

**COUNTY OF MONROE
OFFICE OF THE SHERIFF
ROCHESTER, NEW YORK**

GENERAL ORDER MULTI-BUREAU	DATE OF ISSUE March 23, 2016	EFFECTIVE DATE March 24, 2016	NO. MBGO-093-16
SUBJECT: GENERAL ORDER Communicating with People who are Deaf or Hard of Hearing		DISTRIBUTION All Personnel	AMENDS
REFERENCE: TITLE II & III OF THE AMERICANS WITH DISABILITIES ACT & GUIDE FOR LAW ENFORCEMENT OFFICERS			RESCINDS

Purpose: Monroe County has a very large population of individuals who are Deaf or Hard of Hearing. Effective communication with a person who is Deaf or Hard of Hearing involved in an incident as a victim, witness, suspect or arrestee is essential to ascertaining what actually occurred. It is the purpose of the Monroe County Sheriff's Office (MCSO) to establish policy and procedures for providing and maintaining effective communication with all persons who are Deaf or Hard of Hearing in accordance with the Americans with Disabilities Act (ADA) and the Monroe County Sheriff's Office policies and procedures.

Policy: It is the policy of the Monroe County Sheriff's Office to ensure a consistently high level of public service to all members of the Monroe County community to include persons who are Deaf or Hard of Hearing. This may include, but not limited to, a need for rapid access to interpreters or auxiliary aids and services for people with hearing and/or speech disabilities who have a need to communicate with Sheriff's personnel or to have access to Sheriff's Office information, programs, services, activities and publications.

Definitions: **Disability:** A mental or physical impairment that substantially limits a major life activity; A record of such an impairment; or being regarded as having such an impairment.

Deaf: A person who has profound hearing loss and most often uses sign language to communicate.

Deaf-Blind: A person who is Deaf and has significant vision loss (Deaf-Blind use tactile interpreters, which sign in the palm of the hand).

Hard of Hearing: Refers to people who have moderate to severe hearing loss but do not traditionally use sign language.

Certified Interpreter: An individual who has been certified through the Registry of Interpreters for the Deaf, Inc. (RID) and is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary.

Qualified Interpreter: An interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary. This includes, but is not limited to, sign language, oral interpreters, and cued-speech interpreters.

Communication Aids: Those aids and services designed to provide effective communications, (i.e. making aurally and visually delivered information available to persons that are Deaf or Hard of Hearing).

I. General Procedures

Interaction with Persons who are Deaf or Hard of Hearing.

MCSO employees should understand that every contact with persons who are Deaf or Hard of Hearing will be unique to each individual and situation as members of the Deaf and Hard of Hearing community express themselves in a variety of ways. It is important to treat each individual with respect and understanding, while being mindful of legal issues which may develop from the interactions.

1. Effective Communication

- a. Deputies are required by the ADA to ensure effective communication with individuals who are Deaf or Hard of Hearing. Whether a qualified sign language interpreter or other communication aid is required will depend on the nature of the communication and the needs of the requesting individual.
- b. The ADA requires that the expressed choice of the individual with the disability, who is in the best position to know his or her needs, should be given primary consideration in determining which communication aid is provided.
- c. The Monroe County Sheriff's Office will make the ultimate decision about which communication aid is provided. The Sheriff's Office will honor the individual's choice, unless the Sheriff's Office can demonstrate that another effective method of communication exists and can be used.
- d. Deputies dealing with persons that are suspected of being Deaf or having hearing loss should never assume that the person understands them. A deputy will ensure that the person who is Deaf or Hard of Hearing has the proper understanding of the information that is being communicated. This caution applies to all forms of communication, whether sign language, speech, writing, or reading.
- e. Deaf or Hard of Hearing persons may require additional time to understand and respond to commands, instructions, and questions.
- f. Deputies must be alert to indications that a person may be Deaf or Hard of Hearing. Such indications include, but are not limited to the following:
 - i. The appearance of bumper stickers, rear window decals, or visor notices/symbols indicating that they are Deaf or Hard of Hearing.
 - ii. Failure of persons to respond to spoken commands or signals.
 - iii. Use of signs, hand signals, or gestures in an attempt to communicate.
 - iv. Display of cards by the person noting his or her hearing disability.
 - v. Inability or difficulty of a person to follow verbal instruction or requests for information.
 - vi. A need to see the officer's face directly, suggesting that the person is attempting to lip read.
 - vii. Evidence of assistive devices such as hearing aids, cochlear implants, or picture symbols.

- viii. Appearance of behaviors such as confusion, agitation, irritability, frustration, or impaired equilibrium.

