



NEWARK POLICE DEPARTMENT GENERAL ORDER



SUBJECT: DEAF OR HEARING IMPAIRED PERSONS		GENERAL ORDER NO. 04-14
SUPERCEDES: 04-14 (DATED 11/19/2004)	DATED: October 25, 2011	SECTION CODE: P-8

I. Policy

The Americans with Disabilities Act (ADA) provides civil rights protections to individuals with disabilities, including, but not limited to, persons who are deaf or hearing impaired. It is incumbent upon all personnel with public contact to become familiar with the special needs of and services for these persons. Therefore, it will be the policy of the Department to ensure that communications with people who are deaf or hearing impaired are as effective as communications with others.

II. Purpose

Successful police contact with citizens who are deaf or hearing impaired is characterized by effective communication between the parties, whether it is a suspect, victim, or complainant with whom the officer is talking. As such, a police officer encountering an individual with a speech or hearing impairment should use appropriate auxiliary aids and services whenever necessary to ensure effective communication with the person.

This Order will provide guidelines for Department personnel to ensure effective communication with individuals who are deaf or hearing impaired.

III. Definitions

- A. **Qualified Interpreter:** an individual who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary. Request for an interpreter must be via Central Communications through a Departmentally contracted agency. These interpreters are certified by a national board, thereby having legally recognized qualifications. These are the only interpreters to be used in these situations. Under no circumstances are family members, friends, or other individuals to be used as interpreters.

IV. Identifying a Deaf/ Hearing Impaired Person

The following information is to be used for general guidance to assist police personnel in identifying persons who are deaf:



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- A. A deaf person will usually indicate deafness or a hearing impairment by pointing to his/her ears and then to his/her mouth (the sign for the “deaf”). S/he may point to his/her ear and shake his/her head, indicating s/he cannot hear. S/he may reach into a pocket, car glove compartment, or even under a car seat to obtain pencil and paper. (While employees must act to assure their own safety, be careful not to misinterpret these actions as reaching for a weapon.)
- B. A deaf person constantly watches what is going on, trying to catch some clue as to what is being said. A deaf person will usually be very curious. In contrast, a person pretending to be deaf is likely to behave almost in the opposite way. S/he will try to ignore not only what can be heard, but also what can be seen. The pretender is not curious.

V. Procedures When Communicating with Deaf of Hearing Impaired Persons

A. Recognizing Speech and Hearing Disabilities

Like other invisible disabilities, officers may confuse the behavior of individuals with hearing and speech disabilities with those of people who intentionally refuse to cooperate or those who abuse illegal substances.

- 1. Officer should be aware that an individual’s failure to comply with or respond to verbal orders does not always constitute defiance, but may be the result of that individual’s inability to hear the officer or respond verbally.
- 2. Employees must develop the ability to recognize the characteristics of various disabilities, including symptoms, and physical reactions.
- 3. Before committing themselves to a course of action, officers should attempt to identify whether or not they are dealing with a person who has a communication-related disability.
- 4. It is essential that officers take extra measures to protect the rights of suspects who are deaf and hard of hearing, as well as others who may not have educational or communications comprehension levels sufficient to fully understand the basic Miranda rights. Simply reading the rights to someone with a hearing disability and having the individual acknowledge that they are understood is sufficient.

B. Traffic Stops

Police contacts with citizens occur most frequently during routine traffic stops. In situations involving drivers who are deaf and use sign language for communication, the officer should:



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1. Use appropriate sign language (or improvise if none known) to initiate the exchange with the driver and should explain in writing the necessity for the stop, and for a citation if the driver is to be charged.
2. If the suspect has committed a criminal offense in which a non-traffic citation is to be issued without the person being taken into custody, the same communication procedures as outlined above shall be followed.
3. If the suspect has committed a criminal offense for which the person is/must be taken into custody but who will then be released on a non-traffic citation, the same communication procedures as outlined above shall be followed.
4. The officer will not ask a family member or friend of the driver or suspect to interpret for this purpose.

C. Arrest Upon Probable Cause Where No Interview is Conducted

1. In situations where an individual without a hearing impairment would be arrested and taken into custody on probable cause without an interview, likewise a suspect with a hearing impairment in the same situation usually does not need to be provided with a qualified interpreter.
2. A qualified interpreter may be required if an officer is unable to convey to the arrestee the nature of the criminal charges by communicating on a notepad or by using another means of communication.
3. If the officer feels that his/her communication has not been effective using another means of communication, then a qualified interpreter will be called to the Command so that the officer can convey the information through the interpreter.
4. In no case will a hearing impaired person be taken into custody or detained merely because the officer feels his/her communication by other means has been ineffective.

D. Arrest Procedure for Deaf or Hearing Impaired Person when an Interview is Required

1. Notify Communications of the arrest of a deaf or hearing impaired individual and request an interpreter.
2. Until an interpreter arrives, write messages in simple language explaining what is transpiring or will transpire. In writing, notify the deaf person that an interpreter has been called. Under no circumstances should the officer say anything more without the aid of an interpreter. Do not advise the deaf person of Miranda Rights without the interpreter present.
3. As safety considerations for the suspect and officers permit during an arrest, avoid immediately restraining the arms and/or hands of a deaf person, as this is their mode of communication and can cause a sense of panic.



