



Colorado Springs Police Department

Standard Operating Procedure

DL-315-02 Arrests of Deaf or Hard of Hearing Persons

Section 300 – Special Populations

Effective Date: 5/11/2022

Supersedes Date: N/A

.01 Purpose

The purpose of this directive is to outline the requirements for conducting interviews and interrogations of individuals who are deaf or hard of hearing.

.02 Cross-Reference

[GO 315 Deaf or Hard of Hearing Persons](#)

[GO 504 Body-Worn Camera \(BWC\)](#)

[DL-315-01 Contacting a Deaf or Hard of Hearing Person](#)

.03 Definitions

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.04 Procedure

Arresting Deaf or Hard of Hearing Persons

Whenever an officer arrests an individual who is deaf or hard of hearing, they must ensure that the individual has access to effective communication. The kind of communication necessary may depend upon the circumstances of the arrest.

When possible, an interpreter should be provided *prior* to a deaf individual being arrested; however, officers are not required to delay the arrest of a deaf person based solely on the lack of an interpreter.

The ADA states that, in general, if an individual not protected under the law would be subject to a police action without interrogation, then a deaf or hard of hearing individual is subject to the same action without an interpreter being present, except where one is needed to explain the action being taken.

Interpreter During an Arrest

An officer may make an arrest of a deaf or hard of hearing person based upon probable cause without an interpreter present, when necessary. In these cases, the arrest must be supported by probable cause developed without questioning or interrogation of the deaf person.

An interpreter will then be provided before any questioning, interviews, or interrogations of the suspect. A legally certified interpreter must be provided before advising the suspect of their Miranda Rights.

Example Scenarios:

- During a non-custodial traffic stop, an officer is able to effectively communicate with a deaf person by using notes, flashcards, and pointing to a summons. In this case, an interpreter may not be required.
- During a contact with a deaf person, an officer finds that the deaf person is wanted on an arrest warrant. The officer may make an arrest without an interpreter present. Notes may be used to clearly describe what is happening to the deaf person; however, an interpreter, when requested, is needed for complex arrests and to complete the booking process.
- An officer responds to an assault call and, upon arrival, finds the suspect standing over a bleeding victim holding a weapon. Witnesses saw the suspect striking the victim with the weapon. The suspect is deaf, but the officer has probable cause to make the arrest without an interrogation of the suspect. The officer may make the arrest without an interpreter. An interpreter would then be provided prior to any questioning or the reading of the suspects Miranda Rights.

Prior to the arrival of an interpreter, officers may write messages in simple language explaining what is transpiring or will transpire. Such communication should include notifying the deaf/hard of hearing person that an interpreter has been called. It may also be permissible to use video remote interpretation (VRI) prior to the interpreter arriving or if an interpreter is unavailable.

Avoid immediately restraining the arms and/or hands of a deaf person, as safety considerations permit during an arrest, as this is their mode of communication and can cause a sense of panic. If practical, as dictated by officer safety, consider handcuffing a person in front to allow them to use their hands to communicate.

Once an interpreter has arrived, use them to facilitate communication. Speak directly to the deaf person. Do not ask advice of the interpreter or say things you do not want communicated to the deaf person. Interpreters are held to a strict standard of confidentiality. This protects not only the deaf person but also the law enforcement agency and its personnel. This interview/interaction must be videotaped.

At the conclusion of the advisement and interrogation, if the deaf person is to be placed in jail, the interpreter should also go to the jail and stay to interpret the booking procedure.

An Assistive Listening Device (ALD) or other auxiliary aids can also be utilized when interviewing an individual who is hard of hearing, should one be available; however, these items are not generic or universally interchangeable. Due to the large number of ALD devices on the market, and the need to have an ALD specific to an individual's hearing aid or hearing loss, it is beyond the ability of the department to purchase these devices. Should an individual desire an ALD during an interaction with an officer and they are able to provide direction on how the officer may reasonably provide the appropriate ALD (such as having a friend bring an ALD to the officer's location), the officer should attempt to accommodate the request. If a personal ALD is not available, officers will need to ensure effective communication with the individual by another means, such as texting.

