

# Communications with Persons with Disabilities

## 331.1 PURPOSE AND SCOPE

Federal MODIFIED

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 or have a disability that otherwise may pose a challenge to articulation or understanding of spoken English.

### 331.1.1 DEFINITIONS

Federal MODIFIED

Definitions related to this policy include:

**Americans with Disabilities Act (ADA) (42 USC § 12101)** – A federal law that prohibits discrimination on the basis of disability in all areas of public life, including employment, schools, and in public accommodations including transportation, telecommunications and, all public and private places that are open to the general public, as well as all programs, activities and services of public entities, including agencies of all state and local governments.

**Person with a Disability** – An individual with a physical, sensory, cognitive/intellectual or hidden impairment that substantially limits one or more major life activities, or someone who has a history or record of such impairment, or is regarded as having such an impairment.

**Effective Communication** – Communication between two or more persons in which the intended message is properly encoded and conveyed, delivered through an appropriate channel, received, and properly decoded and understood by the recipient(s).

**Language Assistance** - is an interpretation or translation service, or adjustment in the mode of communication, that allows for effective communication to occur.

**Auxiliary aids** - Tools used to communicate with people who have a disability or impairment. 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) or videophones (video relay service or VRS); use of taped text or qualified readers; or use of an authorized interpreter.

**Interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language) orally or via a symbolic language (such as American Sign Language), while retaining the same meaning and using linguistically and culturally appropriate terms and concepts in the target language.

**Translation** - The conversion of written text from one language (source language) into an equivalent written text (target language), while retaining the same meaning and using linguistically and culturally appropriate terms and concepts in the target language.

# Syracuse Police Department

## Policy Manual

### *Communications with Persons with Disabilities*

---

**Qualified interpreter** - A person who is able to interpret effectively, accurately and impartially in a one language, both receptively and expressively, using any necessary specialized vocabulary necessary for the setting or type of interaction. Qualified interpreters must also have an understanding of the professional function and role of an interpreter as well as the ethical issues involved when acting as language conduit.

**Disability or impairment** – An individual who has or is regarded as being substantially limited in a major life activity, including hearing or seeing, with or without assistance other than ordinary eyeglasses or contacts (42 USC § 12102). This includes a person who possesses visual acuity that is 20/200 or less in the better eye (corrected) or a field of vision 20 degrees or less in the better eye (18 NYCRR § 368.1; 18 NYCRR § 729.2).

**Authorized interpreter/Authorized translator** - A person who has been screened and authorized by the Department to act as a qualified interpreter and/or translator for people that utilize a specific type of symbolic speech other than spoken English, an employee of an agency or contracted company which has been authorized by the Department to provide qualified interpreting services.

Such a person, or the agency or contracted company that employees them, may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

**In Person/Onsite Interpreter** – A an authorized Interpreter who travels to a site where interpretation is needed and provides interpretation services in person. speakers. Members should only utilize those people, agencies or contracted companies authorized by the Department for In-person/onsite interpretation.

**Remote Video Interpreter** – An interpreter who provides interpretation from a remote location to persons at a site where interpreters are needed. This two way communication occurs via a device that conveys video in sign language with audio voicing in spoken English (via an application or computer based). Members should only utilize those people, agencies or contracted companies authorized by the Department for remote interpretation.

**Bilingual member** - A member of the Syracuse Police Department, identified by the Department, as having the ability to communicate fluently in both English and American Sign Language (ASL). Bilingual members may be fluent enough to communicate in ASL to some extent, but may not be sufficiently proficient or trained to provide professional interpretation. Hence they would not be considered qualified interpreters. Absent an emergency or other critical situation, such members may only assist in communication with someone who utilizes ASL as their primary mode of communication.

