

PARKER POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL

4.12	EFFECTIVE: August 3, 2012	James Tsurapas, Chief of Police
	REVISED: August 1, 2013	
SUBJECT: AMERICANS WITH DISABILITIES ACT (ADA)		
CALEA: 81.2.1		PAGE: 1 of 6

4.12.1 PURPOSE

The purpose of this policy is to assist persons who suffer from deafness, hearing impairment, blindness, impaired vision, mental or other disabilities overcome the difficulties they often face in gaining meaningful access to, or an understanding of, important rights, obligations and services.

4.12.2 POLICY

In accordance with the Americans with Disabilities Act (ADA), it is the policy of the Department to take all reasonable steps to reasonably accommodate such persons during any law enforcement contact.

4.12.3 DEFINITIONS

Disability - a physical or mental impairment that substantially limits one or more of the major life activities of a person.

Qualified interpreter – an interpreter who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. In some circumstances, Colorado requires interpreters to have a valid certification of competency accepted by the Commission for the Deaf and Hard of Hearing. Qualified interpreters include sign language, oral transliterators, cued-language transliterators, including oral interpreters and intermediary interpreters. A qualified interpreter for a person who is deaf-blind would need to be able to use tactile sign language.

4.12.4 PROCEDURE

A. Factors to Consider

1. Under the ADA, people who identify themselves as deaf or hard of hearing are entitled to a level of service equivalent to that provided to hearing persons.
2. Because the nature of any law enforcement contact may vary substantially from one situation to another, Department members should consider all information reasonably available to them when determining how to communicate with a person suffering from any disability. These factors may include, but are not limited to:
 - a. The extent to which a disability is obvious or otherwise made known to the involved Department member. Impaired or disabled persons may be reluctant to acknowledge their condition and may even pretend to understand when, in fact, they do not.

- b. The nature of the disability *e.g.*, total deafness or blindness vs. impairment.
- c. The nature of the law enforcement contact *e.g.*, emergency vs. nonemergency, custodial vs. consensual contact, etc.
- d. Availability of resources to aid in communication.

B. Assistance Dog

A disabled person with an assistance dog has the same rights to access public places and services as any other person. An assistance dog means a dog that has been or is being trained as a guide dog, hearing dog or service dog.

C. Initial and Immediate Considerations

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, Department members should remain alert to the possibility of communication problems and exercise special care in the use of all gestures and verbal and written communication in an effort to minimize initial confusion and misunderstanding when dealing with any person(s) with known or suspected disabilities or communication impairments.

D. Types of Communication Assistance Available

Disabled persons may elect to accept communication assistance by the Department at no cost or choose to provide their own communication services at their own expense. In any situation, the person's expressed choice of communication method shall be given primary consideration and honored unless the Department member can demonstrate that another effective method of communication reasonably exists under the circumstances. Department members should document the type of communication utilized in any related report and whether a disabled or impaired person elected to use services provided by the Department or some other identified source. Department-provided services may include, but are not limited to the following:

1. Field Resources

Department members are encouraged to utilize resources immediately available to them in any contact with a known or suspected disabled or impaired person. Examples of this would include, but are not limited to:

- a. hand gestures or written communications exchanged between the Department member and a deaf or hearing-impaired person;
- b. facing a person utilizing lip reading and speaking slowly and clearly; and
- c. slowly and clearly speaking or reading simple terms to any visually or mentally impaired person.

2. Audio Recordings and Enlarged Print

From time to time, the Department may develop audio recordings of important information needed by blind or visually-impaired persons. In the absence of such audio recording, Department members may elect to read aloud a Department form or document, such as a citizen complaint form, to a visually-impaired person or utilize a photocopier to enlarge printed forms for a visually-impaired person.

3. Telephone Interpreter Services

The Communications Division will maintain a list of qualified interpreter services to be contacted at Department expense to assist deaf or hearing-impaired persons when approved by a supervisor. When utilized, notification to such interpreters shall be made at the earliest practical time, and the interpreter should be available to respond within a reasonable time (generally not to exceed three hours).

4. TTY and Relay Services

Persons who are deaf or hearing impaired must be given the opportunity to use available text telephones (TTY or TDD). All calls placed by such persons through such services shall be accepted by this Department on a 24-hour basis. <81.2.1>

5. Family and Friends of Disabled or Impaired Persons

While family and friends of a disabled or impaired person may frequently offer to assist with interpretation, Department members should carefully consider the circumstances before relying on such persons. For example, children should not be relied upon except in emergency or critical situations. Further, the nature of the contact and relationship between the disabled person and the person offering services must be carefully considered *e.g.*, victim/ suspect.