When speaking with an individual who is hard of hearing, determine how well the hard of hearing individual can understand your speech. Make sure to face the individual so that they may read your speech and that the spoken sounds of your voice reach their ears with as little distortion as possible. Make sure only one person speaks at a time, and do not obstruct your face with paper, your hand, etc. Also consider conducting the conversation in a room free from noise, such as air conditioning or other background sounds.

Officers should remember that written notes exchanged with individuals who are deaf or hard of hearing in criminal cases may have evidentiary value. As such, any notes exchanged should be placed into evidence under the appropriate case number, including notes exchanged with victims, witnesses, or suspects. Placement of any notes into evidence does not take the place of documenting the conversation in the appropriate case report.

Officers may also place any written notes exchanged with a deaf or hard of hearing individual into evidence under the appropriate case or summons number, as they deem necessary, in non-custodial interactions (e.g., traffic stops). While not required, this is encouraged, as the notes could aid in establishing the effectiveness of communications.

Telephone Privileges for Deaf or Hard of Hearing

If a person who is deaf or hard of hearing is taken into custody, their right to communicate with their family or attorney cannot be denied because of hearing loss. Each substation has an interview room equipped with a video phone. The videophone will allow a person who is deaf or hard of hearing to see captions of a conversation on a computer monitor.

Video Relay Service

Communication with those who use ASL may be facilitated using the video relay service (VRS). VRS is a 24-hour service for those who use ASL to conduct video relay calls with another person. Calls are placed and received through a professional American Sign Language (ASL) interpreter or directly to another who uses ASL via a high-speed Internet connection and VRS equipment. The person using the VRS has a video feed to allow sign language interpretation. Each one of the substations and the POC is equipped with a videophone.

Per Federal Communications Commission (FCC) rules and regulations, the VRS is not to be utilized as a form of communication (translation) to include interviews and interrogations between persons who are deaf or hard of hearing and department personnel. The use of this service is strictly to provide a form of communication for an in-custody person, who is deaf or hard of hearing, and their family or attorney located outside of the facility.

Summons & Complaint Issued to Deaf or Hard of Hearing Persons

At the time a summons and complaint is issued to a person who is deaf or hard of hearing, an officer must ensure that effective communications are used. See section .20 above for details.

Issuing officers are to use appropriate discretion in deciding whether or not to call an interpreter to the scene or ALD. This should include weighing any possible misunderstanding against the inconvenience to the individual in awaiting the arrival of the interpreter or ALD. The basic rule should be, when in doubt as to the effectiveness of communications, or if the deaf or hard of hearing person requests, summon an interpreter.

On any summons and complaint issued to a deaf person, the officer will write on the face of the summons: "Deaf Person-Interpreter Required." If the person is hard of hearing, the officer will write on the face of the summons: "Hard of Hearing Person-Communication Assistance Required." This note alerts the court officials to summon a qualified interpreter (or ALD) for the court proceedings, minimizing delays and postponements.

Deaf or Hard of Hearing Persons as Victims or Witnesses

If an employee/officer comes into contact with a victim or witness who they believe is Deaf or hard of hearing, they should directly ask, verbally or in writing, "Do you have a hearing loss?" The employee/officer should be direct and polite with the person when inquiring.

If a deaf or hard of hearing person is the victim of a felony persons crime (e.g., sexual assault, felony assaults, etc.), an interpreter must be summoned to assist in interviewing the victim. If a deaf or hard of hearing person is the victim of a felony property crime or misdemeanor, officers should summon an interpreter if requested, or if the complexity of the offense makes other forms of communication ineffective.

Many persons who are deaf or hard of hearing use telephonic equipment that is accessible to them. This includes video phones, captioned phones, amplified phones and occasionally a TTY (Two-way Telecommunications Device). Officers communicating with deaf or hard of hearing individuals via phone do not need any special training or equipment on their end. The communication exchange may take longer than average phone calls, so patience is crucial.

deaf or hard of hearing witnesses can frequently describe an incident with a high degree of accuracy. If a witness is deaf or hard of hearing, use appropriate discretion when deciding if a qualified interpreter or a qualified legal interpreter should be summoned or if other communications methods will be effective.