

Know Your Rights

LAW ENFORCEMENT AND EFFECTIVE COMMUNICATION

This fact sheet is designed to help people with disabilities understand their legal rights when communicating with law enforcement. This fact sheet will cover:

- (1) Effective Communication**
- (2) Auxiliary Aids and Services**

YOU HAVE THE RIGHT TO EFFECTIVE COMMUNICATION WITH LAW ENFORCEMENT.

Individuals with communicative disabilities are entitled to “effective communication” with law enforcement, such that anything written or spoken is as clear and understandable as it would be for people without disabilities.ⁱ

EXAMPLE: When interacting with a hearing impaired individual, a police officer uses printed forms and written statements. As long as there is no apparent difficulty or loss of meaning, this would be a form of effective communication.ⁱⁱ

YOU HAVE THE RIGHT TO AUXILIARY AIDS AND SERVICES.

Auxiliary aids or services may be necessary to ensure effective communication.

EXAMPLES: (1) qualified interpreters, (2) written materials and exchanges of written notes, (3) text telephones (“TTYs”) or videophones and (4) Braille or large print materials.ⁱⁱⁱ

In determining what types of auxiliary aids and services are necessary, law enforcement personnel shall give primary consideration to the requests of individuals with disabilities.^{iv} The type of auxiliary aid or service necessary to ensure effective communication will vary depending on (1) the method of communication used by the person with the communicative disability; (2) the nature, length, and complexity of the communication; and (3) the context in which the communication is taking place.^v

EXAMPLE: Except in special circumstances such as an emergency, law enforcement should not use family members as interpreters due to impartiality and confidentiality.^{vi}

Law enforcement personnel cannot charge a person with a communicative disability for the cost of auxiliary aids or services provided to ensure effective communication.^{vii}

LAW ENFORCEMENT CONTEXTS THAT REQUIRE EFFECTIVE COMMUNICATION:

- Public interactions with police such as filing a police report or being questioned in public.^{viii}

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EXAMPLE: Law enforcement personnel may assist an individual with visual impairments by reading a form aloud, filling out the form for or with the person, or providing copies of the form with large print.^{ix}

- Book-in procedures and police station questioning. ^x

EXAMPLE: Releasing the person with the communicative disability from handcuffs to allow them to gesture or providing the person with paper and a pen or pencil.^{xi}

- Initial judicial appearances.^{xii}
 - Mandatory probation activities such as meetings with probation officers and alcohol or drug education classes.^{xiii}

EXCEPTION: During the process of an actual, valid arrest, law enforcement personnel are not required to provide the person being arrested with auxiliary aids or services.^{xiv} Likewise, law enforcement personnel are not required to provide auxiliary aids or services when the circumstances surrounding the field activity are not “secure” and there is a “threat to human safety.”^{xv}

EXAMPLE: A police officer is not required to provide an interpreter when stopping an individual for suspected drunk driving, conducting a field sobriety test, and making the arrest.^{xvi}

YOU HAVE THE RIGHT TO EQUAL ACCESS TO 9-1-1 EMERGENCY SERVICES.

9-1-1 services provided must be as effective as those provided to individuals who make voice calls in terms of response time, response quality, hours of operation, and all other features offered (e.g. automatic number identification, automatic location identification, automatic call distribution).^{xvii} 9-1-1 call centers are also required to provide direct access to hearing impaired individuals who use telecommunications devices for the deaf (“TDDs”) and computer modems.^{xviii}

EXAMPLE: If a 9-1-1 first responder attempts to communicate with and ask for information from an individual with a hearing impairment who is in peril, a qualified sign language interpreter may be required for effective communication.

However, during an active emergency involving an imminent threat to the safety or welfare of an individual or the public where there are no interpreters available, law enforcement personnel or 9-1-1 first responders may rely on an adult or minor child accompanying the person with the communicative disability to interpret or facilitate communication.^{xx}

YOU MAY FILE A COMPLAINT WITH:

- *Department of Justice* (must file 180 days from date of discrimination)

Fill out an ADA Title II complaint form: <http://www.ada.gov/t2cmpfrm.htm>

Mail: U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Ave., NW
Disability Rights Section – NYAV
Washington, D.C. 20530

E-mail: ada.complaint@usdoj.gov

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