

Webinar 2: Handout 1

Communication Access to Legal and Justice Services in Canada

Code of Ethics

The Communication Intermediary (CI) must be registered with the appropriate speech-language pathology regulatory body (e.g. CASLPO, ACSLPA, CSHHPBC, CASLPM, or other provincial association) and must abide by the Code of Ethics of the regulatory body to which they belong. In addition:

1. The CI is impartial and neutral.
2. The CI is not an expert witness, advisor, advocate, mediator, or personal attendant.
3. The CI is authorized by person with the communication disability to assist with his/her communication.
4. The CI does not express opinions about the truth of a person's communication or any aspect of the case that could contaminate the evidence or lead to an allegation of rehearsing or coaching the individual.
5. The CI is familiar with the terms, conditions and procedures that govern their assignments within a specific context (e.g. police, courtroom).
6. The CI accepts work for which they are qualified and that they judge to be within their professional competence.
7. The CI discloses to the legal / justice professional any difficulties encountered, such as limitations of professional experience and training.
8. The CI removes themselves from assignments where there is any perceived or real conflict of interest.
9. The CI strives to the best of their ability to enable effective communication between a person with communication disability and the legal / justice professional.
10. The CI treats as confidential all information pertaining to an individual and case.
11. The CI makes all reasonable efforts to attend meetings, hearings, trials and other appointments.
12. The CI respects the authority and judgment of the court.
13. The CI notifies CDAC's CI registry immediately of any criminal investigation or proceedings against them or any complaint or investigation into their conduct or competence as a speech language pathologist or CI.

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Communication Intermediary Standards of Practice

1. The primary responsibility of a Communication Intermediary (CI) is to support a person with a communication disability to communicate as accurately, completely and authentically as possible within a legal / justice context.
2. The CI conducts an assessment of the communication needs of the client and provides a judgment on the communication supports required by the person throughout the legal / justice process.
3. The CI takes an oath of assurance to the court that he/she will perform to the best of their skill and ability and be honest in dealings with the court.
4. The CI uses communication strategies that are appropriate to the individual's comprehension communication requirements to facilitate understanding of questions without suggesting answers, anticipating the intention of the questioner or altering the meaning of the question.
5. The CI uses transparent communication strategies that are appropriate to an individual's expressive communication requirements and that demonstrate accuracy, completeness and authorship of his/her messages.
6. The CI obtains approval from the presiding judiciary on the introduction and use of limited response vocabularies (e.g. pictures, written words, symbols or auditory scan).
7. The CI uses pictures that do not suggest associated meanings by providing a range of options and foils.
8. The CI communicates the person's message as given, however irrelevant or illogical.
9. The CI validates the meaning of the person's intended message.
10. The CI documents and keeps records throughout the assignment.
11. The CI may be required to provide input on recording / transcribing.
12. The CI does not function as the court recorder.
13. The CI may provide validation on communication support provided by another person as required by the end-user.

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Communication Intermediary Strategies

Strategies to support Expressive Communication

The CI may use the following techniques:

The following techniques may be used by a Communication Intermediary (CI) to assist the person to communicate:

- **Echo (speech / selections)**

The Communication Intermediary reads out loud what the person selects from their display with no interpretation. For example, this could entail reading out loud the letters, end of word and verbalization of full word for people who spell. For people who use pictures or symbols, the assistant reads the “gloss” or word written over the picture of symbol. For people using speech, the assistant repeats what the person has said.

- **Reformulation**

This technique is used when people use pictures or symbols and communicate by selecting “key” items in a sentence. The Communication Intermediary typically uses a routine that includes:

- Saying aloud the items selected by the person until the person indicates that he/she has finished the message (e.g. looks at CI and stops constructing message);
- Asking the person to confirm if he/she has finished. If yes, the CI reads back the items selected by the person and seeks confirmation that person wants to use these items;
- Asking the person if he/she can “guess” the meaning of the selected items;
- Reorganizing or putting words into sentences and suggesting intended meanings using the words provided by the person. The CI seeks confirmation or rejection from the person for each reformulation.
- When the intended meaning is elicited, the CI repeats it back to the person for verification.

- **Eliciting vocabulary (indirect selection / limited response sets)**

This technique is used when a person cannot independently point to or selects items on a communication display and so relies on the person with whom they are

communicating for assistance in selecting vocabulary. The CI should explain how the person accesses his/her vocabulary to the legal professional and how he/she uses this technique. For example, partner-assisted scanning is a method by which the communication partner indicates all possible choices by showing, pointing and/or speaking the names of all available items. The choices are then restated one by one and the person confirms or rejects each item using the previously established “yes” or “no” response.

- **Generating novel vocabulary / concepts**

This technique is used when a person does not have the word they want to communicate on his/her display or in their device and cannot spell it. The CI asks for confirmation that the person does not have the word he/she wants to say. For example, the person might want to say: ‘lawyer’ but uses the words “person help law”. The CI repeats the person’s words: “Person helps law” and then asks “Are you talking about a person who helps with the law?” Person says “yes” and then the CI says: “Are you talking about a lawyer?” Person says: “Yes”.

