

# **SAN DIEGO POLICE DEPARTMENT PROCEDURE**

**DATE:** October 2, 2015

**NUMBER:** 1.37 - ADMINISTRATION

**SUBJECT:** COMMUNICATING WITH DEAF OR HARD-OF-HEARING INDIVIDUALS

**RELATED POLICY:** N/A

**ORIGINATING DIVISION:** CHIEF'S OFFICE

**NEW PROCEDURE:**

**PROCEDURAL CHANGE:**

**SUPERSEDES:** DP 1.37 – 05/03/2013

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## **I. PURPOSE**

This Department procedure establishes guidelines for communicating with deaf or hard-of-hearing individuals.

## **II. SCOPE**

This procedure applies to all members of the Department.

## **III. BACKGROUND**

- A. The Americans with Disabilities Act (ADA) is a federal civil rights law. It gives federal civil rights protections (similar to those provided to individuals based on race, color, sex, national origin, age, and religion) to individuals with disabilities. It guarantees equal opportunity for individuals with disabilities in state and local government services, public accommodations, employment, transportation, and telecommunications.
- B. Title II of the ADA prohibits discrimination against people with disabilities in state and local government services, programs, and employment. Law enforcement agencies are considered local government entities. The ADA

mandate affects many traditional police service responsibilities, for example: receiving citizen complaints; interrogating witnesses; arresting, booking, and holding suspects; operating telephone (911) centers; providing emergency medical services; and, enforcing laws.

#### **IV. DEFINITIONS**

- A. Qualified Interpreter - for Department purposes, a qualified sign language interpreter is someone who is either retained by the Deaf Community Services (DCS) of San Diego or the Network Interpreting Service (NIS). These are the only two agencies currently contracted by our Department to supply qualified interpreters for translations in sign language.
- B. Certified Bilingual in American Sign Language Interpreter - someone who has passed the National Association of the Deaf (NAD) and/or Registry of Interpreters for the Deaf (RID) tests. Certification as bilingual in American Sign Language alone does not fulfill the Department requirements for being considered a qualified or certified interpreter unless the interpreter is also retained by either DCS or NIS.
- C. Certified Bilingual in American Sign Language by the City of San Diego - individuals who have varying levels of proficiency in sign language. The Americans Disabilities Act does not recognize these individuals as qualified or certified interpreters.

#### **V. PROCEDURES**

- A. It is the policy of the San Diego Police Department that it will furnish appropriate auxiliary aids and services whenever necessary to ensure effective communication with individuals who are deaf or hard-of-hearing. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length and complexity of the communication involved.
- B. Auxiliary aids and services include qualified interpreters, written materials, note pads, and other effective methods of making aurally delivered materials available to individuals who are deaf or hard-of-hearing.
- C. The ADA requires that the expressed choice of the individual with the disability, who is in the best position to know their needs, should be given primary consideration in determining which communication aid to provide. "Primary Consideration" means that the San Diego Police Department must honor the choice, unless it can show that another effective means of communication is available.

D. Except under emergency circumstances, Department members should not rely on family members, who are frequently emotionally involved, to provide sign language interpreting.

E. Personnel strictly certified as bilingual in American Sign Language do not meet the Department requirements of a qualified interpreter and shall not be used to Mirandize or interview arrestees. Certified bilingual Department members should only be used in emergencies and for basic information translations.

F. When needing sign language translations for arrestee interviews, officers are to use interpreters contracted through DCS or NIS. Department members must meet the following requirements when communicating with a deaf or hard-of-hearing individual under the following circumstances:

1. Interviews prior to arresting an individual who is deaf or hard-of-hearing
  - a. If written communication is ineffective and a Department-certified ASL officer is available to translate, whether the translation is for a victim or suspect, they shall be utilized and a report shall be written. If those efforts fail, then a qualified interpreter from DCS or NIS must be notified and utilized. The DCS and NIS interpreter will translate for the investigating officer, who will complete a detailed report.
2. Arrests without a Subsequent Interview
  - a. As in circumstances when an individual who is not deaf or hard-of-hearing is arrested on probable cause without an interview, an arrestee in the same situation who is deaf or hard-of-hearing does not need to be provided with a qualified interpreter as long as no interview is required.
  - b. A qualified interpreter may still be required if an officer, using a note pad or another means of communication, is unable to convey to the arrestee the nature of the criminal charges.
3. Interviewing an Arrestee Who is Deaf or Hard-of-hearing
  - a. If an officer arrests an individual who uses sign language as their primary form of communication and the officer intends to interview the arrestee, the officer must first secure the services of a qualified sign language interpreter (through DCS or NIS) to communicate accurately the Miranda warnings and translate any subsequent interview.

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- b. Officers should be aware that California Evidence Code Section 754 mandates qualified interpreters for the deaf in civil and criminal cases. In particular, Section 754(k) states that no statement, written or oral, made by a deaf person may be used against that person unless the question and subsequent answer was accurately interpreted.

