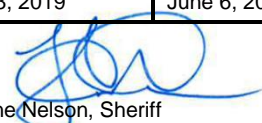




# DESCHUTES COUNTY SHERIFF'S OFFICE

Policy Title: <b>Communication with the Hearing Impaired</b>	Effective Date: June 28, 2016	Policy Number: <b>3.55</b>	
Accreditation Reference:	Review Date: June 28, 2019	Supercedes: June 6, 2012	Pages: 4
Attachments: <ul style="list-style-type: none"><li><a href="#">Guide for Law Enforcement Officers</a> (2 pages)</li></ul>	 L. Shane Nelson, Sheriff		

## I. PURPOSE

The purpose of this policy is to provide employees of the Deschutes County Sheriff's Office with the agency's obligations under the Americans with Disabilities Act and the Rehabilitation Act as they pertain to persons who are deaf or hearing impaired.

## II. POLICY

It is the policy of the Deschutes County Sheriff's Office to ensure that a consistently high level of service is provided to all community members, including those who are deaf or hard of hearing. It is also our policy to furnish appropriate auxiliary aids and services when necessary to ensure effective communications with persons with hearing impairments.

## III. DEFINITIONS

*Auxiliary Aids and Services* include qualified interpreters (both oral or sign language), use of a computer or typewriter, use of assisted listening devices (to amplify sound for persons who are hard of hearing), notepads, written materials, and other effective methods of making aurally delivered materials available to individuals with hearing impairments.

*Qualified Interpreter* is someone who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

## IV. GENERALLY

### A. Qualified Interpreter

A qualified sign language or oral interpreter is one who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Accordingly, an interpreter must be able to sign to the deaf individual (or interpret orally to the person who does not use sign language) what is being said by the hearing person and to voice to the hearing person what is being signed or said by the deaf individual. The interpreter must be able to interpret in the language the deaf person uses (e.g., American Sign Language or Signed English) and must be familiar with law enforcement terms and phrases.

Additionally, although a "qualified" interpreter may be certified, a certified interpreter is not necessarily "qualified," if he is not a good communications match for the deaf person (e.g., where the deaf person uses Signed English and the interpreter uses American Sign Language) or the situation (e.g., where the

interpreter is unfamiliar with law enforcement vocabulary). Certification is not required in order for an interpreter to be “qualified.”

## **B. Impartial Interpreter**

Because a qualified interpreter must be able to interpret impartially, a family member or friend may not be qualified to render the necessary interpretation due to factors such as professional, emotional or personal involvement, or considerations of confidentiality.

## **C. Level of Service**

People who identify themselves as deaf or hard of hearing are entitled to a level of service equivalent to that provided hearing persons. The Sheriff’s Office will make every effort to ensure that its employees communicate effectively with people who have identified themselves as deaf or hard of hearing. Effective communications with a person who is deaf or hard of hearing involved in any incident, whether as a victim, witness, suspect or arrestee, is essential in ascertaining what actually occurred, the urgency of the matter, and the type of situation.

## **D. Types of Aid**

The type of aid that will be required for effective communication will depend on the individual’s usual method of communication and the nature, importance and duration of the communication at issue.

The more lengthy, complex, and important the communication, the more likely it is that a qualified interpreter will be required for effective communications with a person whose primary means of communication is sign language or speech reading.

For example:

1. If there has been an incident and the deputy is conducting witness interviews, a qualified sign language interpreter may be required to communicate effectively with someone whose primary means of communication is sign language.
2. If a person is asking a deputy for directions to a location, gestures and an exchange of written notes will likely be sufficient to communicate effectively and a sign language interpreter is often not required.

To serve each individual effectively, primary considerations should be given to the communication aid or service that works best for that person. Deputies must ask persons who are deaf or hard of hearing what type of auxiliary aid or service they need. Deputies must defer to those expressed choices, unless there is another equally effective way of communicating, given the circumstances, length, complexity, and importance of the communication, as well as the communication skills of the person who is deaf or hard of hearing.

The input of people who are deaf or hard of hearing who are involved in incidents is just as important to the law enforcement process as the input of others. Deputies must not draw conclusions about incidents unless they fully understand, and are understood by all involved including persons who are deaf or hard of hearing.

People who are deaf or hard of hearing must never be charged for the cost of an auxiliary aid or service needed for effective communication.

## **E. Training**

Deputies shall review the guide for [Law Enforcement Officers When in Contact with People Who Are Deaf or Hard of Hearing](#) annually during briefing training. Deputies shall be aware of Sheriff’s Office members available to serve as qualified interpreters, and be capable of utilizing the interpreting services available through 9-1-1 Dispatch.