2. Sign Language

There are three major forms of Sign Language currently used in the United States: American Sign Language (ASL), Signed Exact English (SEE), and Pidgin Signed English (PSE). The most commonly used Sign Language among the adult Deaf community is American Sign Language. ASL is the "native tongue" for the deaf in the U.S. and English-speaking parts of Canada. ASL utilizes hand shape, orientation (facing direction), placement, and movement, along with facial expression and body language. SEE was developed in the early 1970's to better enable deaf students to learn English. PSE is rather a cross between two other languages; ASL and SEE. Combining many signs from ASL with sentence structure closer to English, PSE is used primarily by hearing signers whose first language is English.

a. Simple Encounters

1. In a simple encounter, such as checking a driver's license or giving street directions, sign language interpreters are not required. A notepad and pencil may be sufficient.
2. A companion may interpret for minor situations, when an interpreter is not available or required by law. Deputies should be cautious to not rely on family members or friends for sign language interpretation due to their potential emotional involvement, conflict of interest, and legal skill requirements.

b. Criminal/Custodial Interviews and Arrests

1. During criminal/custodial interviews and arrests, a certified sign language interpreter will be required to effectively communicate with an individual who uses sign language. **On duty Command Staff (Lieutenants and above) will authorize the assistance of a Qualified or Certified Interpreter.**
2. If the legality of a conversation will be questioned in court, such as Miranda warnings being given, a certified sign language interpreter will be required to effectively communicate with an individual who uses sign language.
3. If an individual who does not have a hearing disability is subject to police action without legal representation, then an interpreter would not be required for a Deaf or Hard of Hearing person in the same circumstance, except as may be necessary to explain the action being taken.

c. Crime in Progress

A deputy is not required to take a sign language interpreter to a call of a crime in progress involving a Deaf or Hard of Hearing person. The deputy can make an arrest of a Deaf or Hard of Hearing person and call for an interpreter if one is needed.

d. Emergency situations

A family member or companion may interpret in an emergency, when the safety or welfare of the public or the person with the disability is of paramount importance (i.e. to evaluate the physical condition of an individual who is Deaf and involved in a traffic accident).

3. Lip reading

- a. Some individuals who are Deaf or Hard of Hearing do not use sign language for communication and may need to use a different communication aid or rely on lip reading.
- b. Deaf or Hard of Hearing individuals who lip read are visually oriented. Their interacting with and understanding of another person are determined primarily by their ability to see the deputy.
- c. In a one-on-one communication with an individual who lip reads, the deputy should:
 - 1. Select a location that minimizes interference and distractions.
 - 2. Face the person so that eyes and mouth are visible.
 - 3. Stand about three to six feet from the person (will vary with each individual).
 - 4. Avoid excessive body movement.
 - 5. Speak only after getting the person's full attention.
 - 6. Make questions and instructions short and simple.
 - 7. Speak clearly and at the same volume. Shouting or using exaggerated mouth movements interferes with the ability to lip-read.
 - 8. Be prepared to repeat one-self, possibly using different words to rephrase any questions.

4. Hearing Aids

Deputies cannot assume that persons who wear hearing aids can hear and fully understand what is being said.

- a. Some people use hearing aids to provide sound awareness rather than to increase speech understanding.
- b. Highly stressful situations, background noise, multiple speakers, and complex information and instructions can compromise the limited effectiveness of hearing aids.
- c. Deputies can test comprehension by seeking appropriate responses to simple questions or directives or by asking the individual to repeat or explain the directive that was given.

5. Communication Aids and Services

To serve each individual effectively, primary consideration should be given to providing the type of communication aid or service requested by the individual with disabilities. Personnel should find out from the person who is Deaf or Hard of Hearing what type of communication aid or service he or she needs. MCSO must honor the choice, unless it can show that another equally effective means of communication is available, or that the use of the means chosen would result in a fundamental alteration in the nature of its service, program, or activity, or undue financial and administrative burdens. **Only** the Sheriff, Undersheriff, or his/her designee may make the determination that the requested communications is an undue burden or that it would result in a fundamental alteration.

Types of Communication Aids and Services:

1. The exchange of written notes
2. Telecommunications devices for the deaf (TDD)
3. Text telephones (TTY) or teletypewriters
4. Telephone handset amplifiers
5. Videotext displays
6. Video Remote Interpreting Services (VRI)
7. Video Relay Services (VRS)

II. Operational Procedures

A. Arrest Procedures:

All essential communication with a suspect should be completed prior to the application of handcuffs, if possible. If communication is necessary, deputies may consider temporarily removing the handcuffs from a suspect, unless doing so would unnecessarily endanger the deputy, the suspect, or others.

1. Issuance of Appearance Ticket or Arrest upon Probable Cause without an Interview:
 - a. If a hearing person would be arrested without an interview, then the deputy is not required to provide a Deaf or Hard of Hearing person with a **qualified interpreter**.
 - b. However, a **qualified interpreter** may be required if no other means of effective communication is available.
2. Interview needed to establish Probable Cause to arrest:

If a deputy needs to interview a suspect who is Deaf or Hard of Hearing to determine if there is probable cause to make an arrest, a **certified interpreter** must be provided if the written communication is ineffective.

