



YARMOUTH POLICE DEPARTMENT POLICY AND PROCEDURE

DEALING WITH THE HEARING IMPAIRED 2107-12

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General Considerations and Guidelines

With one in ten Americans suffering from hearing loss, ranging from mild loss to deafness, it is likely that most police officers will have repeated encounters with such persons in enforcement situations, where they may be perpetrators of, witness to and/or victims of crime. Officers dealing with persons that are suspected of having hearing loss or being deaf should never assume that that the person understands the officer; the officer should make sure that he or she does. This caution applies to all forms of communication, whether sign language, speech, writing, or reading. A person who is deaf or hard of hearing may also have other disabilities, such as mental retardation, and emotional or behavioral problems that contribute to their hearing and comprehension problems and overall communication difficulties. Officers interacting with persons who are deaf or hard of hearing should also be alert to indicators of these other secondary disabilities. These may include such things as low frustration levels, nervous habits, inappropriate social behavior, or withdrawal. Developmentally disabled persons, such as a person with autism, often appear unable to hear. While there may not be any problem with their hearing, they simply may not be able to pay attention to, comprehend, or respond to verbal commands or questions.

Communication problems in police-public encounters provide the basis for misunderstandings and potential problems, frustration, and embarrassment. In certain circumstances it may have far more serious consequences. Therefore, it is important that officers are able to recognize persons with hearing and communication disabilities, differentiate their actions and symptoms from other causes, and take measures to facilitate communication.

Some persons with hearing difficulties also may have inner ear impairments that can affect their balance. As such, they may not be able to perform the common field sobriety tests such as the walk-and-

turn or finger-to-nose test, particularly with the eyes closed. Dizziness and unsteadiness may even be present with the eyes open. In such cases it is better to seek a breathalyzer or blood alcohol test to determine whether the person is intoxicated and a horizontal gaze nystagmus test to establish reasonable suspicion. Hearing-impaired persons can also be mistaken for persons with drug or alcohol impairment because their speech may be slurred or otherwise difficult to understand. Officers should not assume that slurred speech is a positive indication of intoxication and should use measures for intoxication previously noted.

Controlling a crime scene where hearing disabled persons are present can also present a problem for officers. Whether the hearing-impaired or deaf persons are perpetrators, victims, or witnesses, officers are faced with the need to protect their safety while also attempting to communicate. Backup officers are essential in these situations, as an officer who has drawn his or her firearm will have added difficulty attempting to communicate by signs or gestures. In these and related situations, officers should gain the attention of those whom they need to manage or control and ensure that they are looking at the officer when speaking or signing. By the same token, victims or witnesses to a crime or incident may attempt to gain the attention of an officer by touching him or her when the officer is not facing them. This is how the hearing impaired commonly gain the attention of others so that they can see their face and attempt to communicate. Officers should not interpret this touching as offensive or possibly threatening behavior.

1. Communication problems in police encounters with deaf or hearing impaired persons provide the basis for potential frustration and embarrassment. Failure of officers to recognize that a person has a hearing impairment, or that person's failure to make his or her impairment known to officers, can also lead to critical misunderstandings. Deaf or hard-of-hearing persons may require additional time to understand and respond to commands, instructions, and questions. Officers must be alert to indications that a person may be deaf or have a hearing impairment. Such indications include but are not limited to the following:
 - a. The appearance of bumper stickers, rear window decals, or visor notices/symbols indicating the disability;
 - b. Failure of persons to respond to spoken commands or signals;
 - c. Use of signs, hand signals, or gestures in an attempt to communicate;

- d. Display of cards by the person noting his or her hearing disability;
- e. Inability or difficulty of a person to follow verbal instruction or requests for information;
- f. A need to see the officer's face directly, suggesting that the person is attempting to lip-read;
- g. Evidence of assistive devices such as hearing aids, cochlear implants, or picture symbols; and
- h. Evidence of behaviors such as increased agitation or irritability, low frustration levels, withdrawal, poor attention, or impaired equilibrium.

Only about one third of words can be accurately interpreted by lip-reading. Therefore, communication of a critical nature (e.g., Miranda warnings) shall be reinforced by other means of communication

Policy

It is the policy of the Yarmouth Police Department that:

- A. Persons who are deaf or hearing impaired (hard of hearing) - whether they be victims, witnesses, or suspects – shall be treated with respect, and in any encounters with such individuals an officer's conduct shall conform to applicable provisions of federal and state law and this policy;
- B. The department shall maintain a list of available speech language interpreters as qualified by the National Registry of Interpreters for the Deaf and ensure their familiarity with common and essential forms of police communication for interrogation and related purposes; and,
- C. All calls from persons who are deaf, have hearing loss or have speech impairments must be accepted through this department's emergency communication center by whatever means are provided to other members of the public. They shall not be relayed through third-party emergency service providers unless the caller asks the department to do so. [81.2.1]

Definitions

- A. Lip-reading (also referred to as speech reading): the ability to use information gained from movements of the lips, face, and body to increase understanding.
- B. Sign language: communication through the use of standardized hand or finger signs or gestures. American Sign Language (ASL) is the form of sign language most often used in the United States. Signs convey concepts or ideas even though a

sign may stand for a separate English word. Signing individual letters by finger spelling can supplement sign language. Just as there are regional variations (dialects) in spoken English, there are regional differences in sign language.