- **Validation**

The CI asks the person if he/she understands what is being said and if they want more information or items explained in different ways

- **Request for clarification**

Requests for clarification are used by the CI when the person’s message is unclear. Depending on the nature of the communication provided by the person using AAC, the Communication Assistant might ask the individual to repeat his/her message, slow down, elaborate, or communicate the message using other words or other methods.

Strategies to support comprehension

- Repeat
- Pacing
- Shorten sentence length
- Use of concrete words
- Use of concrete references
- Paraphrase
- Verification of comprehension
- Use visual supports
 - Written words/text
 - Gestures and mime
 - Photographs, Illustrations, Objects, dolls
 - Auditory with pictures



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Recording Evidence and Testimony from Person who has Speech and Language Disability

The process typically used for gathering information and evidence does not take into consideration the unique communication processes used by people who do not speak as their primary mode of communication. However, with appropriate communication accommodations, many people with communication disabilities are capable of providing law enforcement and justice personnel with reliable, accurate, and credible information and testimony.

In order to ensure that people with communication disabilities receive equitable treatment and protection under the law, it is important for law enforcement and justice system personnel to establish formalized practices for gathering and recording information from victims and witnesses who have communication disabilities. This will ensure that the information obtained is accurate and that the record establishes that the person is the author of his/her messages.

Videotaping

Typically, an audio recording or written transcription is made to create a permanent, verbatim record of a statement given to police, an examination for discovery or court hearing or proceeding.

When a person with a communication disability uses ways other than speech to communicate and communicates primarily using a visually based system (e.g. a communication display, device, gestures, body language, facial expressions), an audio recording will not adequately capture what has been communicated or how. In addition, a verbal description of what has been communicated and how it was communicated does not allow for any other interpretation or examination than that provided by the person who has dictated the interpretation.

In order to accurately capture the person's original message, law enforcement and justice system personnel need to video record the interview, ensuring the individual, the communication assistant and, where appropriate, the person's selections on the communication display can be seen in the picture. All verbal communication should be heard, including speech from a communication device, any questions and communication techniques used by the communication assistant and all questions and comments from the interviewing legal professional.

A video recording can be reviewed at a later date if any questions arise regarding the authenticity, accuracy and authorship of the information obtained from the individual who has a communication disability.

In some circumstances, a video recording may provide a sufficient record of the communication process and information gathering. In others, a written transcript may also be required.

Transcriptions

In legal proceedings, where it is common practice to have information recorded using masking (voice recognition software) or stenograph or real time transcription, an additional procedure may be required to capture the messages conveyed by a person with a communication disability. Similar to audio recordings, transcriptions capture the words spoken by the interviewer and the communication assistant, but do not include how information was communicated by a person who uses augmentative and alternative communication.

The following is a set of notation conventions that has been adapted by CDAC for use in legal contact with permission from Stephen von Tetzchner.¹

Most people who use AAC use many different ways to communicate in a single interaction, so a combination of notations will most likely be required throughout the transcription process.

1. Naturally spoken elements are italicized. This includes verbally spelling a word (e.g. a b c) Example: *This is how this would be written.*
2. LETTERS typed into a device that produces digitized or synthesized speech from a speech generating device or computer are written in italics and placed in quotation marks. Example: *“This is how this would be written.”*
3. LETTERS spelled out on a display or alphabet board are documented by underlining and placing hyphens between letters. At the end of the sentence the full sentence is written without hyphens to ensure ease of reading. Example T-h-i-s-i-s-h-o-w-t-h-i-s-w-o-u-l-d-b-e-w-r-i-t-t-e-n. This is how this would be written.
4. PICTURES, PHOTOGRAPHS, BLISSYMBOLS that have words written with the pictures and are selected from a communication board are written in capital letters and italicized. For example: *THIS IS HOW THIS WOULD BE WRITTEN.*

Pictures and symbols do not express ideas in Standard English grammatical form. They are labels for the pictures / symbols. These should be transcribed as such followed by

¹ These conventions originally appeared in Augmentative and Alternative Communication: European Perspectives, 2006. Editors: von Tetzchner & Jensen

any reformulation provided by the communication assistant (see transcription note below).

5. PICTURES, PHOTOGRAPHS, BLISSYMBOLS selected on a speech generating device are recorded in capital letters, italicized, and placed in quotation marks. For example: *"THIS IS HOW THIS WOULD BE WRITTEN."*
6. ADAPTED SIGNS, GESTURES and SPECIFIC MOVEMENTS are recorded by using quotation marks followed by the intended meaning of the gesture in brackets. Example: 'yes' (looks up) or 'no' (looks down to left).
7. NEW VOCABULARY that is introduced for communicating about the specific event being discussed in the legal setting is distinguished from a person's core or daily vocabulary by using NV (new vocabulary) after the item / message is used. New vocabulary is generally introduced in pictures and / or symbols on a communication display. Example: *THIS IS HOW THIS WOULD BE WRITTEN (NV)*
8. COMMUNICATION ASSISTANCE is transcribed in full. Example:
Person with Communication Disability: *I NEED PERSON HELP COMMUNICATE.*
Communication Assistant: I need help communicate.
Person with Communication Disability: *YES*
Communication Assistant: "Are you saying: You need someone to help you communicate" ?
Person with Communication Disability: *YES*