3. Custodial Interview:

A deputy seeking to interview an arrestee who is Deaf or Hard of Hearing must secure the services of a **certified interpreter** prior to any interview whenever an interpreter is needed for effective communication.

- a. If exigent circumstances do not permit a delay in the interview of the arrestee, if an interpreter cannot be located within a reasonable period of time, if written communication between the deputy and the arrestee **was effective** in conveying an understanding of the Miranda warnings, or the arrestee specifically declines the opportunity to communicate through an interpreter, the deputy may proceed with the interview by using a note pad.
- b. If written communication becomes ineffective, because the factual pattern is complex, because the arrestee is having difficulty communicating without an interpreter, or because the arrestee chooses to discontinue the interview, the deputy **must** discontinue the interview and wait until a **certified interpreter** is present before continuing the investigation.

4. Interviewing a Victim or Critical Witness:

If the deputy can effectively communicate with the individual who is Deaf or Hard of Hearing, proceed with the interview. If the deputy cannot communicate, a **certified interpreter** will be used. It is the intent of the MCSO to have communications between deputies and individuals who are Deaf or Hard of Hearing preserved. The conversations will be preserved in the same manner as a statement and deputies notes. The following method of preserving communications will be as follows:

a. Police Bureau

Standard operating procedures will be followed as per General Order **PBGO-055 Electronic Recording of Custodial Interviews**.

b. Jail Bureau

Standard operating procedures will be followed as per General Order **JBGO-052 Reportable Incidents**.

5. All identifying information on the interpreter must be included in the appropriate reports and must be treated as evidence and handled accordingly.

- a. Interpreter's name/number
- b. Interpreter's employer/organization
- c. Date and time the interpreter was called
- d. Date and time of interpreter's arrival and departure
- e. All written questions and responses between and among deputies and the person(s) who are Deaf or Hard of Hearing.

B. All Bureau Procedures

Deputies must ensure that proper communication occurs with individuals who are Deaf or Hard of Hearing. This will ensure that all Deaf or Hard of Hearing arrestees understand and communicate the correct information for the safety and security of the individual and staff.

1. MCSO Central Booking MCJ and MCF, Zone B, and Central Records will have Communication Aids and Services. The MCSO is looking to expand these communication Aids and Services to the Hall of Justice Information desk, Zone A and Zone C. If implementation occurs, all applicable General Order procedures will be followed.

- a. Interprettype (as currently available and technology changes)

A hardware device that incorporates three software components to assist with the communication of individuals who are Deaf or Hard of Hearing (can also be used for individuals whose first language is Spanish or French). The three components of Interprettype consist of Text-to-Text Communication, Video Relay Service (VRS) and Video Remote Interpreting Service (VRI).

1. Text-to-Text Communication

Deputies will utilize electronic communication aids (Interprettype) to gather relevant inmate information necessary to complete the following forms:

- a. Suicide Prevention Screening Guidelines.
- b. Medical Screening Receiving Form.
- c. Inmate Classification/Reclassification Forms.

2. Video Relay Service (VRS)

A sign language video operating system utilizing (i.e., Purple Communication, Inc.) software to allow for sign language video communication between the inmate and a **certified interpreter**. VRS may also be used by inmates to communicate as part of their initial telephone call and phone calls to an attorney.

3. Video Remote Interpreting Service (VRI)

A software application and online service that enables voice and video phone calls over the internet. This application will be used when a person that is Deaf or Hard of Hearing is allowed to make a personal video call. These video calls do not require a certified interpreter.

Note: All Interprettype components will be recorded and saved to comply with All Bureau Standard Operating Procedures.

- b. Other communication aids

Only to be used when the Interprettype system is not available (i.e., laptop not charged, wireless issues, Bluetooth not synching, etc.)

Note: Each bureau will have designated personnel that will act as a liaison to their respective bureaus with Staff Services.

C. Storage Requirements

All electronic/digital recordings of communication between deputies and the individuals who are Deaf or Hard of Hearing should be securely stored in accordance with current department policies and in accordance with New York State records retention laws and for no longer than useful for purposes of training or for use in an investigation or prosecution.

1. Police Bureau

Police Bureau deputies/investigators will comply with **PBGO-055 Electronic Recording of Custodial Interviews** for storage requirements.

2. Jail Bureau

- a. Following the initial Booking entry process, the Booking Deputy will download the communications between the individual and deputy to an external DVD. The DVD will be labeled with the individuals' information and sent to the Jail Intelligence Unit for storage.
- a. Any other communications using the Interprettype system by an individual who is Deaf or Hard of Hearing will be stored on the hard drive of the Interprettype tablet then copied to a DVD and sent to the Jail Intelligence Unit for storage.

By order of Sheriff,


Patrick M. O' Flynn