

GENERAL ORDER 54.3.0

Communications with Persons with Disabilities

GENERAL ORDER CROSS-REFERENCE:

SUMMARY

Title II of the ADA prohibits local governments from discriminating on the basis of disability in the provision of its services, programs, or activities.

The purpose of this General Order is to provide guidance to members of the City of Springfield Police Department when communicating with individuals with disabilities, including but not limited to those who are deaf or hard of hearing, or blind or having low vision, to ensure compliance with Title II of the ADA.

DEFINITIONS

1. **Auxiliary aids and services:** By way of example, auxiliary aids and services can include:
 - a. Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
 - b. Qualified readers; taped texts; audio recordings; Brailled materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;
 - c. Acquisition or modification of equipment or devices; and,

- d. Other similar services and actions.
2. **Lip reading:** The ability to understand verbal communication by observing the movements of a speaker's lips, face and body.
3. **Qualified interpreter:** An interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral transliterators, and cued-language transliterators.

I ORDER

The City of Springfield Police Department (the Department) shall make all reasonable efforts to ensure that people who are deaf or hard of hearing, or blind or having low vision, including persons having contact with the Department as possible victims of crimes, witnesses, suspects, arrestees, any other member of the public requesting assistance from the Department, or any member of the public with whom members of the Department contact for any purpose, have equal access to law enforcement services, programs and activities. All Department employees must make reasonable 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.

II FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, Department members should consider all information reasonably available to them when determining how to communicate with an individual who is deaf or hard of hearing, or blind or having low vision. These factors may include, but are not limited to:

1. Department members should not assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean s/he completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding;
2. The nature of the disability (e.g. blindness vs. low vision acuity; deafness or being hard of hearing; physical or mental condition resulting in speech impairment);

3. The nature of the law enforcement contact (e.g. emergency vs. non-emergency; for law enforcement or non-law enforcement purposes; custodial vs. consensual contact; whether the disabled person is a crime victim, a witness, or a suspect);
4. The formality of the contact (e.g. informational contact at the request of a member of the public vs. a contact for law enforcement purposes);
5. The availability of auxiliary aids, as described in Section III., below. The fact that a particular aid is not available does not alleviate the obligation to reasonably ensure effective communication through the use of other available auxiliary aids. Unavailability of a person's preferred auxiliary aid does not necessarily relieve an officer from the need to provide the preferred auxiliary aid in a timely manner, especially if the deaf or hard of hearing person is a possible crime victim. However, in an emergency, availability may factor into the type of aid used;
6. The amount of time it would take to get a qualified interpreter to the scene; and,
7. The amount of time it would take to access Video Remote Interpreting services. VRI interpreting should be readily available by requesting it from a supervisor.

III TYPES OF AUXILIARY AIDS AND SERVICES

A person who is disabled may or may not 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.

1. **Writing Pad and Pen or Pencil.** Department members should always have writing materials readily available. Often, a person who is deaf or hard of hearing will have writing materials immediately available as well. Written notes will often be your easiest and most available means of initial communication.
2. **Electronic Notetaking.** Department members can also use a smartphone or tablet to communicate with a person who is deaf or hard of hearing. For example, the notepad function on a smartphone can serve as an electronic notepad and be used to communicate.
3. **Qualified On-Site 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 speech reading (lip reading) to understand what others are saying. Qualified interpreters should be:
 - a. Experienced in providing interpretation services related to law enforcement matters;

- b. Certified in American Sign Language (ASL); and,
- c. Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

- 4. Video Remote Interpreting Services (VRI).** VRI interpreting services offer the opportunity for readily available interpreting for lengthy or complex transactions, and can usually be accessed more quickly than in-person interpreters. VRI interpreters will be:
- a. Experienced in providing interpretation services related to law enforcement matters;
 - b. Certified in American Sign Language (ASL);
 - c. Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser; and,
 - d. Familiar with the use of VRI and/or VRS interpreting services.

