

# Department of Police Accountability

Deaf and Hard of Hearing  
Department General Order (proposed)  
March 11, 2020



Samara Marion  
Policy Director

# Deaf and Hard of Hearing Working Group

Police Commissioner John Hamasaki

Deaf Hope

Deaf Counseling Advocacy and Referral Agency (DCARA)

Deaf Services Center (SF Public Library)

San Francisco Hearing and Speech Center

Mayor's Office of Disability (MOD)

District Attorney's Office (Victim Witness)

Domestic Violence Consortium

Safe and Sound

San Francisco Police Department

Community Members



# Timeline

November  
2017

Community  
advocacy and  
policy review  
process began

Best practice  
review of DOJ and  
other law  
enforcement  
agencies

December  
2018

Working Group:

- Drafted  
Proposed DGO
- Created an  
officer reference  
guide
- Identified  
assistive  
technologies

December 2018  
–February 2019

Working Group met  
with Chief Scott  
and resolved issues

December  
2019

Working Group  
reconvened and  
responded to  
Cal DOJ  
recommendations.

The Working Group  
supports Cal DOJ's  
“Version Two”

# Key Highlights

## Proposed Deaf and Hard of Hearing DGO

- Emphasizes SFPD's dedication to providing the highest level of service to community members, including Deaf and hard of hearing individuals.
- Explains Federal and State laws requiring effective communication—without discriminating, excluding, segregating, or denying service to Deaf and hard of hearing persons.
- States that Deaf and hard of hearing individuals are entitled to the same level of service provided to hearing individuals.



# Key Highlights

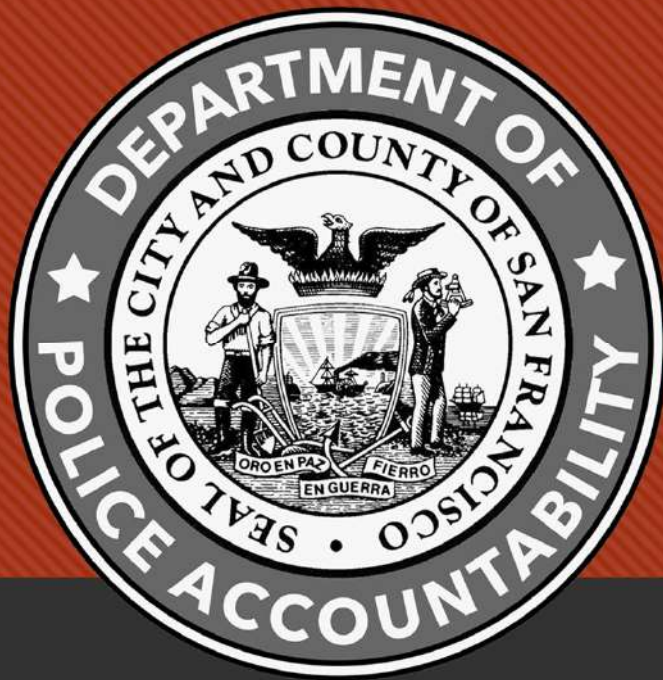
## Proposed Deaf and Hard of Hearing DGO

- Outlines procedures for officers, including how to identify a person's preferred communication method using a "Communication Card" and other appropriate communication tools.
- Restricts the use of unqualified interpreters, such as family and friends, except in emergency situations.
- Defines emergency circumstances that allow for alternate communication methods.

# Key Highlights

## Proposed Deaf and Hard of Hearing DGO

- Designates responsibility for addressing services, training, data collection, reporting, and outreach to SFPD's Language Access Liaison Officer.
- Requires scenario-based training using approved communication tools every two years to commence four months from DGO adoption.
- Includes a "Guideline for Communicating Effectively with People Who are Deaf or Hard of Hearing."



# Questions

Samara Marion  
Director of Policy  
Department of Police Accountability





LONDON BREED  
MAYOR

CITY AND COUNTY OF SAN FRANCISCO  
**Department of Police Accountability**  
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SAN FRANCISCO, CA 94103



PAUL DAVID HENDERSON  
EXECUTIVE DIRECTOR

March 6, 2020

Hon. Bob Hirsch, President  
Hon. Damali Taylor, Vice-President  
Members, San Francisco Police Commission

**Re: Proposed Deaf and Hard of Hearing Department General Order**

Dear President Hirsch, Vice-President Taylor and Commissioners:

Thank you for reviewing the proposed Deaf and Hard of Hearing Department General Order (DGO). This letter describes the collaborative work behind the proposed DGO, including the numerous community and city department participants who helped draft it. This letter also explains that Version Two of the Deaf and Hard of Hearing DGO is the Working Group's proposed DGO plus the California Department of Justice's (Cal DOJ) suggested changes and comments which the Working Group reviewed, commented upon and fully supports. Finally, this letter highlights the DGO's key provisions. Having completed the proposed DGO in February 2018 and with the passage of thirteen months to address any additional concerns, the Department of Police Accountability urges the Police Commission to adopt Version Two of the Deaf and Hard of Hearing DGO.

