

Communications with Persons with Disabilities

327.1 PURPOSE AND SCOPE - COMMUNICATIONS WITH PERSONS WITH DISABILITIES

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

327.1.1 DEFINITIONS

Definitions related to this policy include:

Auxiliary aids - These are used to communicate with people who have a disability or impairment. They include but are not limited to the use of gestures or visual aids to supplement oral communication; use of a notepad and pen or pencil to exchange written notes; use of a computer or typewriter; use of an assistive listening system or device to amplify sound; use of a teletypewriter (TTY) or videophones (video relay service or VRS); use of taped text; use of qualified readers; or use of a qualified interpreter.

Disability or impairment - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102). This includes a person who has a hearing loss that requires the use of a Telecommunications Device for the Deaf (TDD) to communicate effectively on the telephone (UAC R746-8-405).

Qualified interpreter - A person who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, transliterators, sign language interpreters, and intermediary interpreters. Qualified interpreters should have a certification approved by the Utah Division of Services for the Deaf and Hard of Hearing Interpreters Certification Board (UCA 35A-13-605; UAC R993-300-301 et seq.).

327.2 POLICY - COMMUNICATIONS WITH PERSONS WITH DISABILITIES

It is the policy of the Unified Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects, and arrestees have equal access to law enforcement services, programs, and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The department will not discriminate against or deny any individual access to services, rights, or programs based upon disabilities.

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327.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be the Professional Standards Division Commander.

The responsibilities of the ADA Coordinator shall include, but not be limited to:

- (a) Working with the Commanders / Administrators regarding UPD's efforts to ensure equal access to services, programs, and activities.
- (b) Developing reports, new procedures, or recommending modifications to this policy.
- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs, and activities.
- (d) Ensuring that a list of qualified interpreter services is maintained and available to each Shift Sergeant. The list should include information regarding the following:
 - 1. Contact Information
 - 2. Availability
- (e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- (f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.
- (g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs, and activities.

327.4 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors to reasonably ensure people who are disabled have equal access to services, programs, and activities. These factors may include, but are not limited to:

- (a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean they completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.
- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low

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vision).

- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency; custodial vs. consensual contact).
- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

327.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and / or emotionally charged, members should remain alert to the possibility of communication problems.

Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing, or has impaired speech must be handcuffed while in the custody of the UPD, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

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327.5.1 MOBILITY IMPAIRMENTS

People with mobility-related impairments include those who have difficulty walking, those who use a wheelchair or other mobility aid, and those who are immobile. When dealing with people having mobility-related impairments, officers must still consider “officer safety” a priority. While some individuals who use assistive devices might be safely transported in patrol cars, standard transport practices may be dangerous for people with mobility disabilities. Officers should use caution not to harm an individual or damage their mobility aid device. Often the best approach is to ask the person what type of transportation they can use, or how to lift or assist them when transferring them into or out of a vehicle. Officers should also consider alternative methods such as lift-equipped UPD or other sources of vans or buses to assist and / or transport people with mobility impairments.

327.5.2 SPEECH AND HEARING 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. Officers 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. A qualified interpreter may be necessary to ensure effective communication. Securing an interpreter may be accomplished by contacting Dispatch.

327.5.3 VISUAL DISABILITIES

Identifying police officials is one of the most difficult issues facing people in need who are blind or vision impaired. Whenever possible officers should have Dispatch contact visually impaired victims or complainants and verify for them that an officer of the department has arrived. Badges may also be offered to the individual to verify the officer’s identity.

327.5.4 SERVICE ANIMALS

A service animal is defined as any dog that is specifically trained to provide help to someone with a physical, sensory, or seizure-related disability, although the animal is not required to be licensed, registered, or in any way identified as such. Service animals are afforded protection through the Americans with Disabilities Act (ADA) in that they are allowed to accompany an individual with a disability in any place that the individual is allowed. Persons, accompanied by a service animal, facing booking into the Jail do not have the right to have the service animal accompany them into the Jail. Should this situation arise, officers will assist the individual to be booked in securing care and safe keeping for the service animal. NOTE: (Emotional support, social, or therapy animals are not defined as service animals and ADA protections do not apply.)

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327.5.5 MENTAL, EMOTIONAL, AND PSYCHOLOGICAL DISABILITIES

Officers should ensure that people with mental, emotional, and psychological disabilities are assisted in accessing department services, which may require time and patience beyond that usually provided. If an individual with a mental, emotional, or psychological disability is taken into custody, officers should make reasonable efforts, while making officer safety the priority, to use the least restraint possible and protect the arrestee from self-injury. Frequently, a family member or friend is of great value in calming an individual exhibiting unusual behavior because of mental or emotional impairment.

327.5.6 INTELLECTUAL DISABILITY

Officers should recognize that people who have intellectual disability have varied degrees of limited intellectual functioning. When appropriate, officers should ask short questions, be patient when waiting for answers, and repeat questions and answers if necessary. In responding to the needs of people with severe or profound intellectual disability, the aid of family, friends, and neighbors is invaluable.

327.6 TYPES OF ASSISTANCE AVAILABLE

UPD members shall never refuse to assist an individual with disabilities who is requesting assistance. The department will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The department will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

327.7 AUDIO RECORDINGS AND ENLARGED PRINT

The department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

327.8 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or the investigation. A person

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providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and / or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledge of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide their own interpreter (28 CFR 35.160).

327.9 TTY AND RELAY SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members will accommodate those who are deaf, hard of hearing, or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

327.10 COMMUNITY VOLUNTEERS

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the department to provide interpreter services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

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327.11 FAMILY AND FRIENDS

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim / suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

327.12 REPORTING

Whenever any member of this department is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

327.13 FIELD ENFORCEMENT

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 that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and / or supervisors must assess each situation and consider the length, complexity, and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

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Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information, and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

327.13.1 FIELD RESOURCES

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speech read by facing the individual and speaking slowly and clearly.
- (d) Use of computer, word processing, personal communication device, or similar device to exchange texts or notes.
- (e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

327.14 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals who are deaf, hard of hearing, or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that they understand the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

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To ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations shall be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

327.15 ARRESTS AND BOOKINGS

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that they prefer a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

327.16 COMPLAINTS

The department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the department ADA Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this department.

Refer to UPD ADA Complaint Procedure Policy.

327.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses, and neighborhoods to provide access to such programs and services.