

If you think someone has mental retardation and are unable to get help locally, please contact:

The Arc of the United States
500 E. Border Street, Suite 300
Arlington, Texas 76010
(817) 261-6003
(817) 277-0553 (TDD)
(817) 277-3491 (fax)
thearc@metronet.com (e-mail)

**The
Arc**

a national organization on mental retardation

For technical assistance and ADA documents concerning title II, contact:

**Disability Rights Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66738
Washington, D.C. 20035-6738
(800) 514-0301 (voice)
(800) 514-0383 (TDD)
(202) 514-6193 (electronic bulletin board)**

For further assistance, contact:

Disability Rights Education and Defense Fund, Inc. (DREDF) operates an ADA telephone information line to assist state and local government agencies in understanding ADA requirements. Call (510) 644-2555 for more information.

Regional Disability and Business Technical Assistance Centers (funded by National Institute on Disability and Rehabilitation Research) provides technical assistance on all titles of the ADA. Call (800) 949-4232 (Voice & TDD) to be connected to the center serving your state.

This document provides general information to promote voluntary compliance with the ADA. It was prepared under a grant from the U.S. Department of Justice. While the Public Access Section has reviewed its contents, any opinions or interpretations in the document are those of The Arc and do not necessarily reflect the view of the Department of Justice. The ADA itself and the Department's ADA regulations should be consulted for further, more specific guidance.

(local help telephone numbers)

A Police Officer's Guide

*When In Contact
With People Who
Have Mental Retardation*



About three out of every 100 people have mental retardation, and as a law enforcement officer, there is a chance you will come in contact with a person who has this disability.

Title II of the Americans with Disabilities Act (ADA) of 1992 prohibits state and local governments from discriminating against an individual with a disability. Police municipalities, sheriff's departments, and state patrolmen are covered under title II, and are responsible for making sure programs, services and activities provided by police are readily accessible to and usable by people who have disabilities.

(28 C.F.R § 35.150 [a]; The Americans with Disabilities Act Title II Technical Assistance Manual, U.S. Department of Justice)

How do you make sure your activities are readily accessible to people who have mental retardation?

In order to provide readily accessible services, there are some helpful tips and strategies to use whenever in contact with someone who has mental retardation.

1. IDENTIFY

What is mental retardation?

People with mental retardation have difficulty in their ability to learn. The effects of this condition vary considerably among people, just as the range of abilities varies among those who do not have mental retardation.

Most people with mental retardation live independently in the community and may not appear to have a significant disability. Only a few people are seriously affected and have difficulty learning skills needed to live independently in the community, such as self-care and economic self-sufficiency. Whether the individual has a mild or severe disability, **all** people with mental retardation are covered under the ADA and may need assistance.

Why is mental retardation sometimes more difficult to detect than other disabilities within individuals?

The majority of people with mental retardation have mild mental retardation which makes it a difficult disability to identify.

Many people with mental retardation want to be thought of as average. They may try to hide their disability in order to be liked or accepted by others, especially authority figures.

What is the difference between mental retardation and mental illness?

MENTAL RETARDATION AND MENTAL ILLNESS ARE NOT THE SAME AND SHOULD NOT BE TREATED THE SAME.

Mental **retardation** refers to below average abilities to learn and process information, but mental **illness** refers to a person's thought processes, moods and emotions.

Mental **retardation** generally occurs before a person reaches adulthood, but mental **illness** can occur at any time in a person's life.

Mental **retardation** refers to below average intellectual functioning, but mental **illness** has nothing to do with intelligence. People

with mental illness can have below average, average or above average intelligence.

How can I tell if someone has mental retardation?

There is often no one way of knowing if a person has mental retardation, but there are traits to look for in identifying an individual with this disability.

NOTE: A person exhibiting these traits does not necessarily mean the person has mental retardation. If there is **any question** about someone having mental retardation, assume the person does and use the tips in this brochure to ensure that your contact and communication with the person is clear, especially if the person is read his or her Miranda rights.

Look for clues in the person's communication, behavior and reaction to police contact.

Communication

The individual may...

- have limited vocabulary or a speech impairment.
- have difficulty understanding or answering questions.
- have a short attention span.

Behavior

The individual may...

- act inappropriately with peers or the opposite sex.
- be easily influenced by and eager to please others.
- be easily frustrated.
- have difficulty with the following tasks:
 - giving **accurate** directions.
 - making change.
 - using the telephone and telephone book.
 - telling time easily.
 - reading and writing.

NOTE: Someone with mental retardation may be able to do only one of the above tasks while others may be able to do all of these tasks. These are only preliminary questions to check for the presence of a disability. Answers given by the person should not be used as incriminating evidence. Assume the person has mental retardation if you notice **any** behaviors.



Police Contact

The individual may...

- not want disability to be noticed.
- not understand rights.
- not understand commands.
- have the tendency to be overwhelmed by police presence.
- act very upset at being detained and/or try to run away.
- say what he or she thinks others want to hear.
- have difficulty describing facts or details of offense.
- be the last to leave the scene of the crime, and the first to get caught.
- be confused about who is responsible for the crime and “confess” even though innocent.