When the need for VRI interpreting or an on-site qualified interpreter can be anticipated, Department members should make the request at the earliest reasonable opportunity, as there will always be some significant delay in arranging the on-site qualified interpreter services, and even VRI interpreting services will take some time to arrange. VRI interpreting services should be readily available to patrol officers and other Department members by contacting an on-duty supervisor.

- 5. 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 must also provide 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) or if TTY is not available, a telephone relay service such as 7-1-1, or video phone. Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY communications.

The Department will accept all TTY calls and video phone calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service. Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

- 6. Video Phones.** Cell phones or tablets with video phone capability. Video phones can be used in place of TTY or relay services, and may be used for texting or for captioning services.
- 7. Community Volunteers.** Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL, and have been approved by the Department to provide interpreter services.
- a. 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.

- b. If a community volunteer is used as a sign language interpreter, and if the deaf or hard of hearing person being interviewed is a possible crime victim, then the Department member shall conduct a second interview with the deaf or hard of hearing person, using either VRI services or a qualified interpreter. The follow-up interview shall be conducted as soon as is practical under the circumstances, but should be conducted within 24 hours of the first interview.
- c. Department member is not required to conduct the follow-up interview if he or she confirms that the District Attorney, Department of Human Services, or other government agency is interviewing the victim concerning the alleged criminal activity within 24 hours of the Department member's interview, and that the other agency will use either VRI services or a qualified interpreter to conduct their interview. The Department member is also not required to conduct the follow-up interview if, after conferring with a Supervisor, the Department member and Supervisor agree that the initial interview had sufficient guarantees of complete accuracy and that no further information is needed from the victim. The Department member is not required to conduct the follow-up interview if the deaf/hard of hearing victim refuses to participate in that interview.
- d. Any decision to rely on the procedures set out in subparagraph c, above, must be documented in a written report.

8. 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). Consider only asking basic questions regarding welfare and wait for a certified interpreter to arrive to continue communicating.

- a. If a friend or family member is used as a sign language interpreter, and if the deaf or hard of hearing person being interviewed is a possible crime victim, then the Department member shall conduct a second interview with the deaf or hard of hearing person, using either VRI services or a qualified interpreter. The follow-up interview shall be conducted as soon as is practical under the circumstances, except that it should be conducted within 4 hours of the first interview.
- b. If the friend or family member of the deaf or hard of hearing person is either the possible crime victim or is suspected of the criminal activity, then the Department member shall not allow that friend or family member to interpret for the deaf or hard of hearing person, and should use either VRI services or a qualified interpreter. If the Department member becomes aware of the possible involvement of the friend or family member (as possible victim or suspect) after

the interview with the deaf/hard of hearing person has begun, the Department member should stop the interview, separate the friend/family member from the deaf/hard of hearing person, and immediately arrange for VRI services or a qualified interpreter.

- c. Department member is not required to conduct the follow-up interview if he or she confirms that the District Attorney, Department of Human Services, or other government agency is interviewing the victim concerning the alleged criminal activity within 4 hours of the Department member's interview, and that the other agency will use either VRI services or a qualified interpreter to conduct their interview. The Department member is also not required to conduct the follow-up interview if, after conferring with a Supervisor, the Department member and Supervisor agree that the initial interview had sufficient guarantees of complete accuracy and that no further information is needed from the possible victim at that time. The Department member is not required to conduct the follow-up interview if the deaf/hard of hearing victim refuses to participate in that interview.
- d. Any decision to rely on the procedures set out in subparagraph c, above, must be thoroughly documented in a written report.

9. **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.

IV CONTACTS WITH DEAF/HARD OF HEARING PERSONS

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

Department 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.

