues related to a suspect's understanding of the Miranda warning and knowing waiver of constitutional protections are magnified when the suspect communicates in a language other than that used by law enforcement officers. In order for the government to rely on incriminating statements made by any person suspected of a crime, it must demonstrate that the individual was informed of his constitutional rights to remain silent and to the provision of legal counsel, that he understood these rights, and that he knowingly, voluntarily, and intelligently waived these rights with the knowledge that any incriminating statements could be used against him. Proof of each of these elements is more complex in the case of a deaf suspect.

Interpreters are responsible for interpreting information in a way that matches the linguistic needs of the deaf person. In order to ensure the deaf individual receives a message equivalent to that which would be received by a hearing person, interpreters must provide more than just a word-for-word interpretation, but also must provide cultural information and additional linguistic detail to ensure the deaf individual's understanding. This is critical in the interpretation of the Miranda warning where a deaf individual is informed of his rights under the United States Constitution.

Key to the interrogation or interview of a deaf individual, therefore, is the provision of a "qualified interpreter." Indeed, the ADA specifically requires that law enforcement provide "an interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary." Although some states have passed legislation requiring court interpreters to hold specialized certification, some have not. Nevertheless, law enforcement must be diligent in securing the services of a qualified interpreter. The use of local interpreting agencies may assist in this regard. (See Fact Sheet, Securing a Qualified ASL-English Interpreter).

Law enforcement also must be flexible in interviewing or interrogating deaf individuals and remain open to non-traditional techniques. One such technique is the use of certified deaf interpreters (CDI) for police interrogations. (See Fact Sheet, Deaf Interpreters as Reasonable Accommodation). Given the high stakes involved in a police interrogation, the use of a CDI guarantees that the deaf suspect has access to an interpreter with extensive knowledge and understanding of deafness, the deaf community and culture. In addition to this expertise, a CDI possesses a unique mastery of American Sign Language (ASL) and use of visual-gestural language features. When used in conjunction with a sign language interpreter who can hear, law enforcement personnel can feel confident that the interpreting team will provide equal access to a deaf suspect.

Another technique frequently employed in the interview or interrogation of deaf suspects is maintaining a video record of all interactions with the deaf individual. This allows for the preservation of a clear record of the proceedings which may assist the court in later determining whether a deaf individual fully comprehended and sufficiently waived his constitutional rights. Because of the visual nature of American Sign Language, the recording should be videotaped with a clear view of both the deaf person and the interpreter to ensure all signs are captured.

Law enforcement personnel should always strive for complete and fair access to deaf individuals during custodial interrogations in order to allow for compliance with federal law and ensure statements obtained are reliable and voluntarily provided. Reliance on a qualified sign language interpreter, Certified Deaf Interpreters, and videotaped statements will assist in this regard.

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