2. SIMPLIFY COMMUNICATION

How do I talk to someone who has mental retardation?

There are no hard and fast rules to use when talking to someone with mental retardation. The communication techniques below may be helpful, and can even be used to improve communication with people who have similar disabilities, such as traumatic brain injuries, learning disabilities and Alzheimer's disease.

Remember...

- Speak directly to the person.
- Keep sentences short.
- Use simple language, speak slowly and clearly.
- Ask for concrete descriptions, colors, clothing, etc.
- Break complicated series of instructions or information into smaller parts.
- Whenever possible use pictures, symbols, and actions to help convey meaning.

Be Patient...

- Take time giving or asking for information.
- Avoid confusing questions about reasons for behavior.
- Repeat questions more than once or ask a question in a different way.

- Use firm and calm persistence if the person doesn't comply or acts aggressive.
- When questioning someone with mental retardation, don't ask questions in a way to solicit a certain answer. **Don't ask leading questions.**
- Phrase questions to avoid “yes” or “no” answers, ask open-ended questions (e.g., “Tell me what happened.”).

Keep In Mind...

- Don't assume someone with mental retardation is totally incapable of understanding or communicating.
- Treat adults as adults, don't treat adults who have mental retardation as children.
- When communicating with someone who has mental retardation, give the him or her the same respect you would give any person.

IMPORTANT NOTE

Most people who have the disability of mental retardation do not like being called “retarded” or even have the word “retardation” used in reference to their disability. When speaking to the individual, use the phrase “person with a disability.”

3. PROTECT THE INDIVIDUAL'S RIGHTS

Although it's **not** an ADA requirement, when a person who is suspected of having mental retardation is questioned or interrogated about involvement in criminal activity, it's a good idea to have a guardian, lawyer or support person present to ensure that the individual's rights are protected.

Do people with mental retardation understand the Miranda warnings?

People with mental retardation often do not understand the Miranda warnings. In fact, many individuals with mental retardation often answer yes after they are read the Miranda warnings **even when they do not understand their rights.**



People with mental retardation usually want to please police officers and may appear to incriminate themselves even when innocent of any crime. They often fake greater competence than they actually possess. Because this puts people with mental retardation at an unfair disadvantage when being questioned, **you should not ask questions about criminal activity until the person's lawyer is present.**

When reading the Miranda warnings to someone with mental retardation, or to others who may have difficulty understanding, use simple words and modify the warnings to help the individual understand. It's important to determine whether the individual genuinely understands the principles,

protections and concepts within the warnings.

Ask the person to repeat each phrase of the Miranda warnings **using his or her own words**. If the person simply repeats the phrase word for word, check for understanding by asking questions



that require the individual to use **reasoning abilities** and **think conceptually**. For example, you can say, "tell me what rights are, give me an example of a right you have, tell me what a lawyer is, how can a lawyer help you, why is a lawyer important, why do you want to talk to me instead of a lawyer, can you explain to me why you don't have to talk to me, etc." A person with mental retardation may be able to **recite** the entire Miranda warnings, or even a simplified version of it, but he or she usually cannot understand its meaning or the implications of his or her responses.

It's **not** an ADA requirement, but you may want to videotape the interview and make sure questions are asked clearly and distinctly. Use open-ended, non-leading questions. Ask questions in a straightforward, non-aggressive manner. If you believe the person has mental retardation, let the individual's attorney know.

4. KNOW THE RESOURCES

Know what options are available for the person with mental retardation other than jail, especially when the individual has not committed a crime.

Realize that you are not alone when you encounter people with mental retardation. Once you suspect that someone has mental retardation, contact an agency in the community that can provide advice about how to best handle the situation.

Know and use alternatives to arrest when arrest is not the best response. For example, arrest is inappropriate when used to hold an innocent, lost person with mental retardation in jail only because there seems to be no other alternative. Some alternatives to consider include contacting a parent or guardian, the place of residence, agencies on mental retardation, or an advisor or expert who is familiar with people who have this disability.

Know who to call so you'll know what to do when you encounter someone with mental retardation. Obtain the phone numbers of these local agencies by looking under "Social Service Organizations" in the telephone book or contact your county's United Way. For more information on each organization, contact your state or local chapter of The Arc.

- Mental Health/Mental Retardation Programs
- Independent Living Centers
- Residential or Community Programs for Offenders
- Office of Vocational Rehabilitation
- Special Education Department

Keep these numbers handy. Give them to the dispatcher, place them in your police car or another central location where they can be quickly accessed. Knowing these numbers can save you time and help you protect the rights of an individual with mental retardation.

5. SEEK TRAINING

This brochure is just an overview. Good training can provide much more information. Request training so you'll know how to treat people with mental retardation in a fair and just manner while carrying out police duties.

Where can I get training specifically on this topic?

Request training from a state or local chapter of The Arc. Contact the state regulating agency on police training to see if mental retardation is included in the curriculum. If mental retardation is not included, request training on this topic.