



# Sioux Falls Police Department

Partnering with the community to serve, protect, and promote quality of life!

Policy: <b>Deaf and 'Hard of Hearing'</b>	Related Policies: Americans with Disabilities	Section #: 1500 Miscellaneous
		Policy #: 1509
		Effective: 09/2020
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<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i>		
Policy Owner: USD		
Reference:		
Sensitivity Level: <input checked="" type="checkbox"/> Public <input type="checkbox"/> Law Enforcement Eyes Only		

1. Purpose:

1.1. It is the purpose of this policy to provide officers of the Department with guidance on effective communication during police contacts with the deaf or hard of hearing.

2. Policy:

2.1. Most officers will have encounters with persons who are deaf or affected by significant hearing loss—whether that be as victims, witnesses, or suspects. To ensure effective communication with persons who are deaf and hard of hearing, and to conform to provisions of federal and state law, officers shall follow the guidelines provided in this policy.

3. Definitions:

3.1. **Lip reading:** Also referred to as speech reading; the ability to use information gained from movements of the lips, face, and body to increase understanding.

3.2. **Sign language:** American Sign Language (ASL) is the form of sign language most often used in the United States. Signs convey concepts or ideas even though a sign may stand for a separate English word. Signing individual letters by finger spelling can supplement sign language.

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3.3. **Auxiliary aids and services:** As defined in the Americans with Disabilities Act (ADA), these are communication aids that assist people who are deaf or who have hearing loss. They include, for example, hearing aids, cochlear implants, the exchange of written notes, telecommunications devices for the deaf (TDDs) also called text telephones (TTs) or teletypewriters (TTYs), telephone handset amplifiers, assistive listening systems, videotext displays, and hearing assistance dogs.

4. Procedure:

4.1. Communication problems in police-public encounters provide the basis for potential frustration and embarrassment. Failure of officers to recognize that a person is hard of hearing, or that person's failure to make his or her impairment known to officers, can also lead to critical misunderstandings. To avoid such potentialities, officers should be alert to indications that a person may be deaf or hard of hearing. Such indications include but are not limited to the following:

- The appearance of bumper stickers, rear window decals, or visor notices/symbols indicating the disability
- Failure of persons to respond to spoken commands or signals
- Use of signs, hand signals, or gestures in an attempt to communicate
- Display of cards by the person noting his or her hearing disability
- Inability or difficulty of a person to follow verbal instruction or requests for information
- A need to see the officer's face directly, suggesting that the person is attempting to lip-read,
- Evidence of assistive devices such as hearing aids, cochlear implants, or picture symbols

4.2. When dealing with persons who are, or who are suspected of being, deaf or hard of hearing, officers shall never assume that the person understands until it can be confirmed by appropriate responses to questions or directives.

4.3. Once someone is identified as a deaf or hard of hearing, officers shall determine by written or other forms of communication the person's preferred means of communication—sign language, lip reading, reading and note writing, or speech.

4.4. For persons who use sign language, a family member or friend may interpret under emergency conditions or, in minor situations, for the sake of convenience, when an interpreter is not available or required by law. In all other situations, officers shall not

rely on family members or friends for sign language interpretation due to their potential emotional involvement or conflict of interest.

- 4.5. Officers shall address all questions and directives to persons who lip-read by facing them directly and speaking in a moderately paced conversational tone. Shouting or using exaggerated mouth movements interfere with the ability to lip-read. Understanding can be further degraded by the presence of facial hair, chewing gum, cigarettes, and so on.
- 4.6. Officers shall be aware that not all words can be accurately interpreted by lip reading. Therefore, communication of a critical nature (e.g., Miranda warnings) shall be reinforced by other means of communication, such as sign language, or written communication.
- 4.7. Officers shall not assume that persons who wear hearing aids can hear and fully understand what is being said. Some use hearing aids to provide sound awareness rather than to increase speech understanding.
- 4.8. Highly stressful situations, background noise, multiple speakers, and complex information and instructions can compromise the limited effectiveness of hearing aids. Officers shall test comprehension by seeking appropriate responses to simple questions or directives.
- 4.9. Deaf or hard of hearing persons may require additional time to understand and respond to commands, instructions, and questions. The need for use of a sign language interpreter is governed generally by the length, importance, and complexity of the communication.
  - In simple enforcement situations, such as traffic stops, driver's license checks, or consensual police-public encounters, a notepad and pencil may provide effective communication.
  - A sign language interpreter need not be available in order for an officer to make an arrest of a subject where probable cause is established independent of interrogating the deaf or hard of hearing suspect.
  - If probable cause to make an arrest must be established through questioning or interrogation of a deaf or severely hard of hearing person and effective communication cannot be reached, a sign language interpreter shall be requested.
  - Upon arrest, a qualified sign language interpreter is required prior to interrogation or the taking of statements per SDCL 19-3-10 to effectively communicate with a person who uses sign language.

- This department shall maintain a list of available speech language interpreters as qualified by the National Registry of Interpreters for the Deaf and ensure their familiarity with common and essential forms of police communication for interrogation and related purposes.
- 4.10. Recognizing some persons need their hands free in order to effectively communicate, unless absolutely necessary for the safety of officers or others, the use of handcuffs shall be avoided if possible. If handcuffs are required, all essential effective communication with the suspect should be completed prior to their application if possible.
  - 4.11. Persons who are severely deaf or hard of hearing may have reduced verbal communication skills and incoherent speech. They may also have difficulty with equilibrium. These signs may resemble that of an intoxicated person. As such, officers shall use caution when administering physical (outside) standardized field sobriety tests (walking and balancing) to such persons. Officers should consider the wellbeing and safety of the subject above the need to administer physical sobriety tests. Utilizing the HGN tests in conjunction with blood and breath testing are recommended methods for intoxication and impairment testing in such cases.
  - 4.12. Some deaf and hard of hearing hearing-impaired persons have limited written language skills, particularly involving difficult matters such as legal warnings and admonitions. Therefore, officers shall not assume the effectiveness of this form of communication and should gain confirmation of a person's understanding whenever possible.
  - 4.13. Officers shall ensure deaf and hard of hearing persons who are arrested and transported to a booking site have their communication devices with them. Such devices shall be kept by arrestees and maintained by booking authorities in good working order.