



**Las Cruces Police Department
GENERAL ORDERS
FIELD OPERATIONS VOLUME 2
GO-207 PERSONS WITH DISABILITIES
Revised 5/13/2005**

207 PEOPLE WITH DISABILITIES

DISCUSSION

The purpose of this section is to establish procedures for handling individuals who are deaf or speech impaired. Persons who are victims, witnesses, or involuntarily detained / arrested, will be accorded the same privileges and rights as any other individual.

POLICY

It is the policy of the Las Cruces Police Department to comply with all applicable aspects of the Americans with Disabilities Act as enacted by Congress under Public Law 101-336- July 26, 1990. The Americans with Disabilities Act (ADA) provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services and programs, and telecommunications. The ADA prohibits all state and local governments and some private businesses from discriminating on the basis of disability.

207.01 DEFINITIONS

Disability - The term "disability," with respect to an individual, is defined as meeting one of three (3) conditions:

- A. A physical or mental impairment that substantially limits one or more of the major life activities of such individual.
- B. A record of such impairment.
- C. Being regarded as having such impairment.

Deaf - A deaf person is one who because of a hearing impairment, cannot readily understand an oral or written language or who cannot readily communicate in an oral or written language.

Speech Impaired Person - A speech impaired person is one who because of a hearing impairment and/or a lack of ability to distinguish sounds or words regardless of cause or manifestation, is unable to produce words and cannot readily communicate in an oral or written language.



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Qualified Individual with a Disability - An individual with a disability who, with or without reasonable accommodations to rules, policies, or practices, the removal of architectural, communication or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

Reasonable Accommodation

A. As set forth in Section 101 (9) of the ADA:

1. Making existing facilities readily accessible to and usable by individuals with disabilities.
2. Job restructuring, part-time or modified work schedules reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies; the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

B. As set forth under EEOC regulations:

1. Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position he/she desires.
2. Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position.
3. Modification or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

Interpreter - A person capable of interpreting and translating criminal, civil, and administrative proceedings for deaf / speech impaired or non-English speaking persons. The interpreter must be certified by the National Registry of Interpreters and be able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary.



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207.02 PROCEDURES FOR HANDLING DEAF/SPEECH IMPAIRED PERSONS

- A. This General Order addresses only those situations where a police officer, after consulting with the individual with a hearing impairment, determines that the services of an interpreter, hereafter referred to as a "signer" are necessary to ensure effective communication.
- B. During an investigation:
1. Suspect: A signer must be provided if the situation is so complex or lengthy that written communication is ineffective. A signer must be provided before the officer makes an arrest. If the officer cannot wait until a signer arrives, the officer has two alternatives:
 - a. If the investigation does not involve a serious offense, the officer can postpone the investigation until he / she can return to the scene with a signer. If the signer is unable to respond or if the officer cannot return to the scene, the officer must document this fact in the report.
 - b. If the investigation involves a significant case, the officer will contact his/her supervisor to determine if a detective will be called to assist. If the supervisor determines that a detective will not be called and if the officer cannot return to the scene, the officer must document this fact in his/her report.
 2. Victim or Witness: If an officer is unable to communicate effectively with a victim or witness by use of a note pad or by use of some other means of communication, the officer must obtain a signer. If the officer cannot wait for a signer, the officer has three alternatives:
 - a. If the investigation does not involve a serious offense, the officer will have a signer dispatched to the victim's or witness' location and request the signer re-contact the officer via MRVDA upon arrival. If a signer is unable to respond or if the officer cannot return to the scene, the officer must document the fact in his / her report.
 - b. If the investigation does not involve a serious offense, the officer can ask the victim or witness to come voluntarily to the substation for a signer, where the officer can continue with the investigation. If a signer is unable to respond or if the officer cannot return to the substation, the officer must document the fact in his / her report.



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c. If the victim or witness information is needed for an arrest in a case or for completing the investigation of a case, the officer, must contact his / her supervisor. The supervisor will determine if a detective will be called to assist. If the supervisor determines a detective will not be called and if the officer cannot return to the scene, then the officer should document the fact in his / her report.

