

REPRESENTING DEAF CLIENTS



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GENERAL STATISTICS

- An estimated 1 in 1000 babies is born Deaf.
- Deafness is the number one birth “defect” in the U.S.
- 20% of individuals in the U.S. has some form of hearing loss. [HLAA]
- More than 50% of deafness in children is hereditary deafness. [NIH/Gallaudet Stat]
- 360 million people worldwide have a disabling hearing loss (a loss over 40 dB). [WHO]
- Only 4% of Deaf children attend college. [UNC]

DRUGS & ALCOHOL

- 1 - 7 Deaf individuals have abused drugs and/or alcohol.

INCARCERATION

- “People with disability make up twenty percent of our population, but represent 60-80% of jail and prison populations.”

STATISTICS REGARDING ABUSE OF DEAF INDIVIDUALS

- Deaf children are 5x as likely to be abused as Hearing children. [UK Study]
- Deaf children are 3x more likely to be abused in the U.S.
- Deaf prisoners are abused at 3 times the rate of Hearing prisoners.
- 1 in 4 deaf women are victims of domestic violence. [ADWAS]
- 1 in 3 deaf women are the victims of sexual assault. [ADWAS]
- 50% of Deaf children are sexually abused. [UNC]
- 41.6% of Deaf children are physically abused. [UNC]
- 26% of Deaf children are neglected. [UNC]

What is ASL?

- [American Sign Language \(ASL\)](#) is a complete, natural language that has the same linguistic properties as spoken [languages](#), with grammar that differs from English. ASL is expressed by movements of the hands and face. It is the primary language of many North Americans who are deaf and hard of hearing, and is used by many hearing people as well.
- There is no universal sign language. Your client may know a different form of sign language or may only know “home sign”
- American Sign Language is derived from France, not England. **It is not signed English.**

Sign Language Interpreters

- The role of the interpreter appears to be very straightforward—to effectively facilitate communication between deaf individuals and those who are hearing. However, the complexities of the task, the types of visual interpreting, and the enormous range of qualifications brought by the interpreter make it anything but simple.
- Interpreting requires a high level of fluency in two or more languages, keen ability to focus on what is being said, broad-based world knowledge, and professional, ethical conduct. Interpreters cannot interpret what they do not understand.
- Interpreters serve all parties in the communication exchange. While we often think of the deaf person as the requester of interpreter services, the reality is, all parties have an equal and mutual need for the interpreter.

What is a CDI?

- A ***Certified Deaf Interpreter*** is a specialist who provides cultural and linguistic expertise. As a native signer with a lifetime experience as a Deaf individual, who is also trained to ensure that communication is effective, a CDI is a valuable asset to any situation that requires complicated and sometimes emotional communication situations. A CDI is often known simply as a Deaf Interpreter, or a Relay/intermediary Interpreter (commonly used in the courts).
- Certified Deaf Interpreter (CDI) is one of the certificates provided by the Registry of the Interpreters for the Deaf, INC (RID). A person who possess the certificate has passed both knowledge and performance portion of the exam and is required to be a Deaf individual.

Which one do you need to request?

IT DEPENDS.

THE ANSWER TO EVERY QUESTION EVER
POSED IN LAW SCHOOL.

Table 2

Transcript Readability Levels for Eight Legal Proceedings

<i>Type of proceeding</i>	<i>Average readability level (by grade)^a</i>
Plea and sentencing hearing	9.2
Motion for suppression hearing	8.4
Jury trial	7.4
Volume I	6.6
Volume II	7.9
Jury trial	7.8
Jury trial	5.7
Jury trial	6.1
	<i>M = 7.4</i>

Source. Vernon & Miller, 2001.

^aAverage readability levels were based on eight different readability calculations: the Dale-Chall formula, the Flesch reading ease formula, the Flesch grade-level formula, the FOG formula, the Powers-Summer-Keurl formula, the SMOG grade-level formula, the FORCAST grade-level formula, and the Fry formula.

