

CITY OF SAN RAFAEL POLICIES AND PROCEDURES



Policy No.	120-04
Subject:	ADA- Law Enforcement & Effective Communication
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Approved By:	Rod Gould, City Manager
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PURPOSE:

The City of San Rafael Police Department is required under the Americans with Disabilities Act (ADA) to ensure effective communication to deaf and hard of hearing persons.

RESPONSIBILITY:

San Rafael Police Department

REFERENCES:

Americans with Disabilities Act of 1990

POLICY:

It is the policy of the San Rafael Police Department to ensure that a consistently high level of service is provided to all community members, including those who are deaf or hard of hearing. This Department has specific legal obligations under the Americans with Disabilities Act and the Rehabilitation Act. To carry out these policies and legal obligations, the Department instructs its officers and employees as follows:

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

LAW ENFORCEMENT & EFFECTIVE COMMUNICATION

- Various types of communication aids- known as ‘auxiliary aids and services’- are used to communicate with people who are deaf or hard of hearing. These include use of gestures or visual aids to supplement oral communication; an exchange of written notes; use of a computer or typewriter; use of assisted listening devices (to amplify sound for persons who are hard of hearing); or use of qualified oral or sign language interpreters.

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.

In many circumstances, oral communication supplemented by gestures and visual aids, an exchange of written notes, use of a computer or typewriter, or use of an assisted listening device may be effective. In other circumstances, qualified sign language or oral interpreters are needed to communicate effectively with persons who are deaf or hard of hearing. The more lengthy, complex, and important the communication, the more likely it is that a qualified interpreter will be required for effective communication with a person whose primary means of communication is sign language or speech reading. For example:

- If there has been an incident and the officer 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.
- If a person is asking an officer 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 consideration should be given to the communication aid or service that works best for that person. Officers must ask persons who are deaf or hard of hearing what type of auxiliary aid or service they need. Officers 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 Department is not required to provide a particular auxiliary aid or service if doing so would fundamentally alter the nature of the law enforcement activity in question, or if it would cause an undue administrative or financial burden. Only the City Manager or his or her designee may make this determination. For example:

- If the City has limited financial resources and providing a particular auxiliary aid would cost a large sum of money, the City Manager may determine that it would be an undue financial burden (note: the City’s budget as a whole must be considered). In this situation, the most effective means of communication that does not involve an undue burden must be used.

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. Officers must not draw conclusions about incidents unless they fully understand -- and are understood by -- all those 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.

PROCEDURE:

ON-CALL INTERPRETIVE SERVICES

The Department will maintain a list of sign language and oral 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 Department will update this list annually.

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. Because a qualified interpreter must be able to interpret impartially, a family member, child, or friend of the individual who is deaf may not be qualified to render the necessary interpretation because of factors such as professional, emotional, or personal involvement, or considerations of confidentiality. Additionally, although a “qualified” interpreter may be certified, a certified interpreter is not necessarily “qualified,” if he or she 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.”

TTY AND RELAY SERVICES

In situations when a non-disabled person would have access to a telephone, officers 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). Officers must also accept telephone calls placed by persons who are deaf or hard of hearing through the Telecommunications Relay Service.

TECHNIQUES FOR OFFICERS TO COMMUNICATE EFFECTIVELY

Officers must review and have a working knowledge of *Guide for Law Enforcement Officers When In Contact With People Who Are Deaf or Hard of Hearing*, a copy of which is attached as Exhibit A. This document reviews how officers should communicate effectively in the types of situations officers will encounter. These situations include:

- Issuing a non-criminal or motor vehicle citation.
- Communicating with a person who initiates contact with an officer.
- Interviewing a victim or critical witness to an incident.
- Questioning a person who is a suspect in a crime.
- Making an arrest or taking a person into custody.
- Issuing *Miranda Warnings* to a person under arrest or in custody.
- Interrogating a person under arrest or in custody.

TYPES OF AUXILIARY AIDS AND SERVICES

Officers must utilize the following auxiliary aids, when available, to communicate effectively:

- Use of gestures
- Use of visual aids
- Exchange of written notes

LAW ENFORCEMENT & EFFECTIVE COMMUNICATION

- Use of computers or typewriters
- Use of assisted listening devices
- Use of teletypewriters (TTY's)
- Use of qualified oral or sign language interpreters

APPROVED BY:



ROD GOULD, City Manager

04/08/05

Date