

DOUGLAS COUNTY SHERIFF'S OFFICE		Policy and Procedures
Specific Policies		P&P-B-160
Questioning & Arrests of Deaf / Hard of Hearing Persons		
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References: 13-90-204 CRS DET K-303, DET E-302, COM C-503	Reevaluation Date: Annually or as needed	Standards:

I. RELEVANT STATUTE

13-90-204 C.R.S. *Appointment of interpreter – when.*

(1) *A qualified interpreter or auxiliary service shall be provided by an appointing authority to interpret the proceedings to a person who is deaf or hard of hearing and to interpret the statements of the person who is deaf or hard of hearing in the following instances:*

- (a) *When a person who is deaf or hard of hearing is present and participating as the principal party of interest or a witness at any civil or criminal proceeding, including but not limited to any criminal or civil court proceeding in the state court system; a court-ordered or court-provided alternative dispute resolution, mediation, arbitration, or treatment; an administrative, commission, or agency hearing; or a hearing of a licensing authority of the state;*
- (b) *When a person who is deaf or hard of hearing is involved in any stage of grand jury or jury proceedings as a potential or selected juror;*
- (c) *When a juvenile whose parent or parents are deaf or hard of hearing is brought before a court for any reason;*
- (d) *When a person who is deaf or hard of hearing is arrested and taken into custody for an alleged violation of criminal law of the state or any of its political subdivisions. Such appointment shall be made prior to any attempt to notify the arrestee of his or her constitutional rights and prior to any attempt to interrogate or to take a statement from such person; except that a person who is deaf or hard of hearing and who is otherwise eligible for release shall not be held pending the arrival of a qualified interpreter.*
- (e) *(Deleted by amendment, L. 2006, p. 1088, §4, effective May 25, 2006.)*
- (f) *When effective communication cannot be established without an auxiliary service and when an alleged victim or witness is a person who is deaf or hard of hearing, who uses sign language for effective communication, and who is questioned or otherwise interviewed by a person having a law enforcement or prosecutorial function in any criminal investigation, except where the length, importance, or complexity of the communication does not warrant provision of any auxiliary service. Assessment of whether the length, importance, or complexity of the communication warrants provision of an auxiliary service shall be made in accordance with United States Department of Justice regulations effectuating Title II*

of the federal “Americans with Disabilities Act of 1990”, as from time to time may be amended, Pub. L. 101-336, codified at 42 U.S.C. sec. 12101, et seq., including regulations, analysis, and technical assistance.

(g) *(Deleted by amendment, L. 2007, p. 2026, §29, effective June 1, 2007).*

- (1.5) *Nothing in this part 2 shall be construed to provide less than is required by Title II of the federal “Americans with Disabilities Act of 1990”, as from time to time may be amended, Pub. L. 101-336, codified at 42 U.S.C. sec. 12101 et seq., and its implementing regulations.*
- (2) *Nothing contained in this section shall be construed to preclude the use of services of an interpreter in civil proceedings.*

II. PURPOSE

To ensure that the Douglas County Sheriff’s Office is compliant with all laws regarding hearing-impaired persons.

III. POLICY

It is the policy of the Douglas County Sheriff’s Office to provide disabled and impaired individuals with meaningful access to law enforcement services when they are victims of, or witnesses to, alleged criminal activity, other emergencies, or are seeking more routine access to services and information. Sheriff’s Office personnel will make every reasonable effort to promptly accommodate hearing-impaired individuals utilizing auxiliary aids and services (listed below).

The Sheriff’s Office will offer and provide requested auxiliary aids and services to any person with a communication disability. The individual’s choice of a communication method shall be given primary consideration and shall be honored unless the employee can demonstrate that a more effective method of communication exists.

IV. DEFINITIONS

CRS 13-90-202(6) Deaf, hard of hearing (hearing impaired) – A person who has a functional hearing loss of sufficient severity to prevent aural comprehension, even with the assistance of hearing aids or who has a substantial limitation in the major life activity of hearing, a record of having such a limitation or is regarded as having such a limitation.