3. Arrest or Issuance of Traffic and Criminal Citations

a. In those situations where an officer has probable cause to make an arrest or issue a criminal citation without having to interview the suspect with a hearing impairment, the officer does not have to provide a signer, except for the following situations:

- 1) If an officer is unable to convey the nature of the criminal charges to the arrestee, the officer must call a signer, unless the arrestee waives his / her right for a signer. The arrestee will be transported to an interview room at the main or the area substation where the officer will convey the information through the signer.
- 2) If an officer has stopped a suspect for committing a non-criminal (traffic) infraction and if the officer is unable to convey to the violator the nature of the infraction, the officer has the discretion to call a signer to the scene or issue a warning citation.

b. Interrogation of an Arrestee

- 1) Subsequent to an arrest, the officer must obtain a signer prior to interrogation. If circumstances do not permit a delay in the interrogation of the arrestee; if a signer cannot be located within a reasonable period of time; or if written communication between the officer and the arrestee is effective, the officer may proceed with the interrogation by using a note pad.
- 2) If written communication is found to be ineffective or because the arrestee chooses to discontinue the interrogation, the officer must postpone the interrogation until a signer is present before continuing the interrogation.
- 3) The officer/detective will document arrival and departure times of the signer and notify MRVDA of these times so the signer's time of service to LCPD



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can be accurately computed. Detectives may instead make note of these times in the case report.

4. Waiver of Interpreter:

- a. A deaf or hearing-impaired person may not waive his / her right to an interpreter unless given a reasonable opportunity to communicate privately with a qualified interpreter before such waiver. No waiver of the right to an interpreter will be valid unless the deaf or hearing-impaired person knowingly and voluntarily waives his or her right to an interpreter.
- b. An interpreter will be used to obtain this waiver in the appropriate language for the person.
- c. The waiver must be in writing.
- d. If after signing the waiver, the individual requests a signer, the officer must stop the interview and request that a signer be dispatched in order to continue with the interrogation/interview.

C. Interpreter Information and Written Evidence

1. Officers will initiate an offense / incident report whenever an interpreter is called out. The report will include the name of the deaf / hearing-impaired person and all identifying information on the interpreter.
2. All written questions and responses between and among officers and persons with hearing impairments must be treated as evidence and handled accordingly.
3. Original documents containing information from an interview will remain with the original report.
4. A copy of the written questions and responses must be placed into evidence.

D. Providing Auxiliary Aid or Service of Choice

1. When an auxiliary aid or service is required, the Police Department must provide individuals with hearing impairments with the auxiliary aids and services of their choice and will give primary consideration to the choice expressed by the individual.



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- a. "Primary consideration" means that the Las Cruces Police Department must honor the choice, unless:
 - 1) The Department can show that another equally effective means of communication is available, or:
 - 2) Use of the means chosen would result in a fundamental alteration in the service, program or activity or incur undue financial and administrative burdens.
2. Auxiliary Aids of Services includes:
 - a. Any written materials to aid in communication.
 - b. Pencils, pens, and note pads.
 - c. An interpreter.
 - d. Any other means for effective communication.
- E. On-Call Interpreters
 1. MRVDA maintains a roster of signers.
 2. Officers will request the signers from only.
 3. Officers will request the signer on-call only after establishing:
 - a. That the deaf or hearing-impaired individual is the subject of an official police investigation.
 - b. Is the victim or witness of an official police investigation?
- F. Evacuation Procedures
 1. When it is necessary to evacuate a deaf / speech impaired or non-English speaking person from a building for any emergency, the following procedures will be used:
 - a. Alert the person of the emergency and direct him / her to the nearest fire exit.



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- b. Ensure that the person understands that an emergency situation exists.
 - c. Escort the person from the building.
- F. Should a non-violent hearing-impaired person be arrested and transported to a police facility or any other location for questioning / interviewing, officers / detectives may allow, when safety permits, the handcuffing of the person in the front. Personnel are encouraged to utilize two officers during the transport and should never leave a hearing-impaired person alone in an interview room.