**A. Collaborative Work Behind the Proposed Deaf and Hard of Hearing General Order**

In November 2017, the Department of Police Accountability invited deaf advocates and representatives from community organizations and city departments to draft a Department General Order (DGO) on police protocols for interacting with deaf and hard of hearing individuals. Concerns that domestic violence survivors who are deaf had not received adequate police services and DPA complaints from deaf individuals highlighted the need for a Department General Order. Working group attendees included Police Commissioner John Hamasaki, and representatives from Deaf Hope, Deaf Counseling Advocacy and Referral Agency (DCARA), Deaf Services Center (SF Public Library), the San Francisco Hearing and Speech Center, Mayor's Office of Disability (MOD), District Attorney's Office (Victim Witness), Domestic Violence Consortium, Safe and Sound, two community members and the San Francisco Police Department.

Between November 2017 and February 2019, the working group met monthly and discussed United States Department of Justice (US DOJ) consent decrees involving civil rights violations of other law enforcement agencies that established policing procedures for deaf and hard of hearing individuals.

The working group also reviewed police procedures from several law enforcement agencies including the Metropolitan Police Department in Washington, D.C., which has a Deaf and Hard of Hearing Unit staffed by officers dedicated to the public safety needs of deaf and hard of hearing community members. After conducting a best practice review, the working group drafted a proposed DGO, created an officer reference guide to use during traffic stops, and identified different technologies to assist SFPD at the station and in the field to communicate with deaf and hard of hearing individuals. Midway through this process, in May 2018, the DPA policy director and the Commander of the Community Engagement Unit met with Chief Scott to brief him on the progress of the working group, to request authorization for funding for videoconferencing through officers' department issued-cell phones for America Sign Language interpreters and an officer training video to accompany the roll-out of the proposed Deaf and Hard of Hearing Department General Order.

In early December 2018, the DPA provided the Police Department the working group's proposed Department General Order. The DPA also submitted a memo that explained the US Department of Justice's consent decree provisions on front handcuffing of deaf or hard of hearing suspects and included provisions from several law enforcement agencies. On December 17, 2018, Commissioner Hamasaki, Director Bohn from the Mayor's Office of Disability and DPA's Policy Director met with Chief Scott to address outstanding issues. Agreements were reached concerning the commencement date for training, the appointment of liaison officers at each station, and the circumstances for front handcuffing of deaf or hard of hearing suspects. On January 2, 2019, the DPA submitted a revised Deaf and Hard of Hearing DGO that incorporated the agreed upon revisions from the December 17<sup>th</sup> meeting. On February 3, 2019, based on an oversight identified by the working group, the DPA requested a minor change in a provision that the Department reviewed and ultimately incorporated.

Between February and December 2019, the DPA requested updates on the status of the DGO and was informed that the DGO was undergoing Department and Cal DOJ review. On December 5, 2019 the Department provided the DPA the California Department of Justice's written comments. On January 9, 2020, the DPA reconvened the working group which reviewed the Cal DOJ's comments and suggested revisions. The working group agreed overwhelming with DOJ's comments and suggestions, except on a few minor points. On January 22, 2020, the DPA submitted to the Department the working group's written responses to the Cal DOJ's comments and suggested revisions. (See Attachment A, Deaf and Hard of Hearing Working Group Response to Cal DOJ's Recommendations, submitted by Department of Police Accountability to the San Francisco Police Department on January 22, 2020.) Subsequently, Commissioner Hamasaki requested that the proposed Deaf and Hard of Hearing DGO be calendared for a status update and Police Commission action. The Department has yet to share with the DPA or the working group its response to CAL DOJ's recommendations or its response to the DPA/Working group's submission of January 22, 2020 concerning the Cal. DOJ's recommendations.

**B. Version Two Represents Version One Plus DOJ Comments and Changes Which the Working Group Fully Supports.**

Version One of the Deaf and Hard of Hearing DGO (eff. 06/11/19) represents the proposed DGO from the Working Group and the agreed upon changes with Chief Scott as of February 2019. The Department provided Cal DOJ Version One (which the Working Group fully supported), and Cal DOJ made changes that enhanced the policy statement, added definitions, and consolidated some of the procedure sections to avoid repetition. Cal DOJ also made suggestions in Version Two indicated in the comment section such as including 911 protocols (page 1) and raised questions such as whether supervisor notification was warranted in certain situations (page 7). The Working Group reviewed and agreed with the Cal DOJ recommendations and where appropriate, provided suggested language or answer to Cal DOJ's comments. The Working Group fully supports Version Two.