If the Department member is relying on a deaf or hard of hearing person to read lips as part of the communication, then the Department member should do the following:

- a. Department members should be aware that only about one-third of words can be accurately interpreted by lip-reading;
- b. Position himself/herself so that the deaf/hard of hearing person can clearly observe the Department member's face;
- c. Speak in a moderately paced conversational tone;

- d. Do not shout or use exaggerated mouth movements, as this interferes with the ability to lip read; and
- e. Department members should be aware that understanding can be degraded by the presence of facial hair, chewing gum, cigarettes, and such.

If the Department member is attempting to communicate with a hard of hearing person who is wearing hearing aids, the Department member should not assume that the person can hear and fully understand verbal communications. The Department member should be aware that highly stressful situations, background noise, multiple speakers, and complex information and instructions can compromise the limited effectiveness of hearing aids.

The deaf/hard of hearing individual's preferred communication method must be honored unless another effective method of communication exists, or the preferred communication method is not practical under the immediate circumstances confronting the member or would hinder the member's abilities to perform his/her duties.

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

- 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; and,
- d. The ability of the individual to communicate by reading and writing.

1. Non-Emergency Situations

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

- a. Hand gestures or visual aids;
- 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. Communication assistance using a family member or friend of the person with whom the Department member must communicate; or,
- f. VRI interpreter services.

Department members should be aware that these techniques may not provide effective communication as required by law and this Order in non-emergency situations.

In a non-emergency situation, when a Department member knows or suspects an individual requires assistance to effectively communicate, the member should make reasonable attempts to identify the individual's choice of auxiliary aid or service and have it available at the time of law enforcement interaction.

If a Department member's initial contact with a deaf/hard of hearing person is prolonged for law enforcement purposes, VRI or an on-site interpreter should be used if practical. Shift Supervisors will have the means to provide VRI upon request. Also, a list of independent contractors who provide interpreter services will be kept in the Watch Commander's office. The Watch Commander or Supervisor will provide the means for VRI services or contact an interpreter from the list and request interpreter services be provided.

2. Emergency Situations

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use any auxiliary aid or service that is reasonable under the circumstances, regardless of the preference of the deaf/hard of hearing person.

Once the emergency has ended, the method of communication should be reconsidered, and the member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf or hard of hearing must be handcuffed while in the custody of the Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing. Consideration should also be given to allowing the deaf or hard of hearing individual a full view of the member's face to facilitate lip-reading.

VRI services or an on-site interpreter may be called to the emergency, although the nature of the emergency may prevent the use of interpretation services until the emergency situation is controlled. Shift Supervisors will have the means to provide VRI upon request. Also, a list of independent contractors who provide interpreter services will be kept in the Watch Commander's office. The Watch Commander or Supervisor will provide the means for VRI services or contact an interpreter from the list and request interpreter services be provided.

V INTERVIEWS OF WITNESSES AND VICTIMS

In any investigation of possible criminal activity, a Department member taking a statement from a deaf/hard of hearing person shall use Department-approved procedures to provide VRI services or a qualified interpreter as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

In any investigation of possible criminal activity, a Department member taking a statement from a possible victim who is deaf/hard of hearing shall use Department-approved procedures to provide VRI interpretation services or a qualified interpreter as reasonably practicable, unless the deaf/hard of hearing individual indicates that he/she prefers a different

auxiliary aid or service or the Department member reasonably determines another effective method of communication exists under the circumstances.

If the Department member does not use either VRI interpreter services, a qualified interpreter or the possible victim's preferred auxiliary aid, the Department member shall conduct a follow-up interview with that individual using either VRI interpreter services, a qualified interpreter, or that individual's preferred auxiliary aid, as set out in Section III, paragraphs 6 and 7, above. However, the Department member is not required to conduct the follow-up interview if he or she confirms that the District Attorney, Department of Human Services, or other government agency is interviewing the victim concerning the alleged criminal activity. The Department member is also not required to conduct the follow-up interview if, after conferring with a Supervisor, the Department member and Supervisor agree that the initial interview had sufficient guarantees of complete accuracy and that no further information is needed from the victim. The Department member is not required to conduct the follow-up interview if the deaf/hard of hearing victim refuses to participate in that interview.

