

DEAF AND HARD OF HEARING (DHH) COMMUNICATIONS

PREAMBLE:

The Omaha Police Department (OPD) recognizes the importance of effective and accurate communication between OPD employees and all members of the community we serve, and we understand our legal obligation under the Americans with Disabilities Act (ADA) to communicate effectively with people who are deaf or hard of hearing (DHH). Language barriers can impede effective and accurate communication in a variety of ways. These barriers can inhibit or even prohibit people who are DHH from accessing and/or understanding important rights, obligations and services, or from communicating accurately and effectively in difficult situations. Ineffective communication with victims, witnesses, alleged perpetrators, and community members who are DHH can also present the OPD with safety, evidentiary, and ethical challenges; therefore, ensuring effective communication between OPD employees and the DHH community serves the interests of both. To help effectively serve the DHH community and fulfill the Department's legal obligations, this policy establishes guidelines for OPD employees to follow when they provide services to, or interact with, people who are DHH.

POLICY:

It is the policy of the Omaha Police Department (OPD) that all employees will make reasonable efforts to provide people who are deaf or hard of hearing (DHH) with timely, meaningful, and free access to the services and benefits the OPD provides in all OPD programs and activities, and to provide free language assistance services, as needed, or whenever requested by people who are DHH. Under no circumstances will a person who is DHH be denied access to OPD services based upon their inability to communicate with an OPD employee.

DEFINITIONS:

Auxiliary Aids and Services: A variety of tools and techniques that may be used to assist communication between a hearing person and a person who is DHH. These may include the Department's UbiDuo communication device, Video Remote Interpreters (VRI), assisted listening devices, teletypewriter (TTY) devices, lip reading, note writing, and using finger spelling or gestures. These tools and techniques may aid communication, but they are not a replacement for a Certified Interpreter.

Certified Interpreter: A person who has demonstrated proficiency in sign language interpretation per the rules and regulations adopted by the Nebraska Commission for the Deaf and Hard of Hearing (NCDHH), and who holds a license issued by the NCDHH to provide interpretation services for compensation. A list of OPD-preferred Certified Interpreters is located in [PPM Appendix A](#) under "Nebraska Certified Sign Language Interpreters." In addition, the City of Omaha Human Rights and Relations Department (City HRR) maintains a list of Certified Interpreters in [Google Drive](#).

Deaf and Hard of Hearing (DHH): A condition that adversely affects a person's ability to communicate via spoken language. This includes being unable to hear the entire sound spectrum (deaf), as well as being unable to hear certain parts of the sound spectrum (hard of hearing).

UbiDuo: A portable computer technology that enables better communication between hearing persons and people who are DHH. It includes two separate and detachable computer devices – each with their own keyboard and touchscreen – and allows simultaneous real-time written communications. This allows for more natural conversations that closely replicate spoken conversations. The OPD has two (2) UbiDuo devices available for employee use. One is housed in the Front Desk area on the Third Floor at OPD Central Headquarters, and the other is housed in the Front Desk area at the Southwest Precinct. Instructions to access these devices are found in this policy.

PROCEDURE:

I. Interactions with People Who Are Deaf or Hard of Hearing (DHH)

- A. OPD employees have a legal obligation under the Americans with Disabilities Act (ADA) to provide people who are DHH with a level of service that is equivalent to the service provided to all other persons.
- B. When an OPD employee attempts to communicate with a person and believes that person may be DHH, the employee shall utilize written notes or other means to determine if the person is, in fact, DHH. If the person is confirmed to be DHH, the employee will take the following actions.
 - 1. Simple Interactions.
 - a. Interpreter services are not generally required for simple interactions, such as non-criminal violations, checking a person's identification, or giving directions to a location.
 - (1) Writing with a notepad and pen/pencil or gesturing will normally be sufficient during simple interactions.
 - (2) Employees may also utilize an [NCDHH Communication Card](#) to more easily communicate during simple transactions.
 - (a) Employees may obtain NCDHH Communication Cards from the OPD Police Administrative Section Manager.
 - (3) When appropriate, officers will provide people who are DHH with the Requesting Cooperation Card ([OPD Form 211A](#)) and/or Citizen Contact Brochure ([OPD Form 211](#)).
 - b. If, at any time during the encounter, communication becomes ineffective, the employee will follow the steps provided in the next section under "All Other Transactions."
 - 2. All Other Transactions.
 - a. A Certified Interpreter, or the right auxiliary aid, may be needed for more lengthy or complex transactions – such as interviewing a victim, witness, or suspect – to enable effective communication from the interviewee's perspective. The OPD employee must evaluate what auxiliary aid will ensure accessibility for an interviewee who is DHH.
 - (1) Employees will notify the person via exchange of written notes or other means that the Department will provide a free, Certified Interpreter if the person desires.
 - (2) Employees will determine via the use of written notes or other means if the person wants a Certified Interpreter or some other type of auxiliary aid or service to enable effective communication.
 - (a) Employees will honor the person's communication preference unless one of the following factors is present.
 - (i) The person's preferred method will significantly interfere with law enforcement responsibilities or cause an undue financial burden.

- OR -

- (ii) The employee is confident that another means of communicating will be just as effective and easier to provide, and the person who is DHH agrees to the alternative method of communication.
- i. The guiding principle in this situation is that the person who is DHH must be able to understand the employee just as well as someone who is not DHH.

NOTE: A Certified Interpreter must be used for any criminal interrogation of a suspect who is DHH unless the suspect waives their right to an interpreter in writing by signing a “Deaf and Hard of Hearing Persons – Right to Interpreter – Waiver” ([OPD Form 76](#)). See the “Criminal Interrogations” section below for details.

- (b) If the person requests a Certified Interpreter, or the employee determines a Certified Interpreter is needed, the employee shall follow the steps provided in this policy to obtain a Certified Interpreter.
- (c) If the person requests an auxiliary aid or service other than a Certified Interpreter, the employee shall notify their supervisor before initiating appropriate steps to secure the requested aid.

NOTE: One recommended auxiliary aid available to OPD employees is the UbiDuo communication device. Employees who wish to use an OPD UbiDuo device shall follow the instructions in this policy.

- (d) If the person expresses a preference for written communication, the employee shall provide a pen and paper, or another writing instrument, and shall communicate with the individual in writing.
- (i) Written communication shall not be used as a substitute when a person who is DHH has expressed a preference for a sign language interpreter.

NOTE: The type of auxiliary aids and/or services necessary to ensure effective communication will vary based on the method of communication preferred by the person; the nature, length, and complexity of the interaction; and the context in which the interaction takes place.

EXCEPTION: In emergency situations, such as violent crimes in progress or imminent threats to the safety or welfare of persons or the public, employees shall take immediate action to end the threat or mitigate the dangerous circumstances prior to determining the person’s DHH status and communication preference.

C. Using Children, Family Members, or Members of the Public to Interpret.

- 1. Employees will not rely on a minor child or other family member to interpret or facilitate communication unless the following circumstances exist.
 - a. It is an emergency situation that involves an imminent threat to the safety or welfare of an individual or the public.

– AND –

- b. There is no Certified Interpreter immediately available.

NOTE: Minor children and family members may lack the skills and/or impartiality needed to interpret accurately and effectively.

- 2. Employees will not require people who are DHH to bring another member of the public to interpret for them, and will not rely on an adult accompanying a person who is DHH to interpret or facilitate communication, unless one of the following situations exists:

- a. There is an emergency involving an imminent threat to the safety or welfare of an individual or the public and there is no Certified Interpreter on scene.

- OR -

- b. The person who is DHH specifically requests that an accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and the employee believes that such assistance is appropriate under the circumstances.