**C. Key Highlights of the Proposed Deaf and Hard of Hearing DGO**


The proposed Deaf and Hard of Hearing DGO addresses the follow principles and procedures:

- It emphasizes the Police Department's dedication to providing the highest level of service to its community members including deaf and hard of hearing individuals
- It explains that under federal and state law (including the Americans with Disabilities Act (ADA), the SFPD shall communicate effectively with people who are deaf or hard of hearing and may not subject them to unlawful discrimination, or exclude, segregate or deny them SFPD services.
- It states that people who are Deaf or hard of hearing are entitled to the same level of services that are provided to hearing individuals.
- It outlines procedures for officers when they encounter a Deaf or hard of hearing individual, including identifying the individual's preferred method of communication through the use of a Communication Card and appropriate tools for communicating.
- It restricts the use of family members, friends, and other unqualified third parties as interpreters absent emergency situations.
- It defines emergency circumstances where alternative forms of communication are permitted.
- It includes requirements about signage, incident report documentation and data collection.
- It designates the Department's Language Access Liaison Officer as being responsible to addressing services, training, data collection, reporting, and outreach concerning police interactions with Deaf and hard of hearing individuals.

- It requires the Department to provide its officers scenario-based training including appropriate communicate tools to effectively interact with deaf and hard of hearing individuals every two years. Training is to commence within four months of the General Order's adoption.
- It includes a "Guideline for Communicating Effectively with People Who are Deaf or Hard of Hearing."

This proposed Department General Order represents countless hours of discussion, best practice research, discussion and input from deaf community members, service providers, city agencies, the Police Department and experts, including the California Department of Justice. The Department of Police Accountability urges the Police Commission to adopt Version Two so that this DGO can be implemented and training commenced.

Sincerely,



Paul Henderson

attachments



**Attachment A**

**Deaf and Hard of Hearing Working Group Response to Cal DOJ's Recommendations**

submitted by

**Department of Police Accountability  
to the San Francisco Police Department**

**January 22, 2020**



	<b>Cal. DOJ Recommendations<sup>1</sup></b>	<b>Deaf &amp; hard of hearing Working Group Response</b>	<b>SFPD response</b>	<b>y/n</b>
1	<p>Somewhere in this policy, SFPD should include a brief mention and cross-reference to policies and ordinances governing 911 services and dispatcher communications with deaf and hard of hearing persons. (page 1)</p>	<p>Working group agrees with DOJ suggestion to reference in this DGO 911 services &amp; dispatcher communications with Deaf and hard of hearing individuals. Working group also asked about SFPD/911's plan to implement Real Time Text and the status of SB911.</p>		
2	<p>SFPD may wish to check in with local community stakeholders on the subject, but generally you see “deaf” in lower-case when referring to a person with hearing loss, but “Deaf” when referring to someone who is a member of the Deaf community. See, e.g., National Center on Disability and Journalism Style Guide (<a href="#">link</a>)</p> <p>Also, it is preferable to not characterize the individual by their disability, rather to state that the person is an “individual who is deaf or hard of hearing.” (page 1)</p>	<p>Working group discussed extensively during earlier meetings &amp; agreed to use lowercase deaf when referring to the audiological condition of not hearing and upper case Deaf when referring to individuals who share a language—American Sign Language (ASL) and a culture. As explained by Carol Padden and Tom Humphries, in <i>Deaf in America: Voices from a Culture</i> (1988), “We use the lowercase deaf when referring to the audiological condition of not hearing, and the uppercase Deaf when referring to a particular group of deaf people who share a language – American Sign Language (ASL) – and a culture. The members of this group have inherited their sign language, use it as a primary means of communication among themselves, and hold a set of beliefs about themselves and their connection to the larger society. We distinguish them from, for example, those who find themselves losing their hearing because of illness, trauma or age; although these people share the condition of not hearing, they do not have access to the</p>		

<sup>1</sup> Numbers correlate to Cal DOJ's comments provided in SFPD General Order on “Interactions with Deaf and Hard of Hearing Individuals” dated 06/11/19. SFPD provided Cal DOJ's comments to DPA on December 5, 2019. DPA reconvened the Deaf and Hard of Hearing Working group on 1/9/20 during which time the Working Group discussed the DOJ comments and provided the responses in this document.