## V. PROCEDURES

### A. Sign Language and Interpreting Services List

9-1-1 Dispatch will comprise and maintain a list of sign language and interpreting services that are available (on-call 24 hours per day) and willing to provide qualified interpreters as needed. Each of these services will be chosen after having been screened for the quality and skill of its interpreters, its reliability, and other factors such as cost. The list shall be updated annually.

### B. Auxiliary Aid or Service

When an auxiliary aid or service is necessary to ensure effective communication, the Sheriff's Office will:

1. Provide an opportunity for an individual with a disability to request the auxiliary aid and service of his choice; and
2. Give "primary consideration" to the choice expressed by the individual. "Primary consideration" means that the Sheriff's Office must honor the choice, unless it can demonstrate that another equally effective means of communication is available, or that use of the means chosen would result either in a fundamental alteration in the service, program or activity or in undue financial burden.

### C. Telephone Access

In situations when a non-disabled person would have access to a telephone, deputies must provide persons who are deaf or hard of hearing the opportunity to place calls using a text telephone (TTY, also known as a telecommunications device for deaf people, or TDD). Deputies must also accept telephone calls placed by persons who are deaf or hard of hearing through the Telecommunications Relay Service.

### D. Effective Communication Guide

Employees must review and have a working knowledge of the [Guide for Law Enforcement Officers When in Contact With People Who Are Deaf or Hard of Hearing](#). This document reviews how deputies should communicate effectively in certain types of situations, such as described below.

#### Interaction Examples:

#### 1. Non-criminal or Motor Vehicle Citation

If an individual without a hearing impairment would have been issued a non-criminal citation without having been questioned by the investigating deputy, then the suspect with a hearing impairment in the same situation does not need to be provided with a qualified interpreter.

However, if the deputy is unable to convey to the violator the nature of the infraction or violation by communicating on a notepad or by using another means of communication, then the deputy should use his discretion as to whether to call a qualified interpreter to the scene or whether to issue a warning rather than a citation.

#### 2. Communicating With a Person Who Initiates Contact With a Deputy or Interviewing a Victim or Witness

If a deputy is able to communicate effectively by writing questions on a notepad and having a victim or witness with a hearing impairment write his responses, then the deputy may proceed with the interview using a notepad.

However, if an investigating deputy is unable to communicate effectively with a victim or critical witness by using a notepad or some other means of communication other than a qualified interpreter, then the investigating deputy must provide the victim or critical witness with a qualified interpreter.

If the investigating deputy cannot wait until a qualified interpreter arrives, then the investigating deputy must document his investigation as completely as possible and file the report.

### **3. Questioning a Person Who is a Suspect in a Crime**

If a deputy needs to interview a suspect with a hearing impairment to determine if there is probable cause to make an arrest, a qualified interpreter must be provided if the written communication is ineffective.

When the services of a qualified interpreter are required to ensure effective communication, but the deputy cannot wait until a qualified interpreter arrives, the deputy may postpone the interview and possible arrest until the deputy can make arrangements for a qualified interpreter to be present. If it is not possible to postpone the interview and possible arrest given the circumstances, including, but not limited to, the severity of the crime and the safety of the subjects involved, the deputy must document his investigation as completely as possible and file the appropriate report.

### **4. Making an Arrest or Taking a Person Into Custody**

If an individual without a hearing impairment would have been arrested on probable cause without an interview, then a subject with a hearing impairment in the same situation does not need to be provided with a qualified interpreter.

However, if a deputy is unable to convey to the subject the nature of the criminal charges by communicating on a notepad or by using another means of communication, then a qualified interpreter may be required. In this case, the subject should be transported to a holding cell at the Sheriff's Office and either the arresting deputy or the transporting deputy can convey this information through the interpreter when the interpreter arrives.

### **5. Issuing Miranda Warnings to a Person Under Arrest or in Custody**

If a deputy cannot effectively inform the subject of the Miranda rights without the use of an interpreter, then the deputy must secure the services of a qualified interpreter in order to accurately communicate the warnings to the subject prior to any interrogation.

### **6. Interrogating a Person Under Arrest or in Custody**

A deputy seeking to interrogate a subject with a hearing impairment must obtain the services of a qualified interpreter prior to any interrogation whenever an interpreter is needed for effective communication. The deputy may proceed with the interrogation by using a notepad if:

- a. exigent circumstances do not permit a delay in the interrogation of the subject;
- b. an interpreter cannot be located within a reasonable period of time;
- c. written communication between the deputy and the subject was effective in conveying an understanding of the Miranda rights; and
- d. the subject specifically declines the opportunity to communicate through an interpreter.