Hypothetical Client - Scenario #1

- HC deaf adult male was charged with an Assault 4 - DV for allegedly pushing his father down to prevent him from getting into a vehicle.
- Both HC and HAV for born deaf.
- The HC was actually the victim of abuse by the father, but was initially “blown off” by a police officer who said she was too busy to take a report from him.
 - Using a pen and paper, HC told Officer what happened, she told him she didn’t have time to deal with it and to get his “girlfriend” to call 911. The woman with my client was also Deaf. The AV was at a Co-op and able to get officers to take his side of the story.
- HC was arrested in the next few days.

Would you let this happen to your client?



It happens all the time to the deaf



Hypothetical Client – Scenario #2

- HC is Deaf and was in a vehicle pulled over for possibly/allegedly making threatening gestures at another driver. HC had a prior.
- There were three other people in the truck, as was a bag with a pistol.
- The officer read the Miranda warnings from a piece of paper to the client (out loud).
- Officers discovered HC was Deaf and questioned him with pen and paper exchanged. Officer asks if the gun is his, he writes “yes.”
- HC is ultimately charged with Unlawful Possession of a Firearm 2nd




Hypothetical Client – Scenario #3

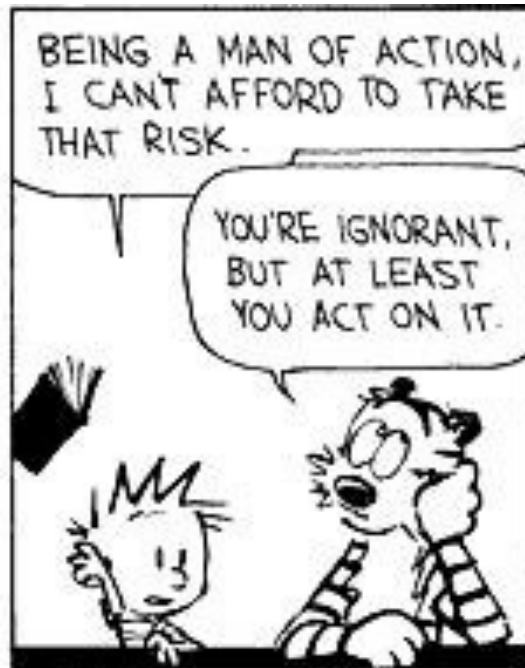
- HC is Deaf and staying with HAV who is also Deaf.
- HC is a vulnerable adult and has some developmental delays.
- While HAV was sleeping at night, HC startled HAV awake and an argument ensued.
- HC is charged with felony Threats to Kill and A2.
- HA gave HC an email from HAV asking to arrange for HC to pickup a dog. When HC called for civil standby using TTY, the HC had hung up before being told by officers that she did not get a second standby.
- HC showed up at HAV to get dog, waited for the police, who signaled that she couldn't stay. When HC tried to leave, the HP tackled and arrested her. No interpreter was provided.
- Hypothetically, I was on call the next morning for first appearances and able to speak to the HC about the VNCO.



YOU REALIZE THAT NOTHING IS AS CLEAR AND SIMPLE AS IT FIRST APPEARS. ULTIMATELY, KNOWLEDGE IS PARALYZING.



A black and white drawing of Calvin, looking thoughtful with his hands outstretched.