Qualified interpreter – means 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, and who has a valid certification of competency accepted by the Commission for the Deaf and Hard of Hearing. Qualified interpreters include, for example:

- sign language interpreters
- oral transliterators,
- cued-language transliterators, including oral interpreters, and intermediary interpreters.

Auxiliary Aids & Services – Options include:

- Use of a qualified oral or sign-language interpreter, as stated above. – See below for requirements and interpreter resources.
- Use of Portable Audio Loop System – Available in Detentions, the Detention lobby, Civil, Records Section lobby, and HRSS lobby. See below for details on using these.
- Use of a Text Telephone machine (commonly called TTY or TDD) - See below for TTY/TDD machine locations.
- Use of a phone or other available electronic communication device.
- Use of computers, and mobile phone texting function.
- Use of family members or friends. (Approval of this option must be approved by the on-duty watch commander. Best only in emergencies)
- Hand gestures or visual aids to supplement oral communication.
- Use of a pen or pencil to exchange written notes (except for arrestees).
- Facing an individual who uses lip reading, and speaking slowly and clearly. (This option should only be used if the examples provided previously have been exhausted).

V. PROCEDURES

It is not uncommon for staff to need to properly communicate with hearing-impaired citizens, victims, suspects, arrestees, and witnesses.

Knowing that law enforcement encounters could be potentially volatile and/or emotionally charged, Sheriff's Office employees should be alert to the possibility of communication problems. The employees should exercise special care in the use of all gestures and with verbal and written communications to minimize confusion or misunderstanding when dealing with any person with known or suspected disabilities or communication impairments.

In an effort to be effective, auxiliary aids and services must be provided and used, in a timely manner, and in a way as to protect the privacy and independence of the hearing-impaired person. Staff should refer to the following guidelines when in contact with hearing-impaired persons:

A. Resources and Services. The employees shall offer and provide appropriate auxiliary aids and services when communicating with a hearing-impaired person. The employees should use resources immediately available to them in any contact with a known or suspected disabled or hearing-impaired person, then as required or needed, move to other better resources as appropriate.

B. Specific Restrictions –

- State law requires that hearing-impaired persons taken into custody be provided with a qualified interpreter or auxiliary service prior to advisement of rights or questioning. In the past, officers have questioned arrested hearing-impaired persons using pen and paper. This is now statutorily prohibited.

- If the situation is not urgent or exigent, hearing-impaired persons who will be questioned or interrogated shall be offered and, if the offer is accepted, provided a qualified sign language interpreter or auxiliary service for the communication.
- The hearing-impaired person should be given the choice of either a qualified interpreter or an auxiliary service, and if possible, their choice should be honored.
- As stated in the statute above, we cannot delay an arrestee's release to await the arrival of the interpreter.
- The Sheriff's Office shall not require an individual with any disability to bring another individual to interpret for him or her.
- The Sheriff's Office shall not rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public welfare where there is no interpreter available.
- The Sheriff's Office shall not rely on an adult accompanying an individual with a hearing disability to interpret or facilitate communication, except:
 - In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or
 - The individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.

C. Qualified interpreter services. When staff has a need for a qualified interpreter, approval of a supervisor is required before calling one of the interpreter resources as listed below. Detentions staff should refer to DET-K-303, Americans with Disabilities Act, regarding proper procedures to access interpreters.

The shift supervisor (Detentions / Investigations / Patrol) is responsible for ensuring a qualified sign-language interpreter service is provided when employees make the request and the shift supervisor must respond to all requests from the employees for interpreters. The response time for the interpreter should be reasonable.