## **VII. REPORTING REQUIREMENTS**

All identifying information on the interpreter must be included in the report.

All written questions must be included in the report.

All written questions and responses between and among deputies and persons with hearing impairments must be treated as evidence and handled accordingly.

A copy of the written questions and responses must be forwarded with the incident report and the originals must be placed into evidence.

## GUIDE FOR LAW ENFORCEMENT OFFICERS

### *When In Contact With People Who Are Deaf or Hard of Hearing*

As a law enforcement officer, you can expect to come into contact with people who are deaf or hard of hearing.

Title II of the Americans with Disabilities Act (ADA) of 1990 prohibits State and local government from discriminating against an individual with a disability. Municipal, State Police and County Sheriff departments are bound by this Federal law. Your office has adopted a more detailed policy regarding law enforcement officers' communication with people who are deaf or hard of hearing. You should become familiar with this policy.

**What does title II require of you when interacting with persons who are deaf or hard of hearing?** Among other things, your communication with such an individual must be as effective as your communication with hearing people.

**How do you communicate?** Provide aids or services as necessary to ensure that the deaf or hard of hearing individual understands what you are saying and that you understand him. These can include:

- Use of qualified sign language or oral interpreters;
- For people who are hard of hearing, speaking loudly and clearly, and use of assistive listening devices (to amplify sound);
- Use of gestures or visual aids to supplement oral communication - an exchange of written notes; or
- Use of a computer or typewriter.

**What method of communication should you use?** The law requires you to give primary consideration to the individual's preference. Ask how the person wishes to communicate.

For example, some people who are deaf do not use sign language and may need to use a different aid or rely on lip-reading. In one-on-one communication with an individual who lip-reads, an officer should face the individual directly, and should ensure that the communication takes place in a well-lighted area.

Honor the individual's choice unless it would significantly interfere with your law enforcement responsibilities or you are confident that other means of communicating, that may be easier to provide, are just as effective. Remember that deaf or hard of hearing persons must be able to understand you as well as those who do not have hearing impairments.

**DO NOT** ask a family member or friend to interpret for a deaf individual unless it is urgent to communicate immediately and that is the only option. If the deaf person requests that arrangement and the other person agrees, however, you can proceed.

**How do you know when you are communicating clearly to an individual who is deaf or hard of hearing?** Ask the person to summarize what you are saying. Test his or her understanding.

**If the person uses sign language, what kinds of communications require an interpreter?** Consider the length, importance, and complexity of the communication, as well as the context.

- In a simple encounter, such as checking a driver's license or giving directions, a notepad and pencil or perhaps gestures will normally be sufficient.
- During interrogations and arrests, a sign language interpreter will often be necessary.
- If the legality of a conversation will be questioned in court, such as where *Miranda* warnings are issued, a sign language interpreter may be necessary. You should be careful about misunderstandings in the absence of a qualified interpreter. A nod of the head may be an attempt to appear cooperative in the midst of misunderstanding, rather than consent or a confession of wrongdoing.
- In general, if an individual who does not have a hearing disability would be subject to police action without interrogation, then an interpreter will not be required, unless one is necessary to explain the action being taken.

**Example:** An officer clocks a car on the highway driving 15 miles above the speed limit. The driver, who is deaf, is pulled over and issued a non-criminal citation. The individual is able to understand the reasons for the citation, because the officer exchanges notes and points to information on the citation. A sign language interpreter is not needed.

**Example:** An officer responds to an aggravated assault call and upon arriving at the scene observes a bleeding victim and an individual holding a weapon. Eyewitnesses observed the individual strike the victim. The individual with the weapon is deaf, but the officer has probable cause to make a felony arrest without an interrogation. An interpreter is not necessary to carry out the arrest.

**Example:** An officer responds to the scene of a domestic disturbance. The husband says the wife has been beating their children and he has been trying to restrain her. The wife, who is deaf, requests an interpreter. The officer begins by exchanging notes but the woman's responses indicate a lack of comprehension and poor grammar. An interpreter is necessary to carry out any arrest. In this situation, it would be inappropriate to use a family member to assist with communication, even if it is offered.

**Do you have to take a sign language interpreter to a call about a violent crime in progress or a similar urgent situation involving a person who is deaf?** No. An officer's immediate priority is to stabilize the situation. If the person being arrested is deaf, the officer can make an arrest and call for an interpreter to be available later at the booking station.

**Contact numbers for your local sign language interpreters:**

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