E. Department Member Responsibilities in Contact Situations and Reporting

1. Department members should develop the ability to recognize various disabilities, including symptoms and physical reactions. At times, people with diabetes, epilepsy, multiple sclerosis, hearing impairments and other disabilities exhibit traits easily confused with substance abuse.
2. While all contacts, services and individual rights are important, this Department will carefully consider reasonably available information in an effort to prioritize services to disabled and impaired persons, so that such services and resources may be deployed where most needed because of the nature and importance of the particular law enforcement activity involved.
3. Whenever any Department member is required to complete a report or other documentation and communication assistance is provided to any involved disabled or impaired person(s), such services should be noted in the related report.

F. Custodial Interrogations and Bookings

1. Disabled persons may also be suspects or arrestees. Commissioned officers must familiarize themselves with proper methods for transport, arrest, and detentions to ensure safety while providing all reasonable support to the arrestee with a disability.
2. In an effort to ensure the rights of all disabled and impaired persons are protected during arrest and custodial interrogation, this Department places a high priority on providing reasonable communication assistance during such situations. It is further recognized that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution. As such, Department members providing communication assistance in these situations will make every reasonable effort to accurately and effectively communicate with disabled or impaired persons.

The commissioned officer shall make immediate arrangement to provide a qualified interpreter at the earliest possible time onsite or at the place of detention, as appropriate, if requested.

3. Department members providing such assistance shall also be aware of the inherent communication impediments to gathering information from disabled or impaired persons throughout the booking process or any other situation in which a disabled or impaired person is within the control of Department members. Medical screening questions are commonly used to elicit information on a person's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, and resulting symptoms upon withdrawal from certain medications or the need to segregate the arrestee from other prisoners. Therefore, it is important for the Department to make every reasonable effort to provide effective communication assistance in these situations.
 - a. If the disabled or impaired person is to be placed into the Temporary Detention Facility for the booking process, and a qualified interpreter has been requested, the interpreter will be asked to accompany the commissioned officer to facilitate effective communication for the completion of the booking process.
 - b. Persons who require communication aids, *e.g.*, hearing aids should be permitted to retain such devices while in custody.
 - c. While it may present officer safety or other logistical problems to allow a physically disabled person to retain devices such as a wheel chair or crutches during a custodial situation, the removal of such items will require that other reasonable accommodations be made to assist such persons with access to all necessary services.

G. Field Enforcement and Investigations

1. Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts which may involve disabled or impaired persons. The nature and scope of these activities and contacts will inevitably vary; therefore the Department recognizes that it would be virtually impossible to provide immediate access to complete communication

services to every Department member in the field. Each Department member/supervisor must, however, assess each such situation to determine the need and availability for communication assistance to any and all involved disabled or impaired persons.

2. Although not every situation can be addressed within this policy, it is important that Department members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action taken with a disabled or impaired person. For example, it would be pointless to verbally request consent to search if the Department member is unable to effectively communicate with a deaf person.

H. Factors to Consider

1. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the person with a disability to the same extent as similarly nondisabled persons. Factors to consider, if the person has expressed a preference for a qualified interpreter or other particular auxiliary aid or service, should include, but not be limited to:
 - a. The methods of communication used by the individual;
 - b. The nature, length and complexity of the communications involved; and
 - c. The context in which the communication is taking place.
3. In the absence of a qualified interpreter, Department members should confirm the person fully comprehends the communication by having the person repeat what is being said in his or her own words, before proceeding.
4. To comply with the ADA, communication following both ways must be equally effective to communication with those in similar circumstances. If there is doubt about whether effective communication is being achieved, given the ADA's mandate of primary consideration, the member must defer to the expressed preference of the person.
5. Department members will document the type of communication utilized in any related report or document and whether an individual with a disability elected to use services provided by the agency or some other identified source.

I. Procedures for Obtaining Interpreter Services

If a Department member determines that a qualified interpreter is needed, a request should be made through the Communications Division. The member should then notify their supervisor. The Communications technician will contact a qualified interpreting service agency and request an estimated time of arrival. If the sign language interpreter cannot respond within one (1) hour, or a reasonable time, another qualified interpreter should be requested.

J. Evidence

All written correspondence exchanged with a person who is deaf or hard of hearing in a criminal case will be placed into evidence under the appropriate case report number. This includes any notes exchanged with victims, witnesses, or suspects. Placement of any notes into evidence does not take the place of documenting the conversation in the narrative section of the case report. In noncustodial interactions, commissioned officers are encouraged to place any written notes exchanged with the deaf or hard of hearing person into evidence under the appropriate case number.