The Colorado Department of Human Services has a Commission for the Deaf and Hard of Hearing. The commission maintains a very comprehensive list of qualified interpreter and hearing-impaired services on their website at www.ccdhh.com. The following are the 24/7 contact phone numbers for our area:

- 24 Hour Sign Language Services 1-888-811-2424
- SLA - Sign Language Associates 303-321-6772 & after hours 720-936-8714
- PSLI - Professional Sign Language Interpreters 303-920-7330
- Captioning / CART (Communication Access Real-Time Translation, for those deaf persons who do not know or use sign language.) c/o Claudette Mondragon at Visible Voices 720-838-3737
- DOVE (for Disabled, Domestic Violence, and Sexual Assault Victims) 866-283-5632 or their 24 hr. Crisis Hotline at 303-831-7874

- Interpreters Unlimited – (Paid by Sheriff’s Office)

855-714-6287

When an interpreter responds, they will likely bring with them a state Legal Services Billing Statement and Authorization form. The form will be completed by the interpreter, but an Office member is required to sign and complete the information at the bottom of the form under ‘Attestation’. This information is required to verify that the service was requested by a law enforcement agency and that it was provided as indicated on the form. The interpreter will submit the form for payment, but a copy of the completed form should be included in the report whenever possible.

D. Qualified interpreter required in arrests. A deputy who arrests a person who, due to deafness or a physical speaking impairment, cannot readily understand or communicate in the English language or cannot understand the proceedings, shall inform his/her supervisor of the arrest and ensure a qualified interpreter or auxiliary service, as specified by law, is available at public expense to the arrestee before an interrogation or the taking of a statement.

The arresting deputy shall immediately make arrangements to provide a qualified interpreter or auxiliary service at the earliest possible time at the place of detention. If an interpreter is to be used, prior to the arrival of the interpreter, the deputy should write messages to the suspect in simple language explaining what is transpiring or will transpire. In writing, the deputy will notify the hearing impaired person that an interpreter has been requested. No other questioning, interviews or interrogations will be conducted without an interpreter present. Do not advise the hearing impaired person of their Miranda Rights without the interpreter present.

Once an interpreter has arrived, use him or her to facilitate all communication with the hearing impaired person, including issues related to needed medical attention, if any. Explain to the person all charges filed and all procedures relating to the person’s detention and release.

At the conclusion of the arrest, if the hearing impaired person is to be placed into jail, the interpreter will be asked, when possible to accompany the deputy to the jail to help in the completion of the booking process.

E. Custodial interrogations and bookings. The rights of all disabled and impaired persons are protected during arrest and custodial interrogation. This agency will provide qualified interpreters or auxiliary services during such situations. It is further recognized that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution.

Employees providing assistance shall also be aware of the inherent impediments to gathering information from disabled or impaired individuals throughout the booking process or any other situation in which a disabled or impaired individual is under the control of the Sheriff’s Office personnel. When a hearing-impaired detainee enters the facility, the agency will inquire of the hearing-impaired detainee if he/she wants a sign

language interpreter or auxiliary service. If the detainee makes a request for a sign language interpreter or auxiliary service, such services will be provided.

- Individuals who require and possess personally owned communication aids (hearing aids) shall be permitted to retain such personally owned devices while in custody.
- Individuals in custody who have been allowed to retain communication devices that help them communicate with agency members shall be allowed to use said devices for that purpose.

F. Qualified interpreter required for victims and witnesses. Staff shall offer and, if requested or if otherwise necessary but refused by the hearing impaired person, provide a qualified interpreter or auxiliary service to assist in an interview or questioning of a victim or witness who is deaf or hard of hearing. This service will be offered irrespective of their status of incarceration or in the community.

G. Community contacts, investigations and custodial care. Community contacts will generally include contacts on a traffic stop, pedestrian contacts, warrant service, protection orders, traffic control, daily community contacts and custodial care in the jail that may involve disabled or hearing-impaired persons. The scope and nature of these activities and contacts will vary. The Sheriff's Office recognizes that it would be practically impossible to provide immediate access to complete communication services to every deputy in the field (Detentions/Investigations/Patrol).

Each deputy or supervisor must assess each situation to determine the need and availability for auxiliary aids and services to any and all involved disabled or impaired individuals.

Although not every situation can be addressed within this policy, it is important that employees are able to effectively communicate the reason for the contact, the need for information and the meaning or consequences of any enforcement action.