**Authorized bilingual member** - A member of the Syracuse Police Department, or another local enforcement agency, whom the Department, has evaluated through established Departmental procedures to confirm that they have sufficient level of skill and competence to communicate fluently, accurately, and effectively between spoken English and American Sign Language (ASL), and whom the department has authorized to provide interpretation because they are qualified to do so in a manner equivalent to a professional interpreter. In order to be authorized such a bilingual member must also have the ability to communicate specialized law enforcement terms

# Syracuse Police Department

## Policy Manual

### *Communications with Persons with Disabilities*

---

or concepts in ASL as well as to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities. Such a member may also be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

**Approved Community Volunteer** - A bilingual community leader or other bilingual volunteer identified by the Department as having the ability to communicate fluently in both English and a second language. The Department will provide members with a list of such persons. However, while such persons may be deemed fluent enough to communicate in that second language, but they may not be sufficiently proficient, knowledgeable about law enforcement concepts or terminology, nor trained to provide interpretation professionally. Absent an emergency or other critical situation, such individuals may only assist in communication with a person who is LEP with consent of that person.

#### **331.2 POLICY**

Federal MODIFIED

It is the policy of the Syracuse Police Department to reasonably ensure that people with disabilities, including complainants, victims, witnesses, suspects, detainees and arrestees, have equal access to law enforcement services, programs and activities. Members must make 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.

#### **331.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR**

Federal MODIFIED

The Chief of Police shall delegate certain responsibilities to an ADA coordinator (28 CFR 35.107). The coordinator shall be appointed by and directly responsible to the Uniform Bureau Captain or the authorized designee.

The responsibilities of the coordinator include, but are not limited to:

- (a) Work with the City ADA coordinator regarding the Syracuse Police Department's efforts to ensure equal access to services, programs, information and activities.
- (b) Develop reports or new procedures or recommend modifications to this policy.
- (c) Work with disability advocacy groups or other disability groups regarding access to department services, programs, information and activities.
- (d) Ensure that a list of authorized interpreter services is maintained and is available electronically to all members, including:
  1. Contact information;
  2. Types of services;
  3. Availability;
  4. Procedures for requesting services

# Syracuse Police Department

## Policy Manual

### *Communications with Persons with Disabilities*

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- (e) Develop procedures that will enable members to access auxiliary aids or services, including authorized interpreters, and ensure the procedures are available to all members.
- (f) Ensure signage is posted in appropriate areas indicating that auxiliary aids are available free of charge to individuals with disabilities.
- (g) Ensure appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs, information and activities.

#### **331.4 FACTORS TO CONSIDER**

**Federal** **MODIFIED**

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems, and the potential that a complainant, victim, witness, suspect, detainee or arrestee may be a person with a disability.

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. 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 his/her 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 readily available does not eliminate the obligation to reasonably ensure access and effective communication. However, in an emergency, availability may factor into the type of aid used.

#### **331.5 INITIAL AND IMMEDIATE CONSIDERATIONS**

**Federal** **MODIFIED**

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

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.

# Syracuse Police Department

## Policy Manual

### *Communications with Persons with Disabilities*

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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 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 an authorized 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. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, or hard of hearing or has impaired speech must be handcuffed while in the custody of the Syracuse 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.

### **331.6 TYPES OF ASSISTANCE AVAILABLE**

**Federal** **MODIFIED**

Syracuse Police Department members shall never refuse an available service to an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall it require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to disabled individuals through a variety of services.

Members may have access to the following types of language assistance:

- In person/Onsite Interpreters
- Remote Audio or Video Interpreter Service
- Bi-Lingual Member
- Authorized Bi-Lingual Member
- Approved Community Volunteers

# Syracuse Police Department

## Policy Manual

### *Communications with Persons with Disabilities*

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Disabled individuals may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

#### **331.7 AUDIO RECORDINGS AND ENLARGED PRINT**

Federal MODIFIED

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 (e.g., a personnel complaint form) or provide forms with enlarged print.