VI ARREST, BOOKING, AND POST-ARREST INTERROGATION

Whenever possible, a Department member who is interviewing a suspect who is deaf/hard of hearing should obtain VRI interpreter services, a qualified interpreter, captioning/texting devices, or the deaf/hard of hearing individual's preferred auxiliary aid for the interview.

Whenever probable cause to make an arrest must be established through questioning of a deaf or severely hearing impaired person, VRI interpreting services or a qualified interpreter should be requested, unless the deaf/ severely hard of hearing person prefers a different auxiliary aid and the preferred auxiliary aid is available.

The arresting officer, or the Department member transporting the arrestee to any correctional facility, shall use Department-approved procedures to provide either VRI services or a qualified interpreter at the place of arrest or booking as soon as reasonably practicable for any post-arrest statement or interrogation, unless the individual indicates that he/she prefers a different auxiliary aid or service or the Department member reasonably determines another effective method of communication exists under the circumstances.

The City of Springfield shall pay all fees and costs of interpreting services related to pre-arrest, arrest and post-arrest procedures unless otherwise provided by law.

VII REPORTING

Whenever any Department member is required to complete a report or other documentation, and communication assistance has been provided, such services shall be noted in the related report. Department members shall 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 deaf/hard of hearing individual's express preference is not honored, the Department member must document why another method of communication was used.

If written notes were used as part of the communications with any person who is deaf/hard of hearing, or who has speech impairments, those notes should be attached to any report. If VRI or other interpreter services were recorded or memorialized in any format, including digital format, those recordings should be obtained and attached to any report. If the recording is not readily available, the Department member should obtain the recording and attach it to a supplemental report. If there is no recording of the communications, then the Department member should document the communications, including the method of the communication, as thoroughly as possible in a report.

VIII TRAINING

Within twelve (12) months of the adoption of this General Order, the City of Springfield Police Department will train all Department employees who have contact with members of the public as to effective communication with persons who are deaf/hard of hearing, blind or vision impaired, or who have a speech impairment as described above. The training will be sufficiently detailed to enable all Department members to effectively implement all provisions in this General Order.

All newly-hired Department employees who will have contact with members of the public will receive the training as a component of pre-service training and orientation.

All Department members shall be required to demonstrate their ability to follow Department procedures for obtaining both VRI interpretation services and on site qualified interpreter services.

All supervisory personnel in the Department shall be required to demonstrate proficiency in the operation of VRI translating services equipment, as well as proficiency in scheduling qualified interpreter services.

IX

COMPLAINTS

The Department shall ensure that any person who wishes to file a complaint concerning Department members regarding possible violations of the Americans with Disabilities Act or of this General Order receive any assistance necessary to complete the filing of such complaint. The Department should provide VRI interpreter services or a qualified interpreter as necessary, shall have complaint forms available both electronically and in hard copy, and shall provide complaint forms with enlarged print as appropriate. A Department member shall notify a supervisor upon being made aware of a citizen who wishes to file a complaint. The supervisor shall make reasonable attempts to arrange interpreter services as necessary, assist with the complaint as necessary, and inform Command Staff of the complaint.

All complaints shall be forwarded to the ADA Coordinator for the City of Springfield, who shall investigate and respond to the Complaint according to the City of Springfield procedures adopted for investigation and review of complaints relating to compliance with the ADA.

X

COMMUNITY OUTREACH

The Department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services that will assist in our interactions with individuals with disabilities.

XI

REVIEW AND UPDATE

This Order shall be reviewed annually by the City of Springfield ADA Coordinator to ensure that the list of available auxiliary aids and services are updated. Recommended changes made by the ADA Coordinator shall be incorporated into this Order.

Richard L. Lewis
Chief of Police