H. Family and friends of disabled or impaired individual. While family and friends of a hearing-impaired person may frequently offer to assist with interpretation; staff should carefully consider the circumstances before relying on these family members.

The children of those that are disabled should not be relied upon except in an emergency or critical situation. The relationship of the individual and family member should be a factor too. An example would be a victim/suspect situation, and using either to interpret for the other would not be appropriate and therefore not advisable to use as an interpreter.

I. TTY / TDD and relay services. A TTY/TDD machine is a teleprinter, an electronic device for text communication over a telephone line, which is designed for use by persons with hearing or speech difficulties. They are especially helpful in

communicating with people who cannot speak. Other names for the device include teletypewriter (or TTYs) and textphone.

Individuals contacted by members of this office who are hearing-impaired must be given the opportunity to use available text telephones (TTY or TDD) in situations where non-hearing impaired persons would have access to a telephone. All calls placed by such individuals through these services shall be accepted by this agency. TTY/TDD machines are available in the following places for your use in helping communicate:

- All Dispatch consoles are equipped with an integrated 911 TTY/TDD module to allow typed messages between callers and call takers. They also maintain a portable TTY/TDD machine.
- Detention's maintains portable TTY/TDD machines in booking and they are also compatible with their inmate phone system.
- Records Lobby at Castle Rock headquarters has a portable machine.
- HRSS Lobby has a portable machine.

A typical portable TTY/TDD machine has a cradle for a phone handset, and a printer to record the conversation. Be sure and turn in this printed conversation with your report.

J. Portable Audio Loop System (PAL)— Audio loop systems are an aid for many hearing-impaired people, as it generates a magnetic field picked up by a hearing aid—it allows sounds to be transmitted to the hearing-impaired listener clearly and free of other distracting noise in the environment.

The DCSO has PAL devices, available for your use in communicating, in:

- Detentions
- Detention lobby
- Records Section lobby
- HRSS lobby.

The PAL device can be issued to the citizen for their use while at our facilities. The device will need to be plugged in by the user for continued use. However, there is a limitation to the device. The user must remain within a 10 to 20 foot radius of the device to ensure it is working properly.

Two options for using the PAL device:

- For people with a hearing aid that has the marking/switch "T" or "MT," issue the PAL device alone to the person. The device provides a hearing "hot spot," but the person will need to change their hearing aid to the selected marking of "T" or "MT" to ensure the loop system will enhance their ability to hear.
- If the person does not have a hearing device that has the marking/switch of "T" or "MT", you can issue the citizen the PAL device, and the Proloop body pack

induction loop receiver. These devices look similar to Walkman radios. Instructions for these are kept with the device.

When using a PAL device, staff members will check it out to the citizen, and then record the person's information on the PAL Use Log. We will maintain a log in the respective locations to ensure we have the system returned to the Sheriff's Office.

K. Evidence & Reporting. Any written correspondence exchanged with a hearing-impaired person in a criminal case will be placed into evidence following the guidelines set forth in the Douglas County Sheriff's Office Policy and Procedure manual. This includes any notes exchanged with victims, witnesses or suspects.

When dealing with a hearing-impaired person, employees should document the type of communication resources offered, requested, and used to communicate in their incident/offense report, CAD notes, Detentions Incident report, etc.

L. Training. Training to prepare members for the proper and professional service to hearing impaired citizens, will be conducted annually. Training will be delivered through either instructors/s and or through an e-learning module. Training will be focused on ensuring members are able to deliver professional service to hearing impaired citizens as well as ensuring the service the Douglas County Sheriff's Office provides to the hearing impaired is ADA compliant. This training may include but is not limited to:

- Employee awareness of related policies, procedures, forms and available resources including having a working knowledge of the publication, "Communicating With People Who Are Deaf and Hard of Hearing".
- Working effectively with in-person and telephone interpreters and related equipment.

M. Pictographs. Below are universal signs to use when asking a hearing-impaired person if a sign-language interpreter is needed:

