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Hearing Impaired

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"Department Training Bulletins shall be used to advise members of current police techniques and procedures and shall constitute official policy."

Guidelines for Effective Communication with Individuals Having Hearing Impairments

Because a successful police contact requires effective communication, officers should use whatever auxiliary aids and services are appropriate (a pad and paper, a Telecommunications Device for the Deaf (TDD), and/or a qualified interpreter, for example) to effectively communicate with individuals having a hearing impairment.

When an auxiliary aid or service is required, officers must provide an opportunity for individuals to request the aid and/or service of their choice, and officers must give primary consideration to the choice expressed by the individual.

"Primary consideration" means the Oakland Police Department must honor the choice unless it can show that another equally effective means of communication is available or that use of the means chosen would result in a fundamental alteration in the nature of its service, program, or activity or in undue financial and administrative burdens.

Police contact with citizens occurs most frequently during routine traffic stops. In situations involving drivers who are deaf and use sign language, the officer should use appropriate sign language to initiate the exchange with the driver and should explain in writing the necessity for a stop and-if the driver is to be charged with a traffic violation-the reason for the citation.

During a criminal investigation, only qualified interpreters shall be used to translate communications between police and hearing impaired suspects, complainants, and witnesses. For example, family members and friends, involved or not, shall not be used at a domestic violence investigation scene to interpret sign language of involved parties. Family members and friends of involved parties may have unknown alliances and, therefore, may report inaccurate, unreliable information to investigating officers.

The guidelines discussed below affecting officer contact with the hearing impaired address only those situations in which an officer determines that the services of a qualified interpreter are necessary to ensure effective communication.



A. Arrest of an Individual Having a Hearing Impairment Upon Probable Cause Without An Interview

In circumstances when an individual without a hearing impairment is arrested on probable cause without an interview, an individual with a hearing impairment in the same situation usually does not need to be provided with a qualified interpreter.

A qualified interpreter may be required, however, if an officer, using a note pad or another means of communication, is unable to convey to the arrestee the nature of the criminal charges. In such instances, the arrestee should be transported to a holding cell where either the arresting officer or the transporting officer can communicate through the interpreter when he or she arrives.

B. Arrest of an Individual Having a Hearing Impairment When an Interview is Needed

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

When the services of a qualified interpreter are required to provide effective communication but the officer cannot wait until a qualified interpreter arrives because the officer has to respond to another more urgent call, the following procedures apply:

1. If the investigation does not involve a serious offense, the officer must postpone the interview and possible arrest until the officer can return to the scene when a qualified interpreter is present. If this arrangement is not possible, the officer must document his or her investigation as completely as possible and file the appropriate report.
2. If the investigation involves a serious offense, the officer, before leaving the scene, must contact the appropriate Criminal Investigations Division supervisor and advise the supervisor of the case. The supervisor will determine if an investigator will be called in to wait for a qualified interpreter. If an investigator is not called in, the officer must document his or her investigation as completely as possible and file the appropriate report.



C. Interrogating an Arrestee with a Hearing Impairment

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

An officer seeking to interrogate an arrestee with a hearing impairment must obtain the services of a qualified interpreter prior to any interrogation whenever an interpreter is needed for effective communication.

If exigent circumstances do not permit a delay in the interrogation and if an interpreter cannot be located within a reasonable period of time (which should occur very infrequently) the officer may proceed with the interrogation by using a note pad if written communication was effective in conveying the Miranda warnings. If written communication was effective in conveying the Miranda warnings, an officer may also proceed with the interrogation in those instances when the arrestee specifically declines the opportunity to communicate through an interpreter.

If written communication becomes ineffective, however, because the factual pattern is complex, for example, because the arrestee is having difficulty communicating without an interpreter, or because the arrestee chooses to discontinue the interrogation, the officer must discontinue the interrogation and wait until a qualified interpreter is present before continuing.

D. Issuance of Appearance Ticket

In circumstances when an individual without a hearing impairment would be issued an appearance ticket without being questioned by the investigating officer, a suspect with a hearing impairment in the same situation does not need to be provided with a qualified interpreter.

If an officer stops a suspect for committing a non-criminal infraction and if the officer is unable to communicate to the violator the nature of the infraction by note pad or by other means of communication, then the officer should use his or her discretion in deciding whether to call a qualified interpreter to the scene or whether to issue a warning rather than a citation.

E. Interviewing a Victim or Critical Witness with a Hearing Impairment

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

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



If the officer cannot wait until a qualified interpreter arrives because the officer has to respond to another more urgent call, the following procedures apply:

1. If the investigation does not involve a serious offense, the officer can do one of two things.

The officer can request a qualified interpreter to be dispatched to the victim's or critical witness's location and request the dispatcher to re-contact the officer when the interpreter arrives. If a qualified interpreter is unable to respond or if the officer cannot return to the scene, the officer must document his or her investigation as completely as possible and file the appropriate report.

The officer can ask the victim or critical witness to come voluntarily to the section office when a qualified interpreter is available. At that time, the officer can return to the section office to complete the investigation. If a qualified interpreter is unable to respond or if the officer cannot return to the office, the officer must document his or her investigation as completely as possible and file the appropriate report.

2. If the investigation involves a serious offense and if the victim or witness with a hearing impairment is critical to establishing probable cause for an arrest or for completing the investigation, then the investigation officer, before leaving the scene, must contact his or her supervisor and advise the supervisor of the case. The supervisor will determine if an investigator will be called in to wait for a qualified interpreter.

If the supervisor determines that an investigator will not be responding and if neither option listed under item 1 above is available, then the officer may leave the victim or witness at the scene. The officer must document his or her investigation as completely as possible and file the appropriate report.

F. Obtaining Qualified Interpreters

Officers will arrange for a qualified interpreter by contacting the Patrol Desk at 238-3455. If the individual having a hearing impairment makes a request for a particular interpreter, the request should be honored if the interpreter is available and qualified.

G. Reports / Evidence

All identifying information on the interpreter must be included in the report, including the interpreter's name, the time the interpreter was called, and his/her time of arrival and departure. All written questions and responses between and among police officers and persons with hearing impairments must be treated as evidence and handled accordingly.