4. Issuance of Citations

- a. A qualified interpreter is not required for deaf or hard-of-hearing individuals who receive a citation and where there is no need for questioning.
  - b. Officers will attempt to convey infraction violations to the deaf or hard-of-hearing via a notepad or other form of communication. If this is not possible, the officer should use their discretion whether to call a qualified interpreter to the scene or to refrain from issuing the citation

5. Interviewing a Victim or Critical Witness Who is Deaf or Hard-of-hearing

- a. If an officer is able to communicate effectively by writing questions on a note pad and having the victim or witness who is deaf or hard-of-hearing write their responses, then the officer may proceed with the interview using a note pad. However, if an investigating officer is unable to communicate effectively with a victim or critical witness by using a note pad or some other means of communication other than a qualified interpreter, then a qualified interpreter must be provided.
  - b. All written questions and responses between officers and individuals who are deaf or hard-of-hearing must be treated as evidence and handled accordingly. A copy of the written questions and responses should be forwarded with the police report, and the originals should be impounded as evidence.
  - c. In order to facilitate investigative follow up, officers need to document all forms of contact for the deaf or hard-of-hearing individual. This includes direct phone numbers for video relay services, e-mail addresses, instant messenger screen names, etc.

6. Investigative Follow-Up

- a. If a case has been submitted to an investigative unit, and a detective needs to re-interview a deaf or hard-of-hearing victim, witness or suspect, the detective should schedule an appointment

using a qualified interpreter from DCS or NIS if written or typed communication would be ineffective. The purpose of follow-up interviews is to elicit detailed and specific information. Therefore, detectives should refrain from using certified bilingual Department members since their use is designated for emergencies and for basic information gathering only.

## **VI. REQUESTS FOR SIGN LANGUAGE INTERPRETERS**

- A. Deaf Community Services (DCS) of San Diego is the designated sign language interpreter service provider for the San Diego Police Department. DCS can be reached at (619) 398-2488, Monday through Friday, 0830-1700 hours. Sign language interpreters are also available through Network Interpreting Service (NIS) at 1-800-284-1043. NIS is open from 0700-1600 hours, Monday through Friday. Interpreters needed after business hours can be accessed through NIS only.
- B. DCS can make appointments to provide interpreters for interviews with suspects, witnesses, or victims. Communications personnel can provide the listed phone numbers to field officers. However, it is incumbent upon the officer in the field to call DCS to personally request an interpreter, as the interpreting service will need specific information that Communications personnel may not be able to provide. If unsure how to work with an interpreter, Department members should ask the interpreter to explain the process. One important technique is to speak directly to the deaf person and not to the interpreter.
- C. Communications Division maintains a list of Department members who are certified bilingual in American Sign Language by the City of San Diego and can be utilized when temporary emergency assistance is needed. However, these members do not fulfill the "qualified or formally certified interpreter" requirement if requested by a deaf or hard-of-hearing person. DCS or NIS interpreters must be used in those circumstances.
- D. The Deaf and Disabled Telecommunications Program funds toll-free numbers for contacting members of the deaf and hard-of-hearing community. These numbers enable people who use voice telephones to communicate with those who use Text Telephones (TTY's), and vice versa. To use the California Relay System, choose one of listed numbers. The operator will "convey" the conversation between the parties. The conversations are confidential and free of charge to both parties.

California Relay System	1(800)735-2922
Sprint	1(888)877-5379

- E. Video Relay Service (VRS) is the newest technology for communicating with the Deaf or hard-of-hearing over the phone. Individuals who use VRS will generally have a personal assigned phone number which will connect the caller with a video interpreter who will use a webcam to communicate with the client. In most cases, messages can be left for later delivery if the client does not answer. VRS is federally funded and is free for Department members to initiate or receive these types of calls.

## **VII. EMERGENCY EVACUATIONS**

- A. During emergency situations that necessitate evacuations, considerations must be made when dealing with deaf or hard-of-hearing individuals. The deaf or hard-of-hearing may not receive evacuation notices from Reverse 911 or Alert San Diego, they may not hear announcements made over PA, and they may not hear officers knocking at the door or windows.
- B. During evacuations officers should remember to use doorbells as they may be connected to lighting alerts inside homes. Officers should use short words or phrases, and use universal hand gestures to communicate where the deaf or hard-of-hearing person needs to go.
- C. If an officer encounters a person who is deaf and blind, officers should use the prescribed method to communicate an emergency exists: Move to the person's backside and draw a large "X" across the person's back. This is a regionally taught symbol for "emergency." Then use an appropriate method to guide and evacuate the deaf/blind individual. To later communicate with a deaf/blind person, draw capital letters individually in the palm of the person's left hand. Wipe the palm between each word to indicate the start of a new word.