- 3. Employees shall not use any person to assist with interpretation if there is a possibility that the prospective interpreter and the person who is DHH are on opposite sides of the same offense.

EXAMPLE: When investigating a suspected domestic violence incident with an alleged victim who is DHH and an alleged abuser who is not DHH, the alleged abuser shall not interpret for the alleged victim.

- 4. Employees shall not use any person to assist with interpretation if there is a possibility that the prospective interpreter and person who is DHH may be charged together for the same crime (i.e. co-defendants).

NOTE: A Certified Interpreter must be used for any criminal interrogation of a suspect who is DHH unless the suspect waives their right to an interpreter in writing by signing a “Deaf and Hard of Hearing Persons – Right to Interpreter – Waiver” ([OPD Form 76](#)). See Section II of this policy for details.

D. Obtaining a Certified Interpreter.

- 1. If a person who is DHH requests a Certified Interpreter, or if the employee determines a Certified Interpreter is needed, the employee will notify their immediate supervisor of the situation.
 - a. The employee or supervisor will locate the list of OPD-preferred Certified Interpreters in [PPM Appendix A](#), and call each Certified Interpreter on the list until an interpreter is obtained to assist.
 - (1) The employee or supervisor will advise the interpreter of the incident details and the specific location where the interpreter is needed.
 - (2) If the employee or supervisor calls every OPD-preferred Certified Interpreter on the list and is unable to find an interpreter to assist, the supervisor will help the employee determine the next course of action.

- (a) In this situation, the employee may access and use an OPD UbiDuo communication device per the instructions in this policy.
- 2. If a Certified Interpreter is used, the requesting officer shall document use of the interpreter in an Inter-Office Communication and in an Incident Report or Information Report IF either of these reports is necessary.
 - a. The Inter-Office Communication and Incident/Information Report shall include the following information.
 - (1) The interpreter's name and the date of interpretation services.
 - (2) The time when interpretation services began, time when interpretation services ended, and total amount of time the interpreter assisted on the call.
 - (3) The RB number, if applicable.
 - b. The Inter-Office Communication shall be forwarded through the chain of command to the Police Services Bureau Deputy Chief within 24 hours.
- 3. The Customer Services Unit shall maintain the directory of OPD-preferred Certified Interpreters for people who are DHH.
 - a. Names and contact information for OPD-preferred Certified Interpreters are located in [PPM Appendix A](#) under "Nebraska Certified Sign Language Interpreters."

E. UbiDuo Communication Devices.

- 1. The Department has two (2) UbiDuo devices employees may use to effectively communicate with people who are DHH without the use of a sign language interpreter.
 - a. When a Certified Interpreter is not requested or required – or when the OPD-preferred Certified Interpreters list has been exhausted without success – employees may utilize an UbiDuo device to enhance communication.
- 2. Accessing an UbiDuo Device.
 - a. The UbiDuo devices are housed in separate locations. One UbiDuo is housed at OPD Central Headquarters, and the other is housed at the Southwest Precinct.
 - (1) Central Headquarters (HQ): This UbiDuo is located in the Front Desk area on the Third Floor at Central HQ, in the freestanding island cupboard, inside a drawer labeled "UbiDuo 3."
 - (a) Officers may obtain this UbiDuo by using their OPD proximity card to gain access to the Front Desk area.
 - (i) Some non-sworn employees may be authorized to access the Front Desk area, and may also obtain the UbiDuo in this way.
 - (b) Non-sworn employees who do not have proximity card access to

the Front Desk area may arrange to use this UbiDuo by contacting the Front Desk Squad between 0800 and 1600 hours.

- (2) Southwest (SW) Precinct: This UbiDuo is located in the SW Precinct Front Desk area in a foam protector under the television.
 - (a) Officers may obtain this UbiDuo by using their OPD proximity card to gain access to the Front Desk area.
 - (i) Some non-sworn employees may be authorized to access the Front Desk area, and may also obtain the UbiDuo in this way.
 - (b) Non-sworn employees who do not have proximity card access to the Front Desk area may arrange to use this UbiDuo by contacting SW Precinct Shift Command.
- (3) Prior to transporting the UbiDuo and carrying bag/case to another location, OPD employees shall fill out the UbiDuo Sign-In/Sign-Out Log that accompanies each device.
 - (a) The Front Desk Squad at Central HQ and SW Precinct Shift Command shall ensure the UbiDuo Sign-In/Sign-Out Log and UbiDuo carrying bag/case are stored with the UbiDuo device at their respective locations, and will ensure the carrying bag/case contains instructions for use and flash drives.

3. Using the UbiDuo Device.

- a. Employees will follow the instructions contained in the UbiDuo carrying bag/case to turn on and properly use the UbiDuo device.
- b. Employees shall save each conversation to the UbiDuo device prior to powering off the device. If the conversation is not saved prior to powering off the device, the conversation will be cleared from its memory.
 - (1) Conversations shall be saved from the UbiDuo device to one of the communal flash drives, or to a personal flash drive, in order to transfer the conversation to a work computer for printing or archiving.
 - (a) UbiDuo conversations shall be printed or saved to a CD/DVD to be booked into Evidence and Property.

4. Returning the UbiDuo Device.

- a. The employee who checks out the UbiDuo device is responsible for returning the device, carrying bag/case, instructions, and flash drives to the location from which they were obtained by the end of the shift during which they checked out the UbiDuo.
 - (1) The employee shall update the Sign-In/Sign-Out Log upon returning the UbiDuo.
- b. The employee shall not keep the provided communal flash drives, and shall not book the provided flash drives into Evidence and Property.

- (1) To preserve a conversation, the employee shall save the file from the communal flash drive to a separate storage device, such as a work computer, CD/DVD, or personal flash drive.
- c. To ensure discretion and confidentiality, employees shall delete their saved conversation from the UbiDuo device, as well as from the communal flash drive, prior to returning the UbiDuo and flash drive to the storage location.

NOTE: Make sure to save the conversation to a personal flash drive or another personal storage device prior to deleting the conversation from the UbiDuo and communal flash drive.

F. Citizen Contact Brochure, Requesting Cooperation Card and NCDHH Communication Card.

1. Officers will carry the Citizen Contact Brochure (OPD Form 211) and the Requesting Cooperation Card (OPD Form 211A) for use during traffic stops or arrest situations involving deaf or hard of hearing (DHH) persons.
 - a. Upon encountering a DHH person, the officer will present them with OPD Form 211A. This form provides information, in both English and Spanish, about what is expected of the DHH person during the encounter.
 - b. Next, the officer will present the DHH person with OPD Form 211. This form will help the officer advise the individual of the action being taken (citation, physical arrest, vehicle towing, or release), and the reason for that action.
2. An NCDHH Communication Card will be kept above the visor in each OPD vehicle, and may be used to assist officers during interactions with members of the DHH community.
 - a. Upon encountering a person who is DHH, the officer may ease communication by pointing to simple photos and phrases on the NCDHH Communication Card.
 - b. Units or squads may request additional NCDHH Communication Cards from the OPD Police Administrative Section Manager.
3. To communicate with DHH community members who cannot read, officers shall request the use of a Certified Interpreter per the instructions in this policy.

II. Interrogation, Interviews, and Complaints

A. Criminal Interrogations.

1. Per Nebraska Revised Statute § 20-152, no oral or written answer, statement, or admission made by a deaf or hard of hearing (DHH) person in reply to a question of any law enforcement officer or any other person having a prosecutorial function may be used against the DHH person in any criminal proceeding unless:
 - a. The statement is made or elicited through a licensed interpreter and is made knowingly, voluntarily, and intelligently.

- OR -

- b. The DHH person waives their right to an interpreter in writing.

- (1) When any person who is DHH waives their right to an interpreter, officers shall ensure the person completes a “Deaf and Hard of Hearing Persons – Right to Interpreter – Waiver” ([OPD Form 76](#)) to document the waiver.
- (2) Officers shall forward each completed [OPD Form 76](#) to the Data Unit.

NOTE: The right to an interpreter may only be waived in writing.

2. A Certified Interpreter shall be used for any criminal interrogation of a suspect who is DHH unless the suspect waives their right to an interpreter in writing via [OPD Form 76](#).
 - a. Every effort will be made to video record the Certified Interpreter-assisted interview and/or interrogation, and the recording will be booked into the Evidence/Property Unit as evidence.
3. If the suspect waives their right to an interpreter in writing via [OPD Form 76](#), the officer may communicate with the suspect via written communication.
 - a. Officers may utilize an OPD UbiDuo communication device to conduct a written interrogation.
 - (1) If an UbiDuo device is used to conduct the interrogation, all questions and responses shall be saved to a CD/DVD via the instructions in this policy, and the CD/DVD shall be booked into the OPD Evidence/Property Unit as evidence.
 - b. Officers may also utilize a pen and paper, or another writing instrument, to communicate with the suspect in writing.
 - c. If, at any time during a written interrogation, communication between the suspect and the officer becomes ineffective, the officer shall immediately discontinue the questioning and summon a Certified Interpreter.
4. During criminal interrogations, personal devices such as hearing aids or cochlear implants shall remain with DHH suspects at all times.

B. Miranda Warnings and Criminal Charges.

1. A Certified Interpreter is required whenever an officer is unable to communicate the Miranda Warning and any associated criminal charges to a person who is DHH.
2. Officers shall transport any arrestee who is DHH to OPD Central Headquarters, where the arresting officer shall convey the information through the use of a Certified Interpreter.
 - a. Upon completion, the officer shall cite or book the suspect at the Douglas County Department of Corrections (DCDC).
 - b. Personal devices such as hearing aids or cochlear implants shall remain with the suspects and arrestees at all times.

C. Victim or Witness Interviewing.

1. If a victim or witness requests a sign language interpreter, the officer will follow the process described in this policy to summon a Certified Interpreter.

- a. In this case, the Certified Interpreter will be dispatched to the victim or witness location.
2. If no Certified Interpreters are available to respond to the victim or witness location, the officer shall attempt the following methods of communication.
 - a. Retrieve an UbiDuo communication device from OPD Central Headquarters or the OPD Southwest Precinct per the instructions in this policy.
 - b. Use a pen and paper, or another writing instrument.
 - c. Utilize speech supplemented by gestures and visual aids.
 - d. Speak orally, slowly, distinctly, and directly in the individual's line of sight to make lip reading possible.

NOTE: Not all people who are DHH can lip read, so relying upon lip reading should be a last resort.

3. If no Certified Interpreters are available, the UbiDuo devices are not available, and all other attempted methods of communication are ineffective, the officer will try to communicate to the victim or witness the need to meet with an interpreter at a later time.

REFERENCES:

I. Laws

- A. Nebraska Revised Statute (NRS) [§20-152](#).

II. Previous OPD Orders

- A. Previous General Orders: #54-95, 9-98, 50-06, 24-08, 29-10, 81-15, 99-18, 51-22, and 55-24.

III. Other

- A. U.S. Department of Justice, Civil Rights Division, Disability Rights Section. GUIDE FOR LAW ENFORCEMENT OFFICERS: When in Contact with People Who Are Deaf or Hard of Hearing. Issued March 31, 2006; Last updated February 25, 2020.
- B. U.S. Department of Justice, Civil Rights Division, Disability Rights Section. Model Policy for Law Enforcement on Communicating with People Who are Deaf or Hard of Hearing. Issued January 1, 2006; Last updated February 28, 2020.