



# **NEW CASTLE COUNTY POLICE**

## Deaf and Hearing Impaired Persons Protocol

### **DIRECTIVE 41**

Appendix 41-W

(SEPTEMBER 02, 2022)

## **I. PURPOSE**

It is the purpose of this policy to provide officers with guidance on effective communication during police contact with the deaf and persons who have hearing impairments.

## **II. POLICY**

Most officers will interact with persons who are deaf or affected by significant hearing loss—whether as victims, witnesses, or suspects. To ensure effective communication with persons who are deaf or hard of hearing, and to conform to provisions of federal and state law, officers shall follow the guidelines provided in this policy.

## **III. DEFINITIONS**

*Lipreading:* Also referred to as speech reading; the ability to use information gained from movements of the lips, face, and body to increase understanding.

*Sign language:* American Sign Language (ASL) is the form of sign language most often used in the United States. Signs convey concepts or ideas even though a sign may stand for a separate English word. Signing individual letters by finger spelling can supplement sign language. Just as there are regional variations (dialects) in spoken English, there are regional differences in sign language.

*Auxiliary aids and services:* As defined in the Americans with Disabilities Act (ADA), these are communication aids that assist people who are deaf or who have hearing loss. They include, for example, hearing aids, cochlear implants, the exchange of written notes, telecommunications devices for the deaf (TDDs) also called text telephones (TTs) or teletypewriters (TTYs), telephone handset amplifiers, assistive listening systems, videotext displays, and hearing assistance dogs.

*Direct Access:* In the context of ADA requirements, direct access means that all calls from persons who are deaf, have hearing loss or have speech impairments must be accepted through this department's emergency communication center by whatever means are provided to other members of the public. They may not be relayed through third-party emergency service providers unless the caller asks the department to do so.

## **IV. PROCEDURES**

### **A. Interactions with Persons who are Deaf or Hearing Impaired:**

Communication problems in police-public encounters provide the basis for potential frustration and embarrassment. Failure of officers to recognize that a person has a hearing impairment, or that person's

failure to make his or her impairment known to officers, can also lead to critical misunderstandings. To avoid such potentialities, officers shall be cognizant of the following:

1. Be alert to indications that a person may be deaf or have a hearing impairment. Such indications include but are not limited to the following:
  - a. The appearance of bumper stickers, rear window decals, or visor notices/symbols indicating the disability.
  - b. Failure of persons to respond to spoken commands or signals.
  - c. Use of signs, hand signals, or gestures in an attempt to communicate.
  - d. Display of cards by the person noting his or her hearing disability.
  - e. Inability or difficulty of a person to follow verbal instruction or requests for information.
  - f. A need to see the officer's face directly, suggesting that the person is attempting to lipread.
  - g. Evidence of assistive devices such as hearing aids, cochlear implants, or picture symbols.
  - h. Evidence of behaviors such as increased agitation or irritability, low frustration levels, withdrawal, poor attention, or impaired equilibrium.
2. When dealing with persons who are, or who are suspected of being, deaf or who have hearing impairments, officers shall never assume that the person understands until it can be confirmed by appropriate responses to questions or directives.
3. Once someone is identified as deaf or a hearing-impaired person, officers shall determine by written or other forms of communication the person's preferred means of communication—sign language, lipreading, reading and note writing, or speech.
4. For persons who use sign language, a family member or friend may interpret under emergency conditions or, in minor situations, for the sake of convenience, when an interpreter is not available or required by law. In all other situations, officers shall not rely on family members or friends for sign language interpretation due to their potential emotional involvement or conflict of interest.
5. Officers shall address all questions and directives to persons who lipread by facing them directly and speaking in a moderately paced conversational tone. Shouting or using exaggerated mouth movements interfere with the ability to lipread. Understanding can be further degraded by the presence of facial hair, chewing gum, cigarettes, and so on.
6. Officers shall be aware that only about one-third of words can be accurately interpreted by lipreading. Therefore, communication of

a critical nature (e.g., Miranda warnings) shall be reinforced by other means of communication.

7. Officers shall not assume that persons who wear hearing aids can hear and fully understand what is being said. Some use hearing aids to provide sound awareness rather than to increase speech understanding.
8. Highly stressful situations, background noise, multiple speakers, and complex information and instructions can compromise the limited effectiveness of hearing aids. Officers shall test comprehension by seeking appropriate responses to simple questions or directives.
9. Deaf or hard of hearing persons may require additional time to understand and respond to commands, instructions, and questions.

#### B. Sign Language Interpretation Requirements:

The need for the use of a sign language interpreter is generally determined by the length, importance, and complexity of the communication.

1. In simple enforcement situations, such as traffic stops, driver's license checks, or consensual police-public encounters, a notepad and pencil may provide effective communication (see IV.A.4).
2. During interrogations and arrests, a sign language interpreter is generally necessary to effectively communicate with a person who uses sign language.
3. A sign language interpreter need not be available in order for an officer to make an arrest of a subject where probable cause is established independent of interrogating the deaf or hearing-impaired suspect. A sign language interpreter may be called and asked to be available later at booking.
4. If probable cause to make an arrest must be established through questioning or interrogation of a deaf or severely hearing-impaired person, a sign language interpreter shall be requested.
5. This department shall maintain a list of speech language interpreters who are available on a 24/7 basis. This information shall be maintained on the web-based portal system contact list. Search "Deaf & Hearing Impaired" for the current vendor list.
6. Officers will have access to visual aids of basic ASL requests and directions as defined by this Division.

#### C. Arrest Situations:

1. Recognizing that some persons need their hands free in order to communicate, consideration should be given to the use of handcuffs. However, Officer safety will remain paramount in deciding on the usage of handcuffs. If handcuffs are required, all


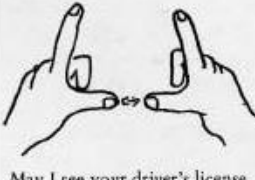



essential communication with the suspect should be completed prior to their application if possible.

2. Deaf persons and persons who have severe hearing impairments often have reduced verbal communication skills, speech that may be incoherent or otherwise resemble that of an individual who is intoxicated, and difficulty with equilibrium. As such, officers shall attempt to supplement the standard field sobriety tests to such persons by use of other testing such as the horizontal gaze nystagmus and PBT as outlined in current DUI investigative and prosecutorial procedures.
3. Some deaf and hearing-impaired persons have limited written language skills, particularly involving difficult matters such as legal warnings. Therefore, officers shall not assume the effectiveness of this form of communication and should gain confirmation of a person's understanding whenever possible.
4. Officers shall ensure that deaf and hearing-impaired persons who are arrested and transported to a booking site have their communication devices with them. Such devices shall be kept by arrestees when safe to do so and maintained by booking authorities in good working order.

## Appendix #1

### BASIC SIGN LANGUAGE

Use of the following phrases and their American Sign Language counterparts should enable the police officer to establish a sound working relationship with the deaf victim, suspect, or witness. After initial communication has been made, the officer can write his questions and comments or, when available and appropriate, an interpreter can be used.

 <p>Are you deaf?</p>	 <p>May I see identification?</p>	 <p>May I see your driver's license and registration?</p>
 <p>Do you understand?</p>	 <p>I don't understand</p>	
 <p>Do you need help?</p>		 <p>Do you need a doctor?</p>
 <p>What happened?</p>	 <p>Stay where you are.</p>	 <p>Do you want an interpreter?</p>