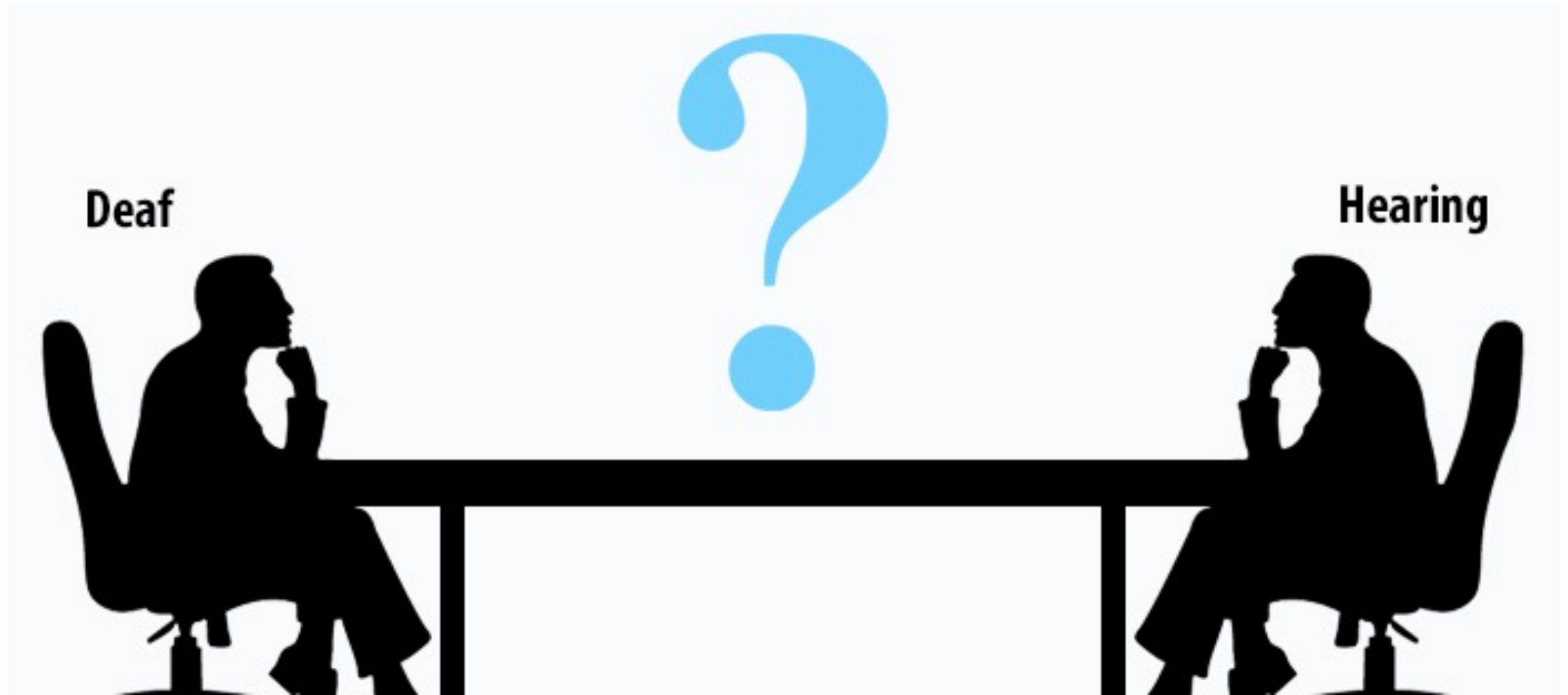
Linguistic Incompetency

- The title of RCW 10.77 as “Criminally Insane” deters us.
- "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.
- This can and does often include deaf clients because of *linguistic incompetency*.
- If your client has been deaf since birth or infancy, English is not his/her first language.
- Additional factors like how your client was educated, if there are additional mental health issues, as well as drug/alcohol abuse will play into your client's level of understanding.
- It is ultimately up to you to decide if this is appropriate but please do not be afraid to use it.
- Deafness isn't exactly a “restorable” situation.

Legal Resources for Representing Deaf Clients

- *3.5 Motion* to suppress any statements if an ASL and/or CDI is not provided.
- *RCW 2.42* Interpreters in Legal Proceedings
- *Rule CrR 3.3* – Time for Trial
- *10.77* Competency
- Local Court Rules for interpreters
- www.HSDC.org
- Me! Use me! graikes@co.skagit.wa.us

QUESTIONS?



THANK YOU

