

370 HEARING IMPAIRED/DISABLED COMMUNICATIONS

370.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

370.1.1 DEFINITIONS

Definitions related to this policy include:

Auxiliary aids – These are used to communicate with people who are deaf, hard of hearing or have impaired speech. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; use of a notepad and pen or pencil to exchange written notes; use of a computer or typewriter; use of an assistive listening system or device to amplify sound; use of a teletypewriter (TTY), videophones (video relay service or VRS); or use of a qualified interpreter.

Deaf or hard of hearing - An individual who has or is regarded as having substantially limited hearing with or without assistance. This includes a person with a speech disability that prevents him/her from speaking clearly or understandably in a normal conversational tone, regardless of the use of assistive devices (§ 209.261, RSMo; § 476.750, RSMo).

Qualified interpreter - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, transliterators, sign language interpreters and intermediary interpreters. Qualified interpreters should have a valid certification issued by the Missouri Commission for the Deaf and Hard of Hearing and a license issued by the Division of Professional Registration (§ 209.285, RSMo; § 209.321, RSMo; 5 CSR 100-200.030).

370.2 POLICY

It is the policy of the Columbia Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make reasonable efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

370.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107).

The responsibilities of the ADA Coordinator shall include, but not be limited to:

COLUMBIA POLICE DEPARTMENT

Policy Manual

- a. Working with local, State and Federal ADA coordinators, as needed, regarding the Columbia Police Department's efforts to ensure equal access to services, programs and activities.
- b. Developing reports, new procedures, or recommending modifications to this policy.
- c. Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.
- d. Ensuring that a list of qualified interpreter services is maintained and available. The list should include information regarding the following:
 1. Contact information
 2. Availability
- e. Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- f. Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.

370.4 FACTORS TO CONSIDER

Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

- a. Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.
- b. The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- c. The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).
- d. The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

370.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- a. The methods of communication usually used by the individual.

- b. The nature, length and complexity of the communication involved.
- c. The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Columbia Police Department], consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

370.6 TYPES OF ASSISTANCE AVAILABLE

Columbia Police Department members shall never refuse to assist an individual with disabilities who is requesting assistance for the sole reason of his/her disability. The Department will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept department-provided auxiliary aids or services or they may choose to provide their own within reason.

370.7 AUDIO RECORDINGS AND ENLARGED PRINT

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

370.8 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speech reading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or the investigation. The qualified interpreter must be approved by the Court through their established procedures. Qualified interpreters should be:

370.10 COMMUNITY VOLUNTEERS

Qualified Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Court to provide such services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the

nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

370.11 FAMILY AND FRIENDS

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations.

370.12 REPORTING

Whenever any member of this [department/office] is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

370.13 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services in such instances.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

370.13.1 FIELD RESOURCES

Examples of methods that may be sufficient for such instances include:

COLUMBIA POLICE DEPARTMENT

Policy Manual

- a. Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.
- b. Exchange of written notes or communications.
- c. Verbal communication with an individual who can speech read by facing the individual and speaking slowly and clearly.
- d. Use of computer, word processing, personal communication device or similar device to exchange texts or notes.
- e. Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

370.14 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service may be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card to individuals who are literate.

In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible.

370.15 ARRESTS AND BOOKINGS

If an individual with speech or hearing disabilities is arrested, the arresting officer shall provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody unless there is an articulable safety concern.

370.18 TRAINING

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

- a. Awareness and understanding of this policy and related procedures, related forms and available resources.
- b. Procedures for accessing qualified interpreters and other available resources.
- c. Working with in-person and telephone interpreters and related equipment.