- C. Auxiliary aids and services: communication aids that assist people who are deaf or who have hearing loss. They include, for example, hearing aids, cochlear implants, the exchange of written notes, telecommunications devices for the deaf (TDDs) also called text telephones (TTs) or teletype - writers (TTYs), telephone handset amplifiers, assistive listening systems, videotext displays, and hearing assistance dogs.

Procedures

A. Emergency Call Takers and Dispatchers [81.2.1]

1. The emergency call/dispatch center shall be equipped to receive calls from TDD and computer modem users and all call takers will be trained to communicate with callers using TTY and TDD equipment.
2. The deaf and hearing impaired shall be provided with direct, equal access to all emergency services provided by this department by communication through TTYs, TDDs, or alternative devices that are equally effective.
3. Emergency call takers shall place a high priority on response to emergency calls for service from persons who are deaf or who have hearing impairment.
4. All call takers and dispatchers shall receive initial and periodic refresher training on the use of TDDs, TTYs, and related devices as well as training in procedures and techniques for handling callers who have communication difficulties including the use of relay systems.

B. Encounters with Persons who are Deaf or Hearing Impaired

1. When dealing with persons who are, or who are suspected of being, deaf or who have a hearing impairment, officers shall

never assume that the person understands until this can be confirmed by appropriate responses to questions or directives.

2. Once someone is identified as a deaf or hearing impaired person, officers shall determine by written or other forms of communication the person's preferred means of communication (e.g., sign language, lip-reading, reading and note writing, or speech.)
3. For persons who use sign language, a family member or friend may interpret under emergency conditions or, in minor situations, for the sake of convenience, when an interpreter is not available or required by law. In all other situations, officers shall not rely on family members or friends for sign language interpretation due to their potential emotional involvement or conflict of interest.
4. Officers shall address all questions and directives to persons who lip-read by facing them directly and speaking in a moderately paced conversational tone. Shouting or using exaggerated mouth movements interferes with the ability to lip-read. Understanding can be further degraded by the presence of facial hair, chewing gum, cigarettes, and so on.
5. Officers shall not assume that persons who wear hearing aids can hear and fully understand what is being said. Some people use hearing aids to provide sound awareness rather than to increase speech understanding.
6. Highly stressful situations, background noise, multiple speakers, and complex information and instructions can compromise the limited effectiveness of hearing aids. Officers shall test comprehension by seeking appropriate responses to simple questions or directives.

C. Sign Language Interpretation Requirements

Officers attempting to communicate with a person who can lip-read should first select a location that minimizes interference and distractions, face the person so that eyes and mouth are clearly visible, stand about three to six feet from the person in a well-lit area, avoid excessive body movement, speak only after getting the person's

full attention, make questions and instructions short and simple, speak clearly and slightly slower than usual, and be prepared to repeat oneself using different words to rephrase any question. The deaf who lip-read are visually oriented and that their interacting with and understanding of an officer's directions and questions is determined primarily by their ability to see the officer.

The need for use of a sign language interpreter is governed generally by the length, importance, and complexity of the communication.

- a. In simple enforcement situations, such as traffic stops, driver's license checks, or consensual police-public encounters, a notepad and pencil may provide effective communication.
- b. During interrogations and arrests, a sign language interpreter is generally necessary to effectively communicate with a person who uses sign language.
- c. A sign language interpreter need not be available in order for an officer to make an arrest of a subject where probable cause is established independent of interrogating the deaf or hearing-impaired suspect. A sign language interpreter may be called for to be available later at booking.
- d. If probable cause to make an arrest must be established through questioning or interrogation of a deaf or severely hearing-impaired person, a sign language interpreter shall be requested.
- e. Officers shall be required to demonstrate their ability to communicate basic ASL requests and directions as defined by this department.

D. Arrest Situations

- a. If handcuffs are required, all essential communication with the suspect should be completed prior to their application if possible. Recognizing that some persons

who have hearing problems need their hands free in order to communicate, if communication is necessary, officers should consider temporarily removing the handcuffs from a deaf or hearing-impaired suspect, unless doing so would unnecessarily endanger the officer, the suspect or others.

- b. Deaf persons and persons who have severe hearing impairments often have reduced verbal communication skills, speech that may be incoherent or otherwise resemble that of an individual who is intoxicated or who has difficulty with equilibrium. As such, with the exception of horizontal gaze Nystagmus, officers shall avoid administering the standardized field sobriety tests to such persons. Breathalyzer and/or blood alcohol measurements should be employed as alternative tests.
- c. Some deaf and hearing-impaired persons have limited written language skills, particularly involving difficult matters such as legal warnings and admonitions. Therefore, officers shall not assume the effectiveness of this form of communication and should gain confirmation of a person's understanding whenever possible.
- d. When deaf and hearing impaired persons who are arrested and transported to a booking site have their communication devices with them, such devices shall be made available to arrestees when reasonably necessary and shall be maintained by booking authorities in good working order.