#### **331.8 AUTHORIZED INTERPRETERS**

Federal MODIFIED

An authorized 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 speechreading (lip-reading) to understand what others are saying. The authorized interpreter should not be a person with an interest in the case or the investigation. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Authorized interpreters should be:

- (a) Available within a reasonable amount of time but should not be longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request an authorized interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

#### **331.9 COMMUNITY VOLUNTEERS**

Federal MODIFIED

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 Department to provide interpreter services.

# Syracuse Police Department

## Policy Manual

### *Communications with Persons with Disabilities*

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Where authorized 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.

#### **331.10 FAMILY AND FRIENDS**

**Federal** **MODIFIED**

While family or friends of a disabled person may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent emergency or very informal and non-confrontational situations. Family members should not be used except in emergency situations. Children are not qualified.

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no authorized interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

#### **331.11 CONTACT AND REPORTING**

**Federal** **MODIFIED**

Whenever any member of this department 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 expressed preference is not honored, the member must document why another method of communication was used. Members should also document the identification number of an interpreter provided by a contracted service as applicable, as well as the purpose and content of the interaction and the elapsed time of interpreted communication.

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

#### **331.12 FIELD INTERACTIONS**

**Federal** **MODIFIED**

Field interactions will generally include such contacts as traffic stops, pedestrian stops, welfare checks, criminal investigations, involuntary transports to a medical facility, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals

# Syracuse Police Department

## Policy Manual

### *Communications with Persons with Disabilities*

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with disabilities. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether an authorized interpreter is needed.

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 an authorized bilingual member or authorized 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.

#### 331.12.1 FIELD RESOURCES

Federal **MODIFIED**

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

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

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

[See procedure for COMMUNICATIONS WITH PERSONS WITH DISABILITIES](#)



# Syracuse Police Department

## Policy Manual

### *Communications with Persons with Disabilities*

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#### **331.13 CUSTODIAL INTERROGATIONS**

Federal MODIFIED

In an effort to ensure that the rights of individuals who are deaf, or hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide authorized 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 should 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 an authorized interpreter or by providing a written *Miranda* warning card.

To ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

#### **331.14 ARRESTS AND BOOKINGS**

Federal MODIFIED

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide an authorized interpreter at the place of arrest or notify 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.

If a disabled person is to be transported to the Onondaga County Justice Center or to another place of detention, the arresting officer shall also call ahead to the Booking or Intake office at that facility, as soon as reasonably practicable, to notify them that a person who is disabled is due to arrive there, and to provide information about the disability they have been provided interpretation for.

#### **331.15 COMPLAINTS**

Federal MODIFIED

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a authorized interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the Office of Professional Standards.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used during the investigation of a complaint should not be members of this department. The identification and contact information of the interpreter (e.g., name, ID number, contact phone number, address) should be documented.

Any notice required to be sent to a person who is known to be LEP as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

# Syracuse Police Department

## Policy Manual

### *Communications with Persons with Disabilities*

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#### **331.16 COMMUNITY OUTREACH**

Best Practice MODIFIED

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

The department will include outreach to disability advocacy groups, disability and deaf leaders in its outreach, and seek their feedback on Department policies and procedures that directly affect people with disabilities.

#### **331.17 TRAINING**

Federal MODIFIED

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

- (a) Recognition of physical, sensory, cognitive/intellectual, and hidden disabilities
- (b) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (c) Procedures for accessing qualified interpreters and other available resources.
- (d) Working with in-person and telephone/video interpreters and related equipment.

The Commanding Officer of the Training and Education Division shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including but not limited to those who are Deaf, hard of hearing, have impaired speech or vision or are blind. Those who may have contact with such individuals should receive periodic refresher training. The Commanding Officer of the Training and Education Division shall maintain records of all training provided and will retain a copy in each member's training file in accordance with the established records retention schedule.

#### **331.18 USE OF THIS POLICY**

Agency Content

The definitions in this policy shall not be used in conjunction with any other policy or agreement.