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4. Once an interpreter has arrived, use him/her 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 bound by the Code to interpret through sign language everything said in the presence of the deaf person.
5. 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.
6. If a deaf person is taken into custody, their right to communicate with his/her family or attorney cannot be denied because of deafness.

E. Rights of a Deaf or Hearing Impaired Individual in an Arrest Situation

Some people with disabilities may not have achieved communication comprehension levels sufficient to understand their individual rights in an arrest situation. (For people who are deaf, there is no sign language for the term “waive” in regard to the Miranda rights. Yet, in an effort to be cooperative, a suspect who is deaf may acknowledge that he or she is willing to give up his or her rights.)

1. Officers must take extra care to ensure that the rights of the accused are protected.
2. Lack of speech or other speech impairment may make it difficult for a suspect to notify the arresting officer or jailer of an urgent need.
3. Frequent cell checks should be conducted.

F. Use of an Interpreter

“APPOINTMENT OF QUALIFIED INTERPRETERS FOR DEAF OR MUTE,” provides that a qualified interpreter shall be appointed “when a person who is deaf or mute or both, is arrested for an alleged violation of a criminal law of this state or any of its political subdivisions. Such appointment shall be made prior to any attempt to interrogate or take a statement from such person.” Section 504 of the Rehabilitation Act of 1973 (Federal law) extends the requirement for provision of a qualified interpreter to victims, witnesses and complainants as well.

1. In the event that a hearing impaired person is suspected of committing a serious offense, an interpreter will be required prior to any interrogation which would require a Miranda warning.



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2. In the event that an interview of a hearing impaired person is necessary to establish probable cause for a warrant, an interpreter will be required.
3. In the event that a charge is made against a hearing impaired person, the charging officer will be responsible for notifying the appropriate court that an interpreter will be required prior to the date the offense is scheduled for adjudication.
4. In the event that a hearing impaired person is a victim and/or witness in connection with an offense, an interpreter will be required to coordinate victim/witness services.

NOTE: Do not discount deaf persons as potential witnesses. Though they may not have heard what happened, they can frequently describe an incident with a high degree of accuracy. Summon an interpreter through Communications. The TDD facilities in Communications can be used to assist in acquiring additional information.

G. Reports and Evidence

1. All written communication with a hearing impaired individual involving the investigation of a criminal matter will be treated as evidence.
2. A copy of the documents will be attached with the original report of the incident.
3. The original documents will be treated as any other evidence.
4. If the investigation does not involve a criminal matter, the original documents will be attached with any report of the incident.
5. All information concerning the identity of the qualified interpreter used, and the time of arrival and time of departure of the interpreter, will be documented in the officer's report of the incident.
6. All information concerning the use of an interpreter will be documented and forwarded through the chain of command.

VI. Responsibilities of Commands

A. Office of Records/ Communications

1. Central Communications will maintain a Telecommunication Device for the Deaf and Speech Impaired (TDD) and all Communications Officers shall be trained to operate and maintain the TDD. The following procedures shall be followed when call-takers receive a call requiring the use of a TDD:
 - a. Once the call is recognized, the Xtend Software Telephone Interface shall be activated by clicking the TDD button.
 - b. The pre-populated tabs shall then be used to answer the proper questions.



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- c. Identify the type of handicap of the caller in order to relay this information to the responding field unit.
 - d. Keep the caller on the TDD as long as possible or until a field unit arrives on the scene.
 - e. If the caller is requesting Fire or EMS, the call shall be transferred following normal procedures. Ensure the transfer is successful before disconnecting with the caller.
 - f. Enter the TDD call as a 530 TDD Call in the CAD System and immediately alert the floor supervisor of the call.
 - g. The floor supervisor shall ensure the call is dispatched without delay.
 - h. After completion of the call, the call-taker shall execute an Administrative Report (DP1:1001) with details of how the call was handled, the location of the call, callers name, address and phone number, and the disposition code if available.
 - i. The call-taker shall print out the TDD call to the master printer and attach it to the Administrative Submission before submitting to the floor supervisor.
 - j. The Floor Supervisor, after reviewing the report, shall forward same to the 911 Coordinator where a record shall be kept and the information evaluated for compliance with State and Federal laws pertaining to the Americans with Disabilities Act on TDD call handling.
 - k. The Floor Supervisor shall test the TDD on a monthly basis to insure functionality.
2. In the event that a hearing impaired person is detained in the Department's Holding Facility, (s)he will be informed of all auxiliary aids available and of his/her right to place telephone calls using a TDD.
 3. A list of qualified sign language interpreters will be maintained in Central Communications. Upon notification by any Department member that an interpreter is required, the Communications supervisor will use their best effort to obtain the services of a qualified interpret within one (1) hour.

B. Prisoner Processing Division

1. The Office of Records/Communication' TDD System will be made available to any hearing impaired person who needs to make a telephone call while in custody.
2. If a time limit is placed on the duration of an arrestee's telephone call, a hearing impaired arrestee will be afforded twice the time as a non-TDD user.



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VII. Responsibility for Compliance

Command and supervisory officers are responsible for complying with the tenets of this Order.

VIII. Effect of this Order

All previous Orders which are inconsistent with this Order are hereby repealed.

BY ORDER OF:

A handwritten signature in blue ink, appearing to read "S. Demaio", written over a horizontal line.

SAMUEL A. DEMAIO
POLICE DIRECTOR

SDM:DL:jp