		knowledge, beliefs, and practices that make up the culture of Deaf people.”		
3	If SFPD is defining ASL we recommend that you define Signed English based on use of both terms in the policy. There may be a better definition and cite, but this one is from dictionary.com that works. (page 2, DOJ definition provided).	Working group suggested “signed language user” instead of “signed English user” due to Deaf individuals using languages other than English.		
4	As a suggestion, Seattle Police Department requires that the qualified interpreter have no responsibilities other than interpreting. From the Seattle PD policy -relevant to the standard or impartiality. (page 2, DOJ language provided).	Working group agrees.		
5	Where should the officer document this? Can this be clarified? (page 5, referring to documenting when individual’s preferred communication method is not available).	Working group agrees and suggests that officers document individual’s preferred communication method in the incident report.		
6	Is this list meant to be exhaustive of permissible communications methods or a list of examples? SFPD may want to clarify. (page 5)	Working group suggests the list of communication tools be described as permissive, not exhaustive, especially in light of evolving technologies.		
7	Does SFPD use RTT? If so, SFPD should add RTT to the list and possibly the definitions section. (page 5)	Working group is unaware of SFPD having Real Time Text capacity.		
8	Reference two-hour rule from Section J (2). (page 7)	Working group agrees (see Section I for two-hour rule).		
9	Perhaps include a few more examples that would be common and acceptable. What if the individual prefers the family member and will not communicate with an interpreter? (page 7).	Working group’s suggested examples include “location of a bus stop or restaurant.” Similar to DGO 5.20, unless exigent circumstances, officers are prohibited from using family members as interpreters and required to use qualified interpreters.		
10	Does an officer have any duty to notify dispatch or a supervisor? That may be good practice in certain contexts, such as when detaining an individual, questioning a suspect, or interviewing a victim so that SFPD knows what the officer is doing for purposes of providing any necessary support, supervision, and clearance from	Working group agrees with DOJ’s suggestion to include officer notification to supervisor and dispatch.		



	<p>other call duties to handle the communication.</p> <p>For example, the Charlotte-Mecklenberg PD policy (CMPD manual at pdf pages 526-27) contains this provision:</p> <p>“If the officer believes that a person he or she has arrested is deaf, the officer shall notify Communications that a qualified and licensed interpreter is needed. The type of aid or service requested by the person with the hearing disability must be given primary consideration” (page 7)</p>			
11	<p>If there are any dispatch protocols, they should be cross-referenced here. To the extent needed, those protocols should also be updated. (page 7)</p>	Working group agrees.		
12	<p>What are supervisors’ duties when learning of a field need for communicative assistance? (page 8)</p>	Working group suggests that officers notify supervisors (see Comment 10) and that supervisors provide assistance to subordinates during interactions with Deaf and hard of hearing individuals.		
13	<p>Added this section in and removed the repeated directives to comply with the notice and determination procedures below).</p>	DOJ comment requires no response; it explains its consolidation of the Notice/Determination Procedures.		
14	<p>Reference two-hour rule from Section J (2). (page 12)</p>	Working group agrees.		
15	<p>Included this in the Notice and Determination Procedures section under (12)</p>	DOJ comment requires no response; it explains its consolidation of the Notice/Determination Procedures.		
16	<p>SFPD could expand on this section. One example is from (Metro PD /D.C.): Members will handcuff and transport Deaf and hard of hearing arrestees as they would other individuals. Members must recognize that rear handcuffing will temporarily limit the individual’s to communicate and thus must be especially observant. Members will, safety permitting, provide deaf or hard of hearing arrestees use of their hands to communicate in interview situations. (page 12)</p>	Working group supports current handcuffing provision that Chief Scott agreed to during earlier discussions.		

	<b>Cal. DOJ Recommendations</b>	<b>Deaf &amp; hard of hearing Working Group Response</b>	<b>SFPD response</b>	<b>y/n</b>
17	Included this in the Notice and Determination Procedures section under (12)	DOJ comment requires no response; it explains its consolidation of the Notice/Determination Procedures.		
18	There is a one-hour timeframe to request an-person qualified interpreter when talking to a reportee, victim, witness or complainant. SFPD should consider a similar timeframe for suspects. (page 13).	Working Group agrees.		
19	Since the detention and pat search procedures are essentially identical (except with the additional requirement that the member inform a detainee that the detainee is free to go), we have recommended consolidating this into one paragraph. (page 13).	DOJ comment requires no response; it explains consolidation of detention and pat search provisions.		
20	We recommend that SFPD reference their detention DGO (5.03).	Working group agrees.		
21	Included this in the Notice and Determination Procedures section under (12) (page 14)	DOJ comment requires no response; it explains its consolidation of the Notice/Determination Procedures.		
22	We recommend that this language mirror the language of pat search in the detention DGO (5.03) when finalized. (page 15).	Working group agrees.		
23	Add RTT if used (page 17)	Working group is unaware of SFPD's capacity to use RTT.		
24	Cal DOJ recommends that SFPD cite the appropriate section of the manual. (page 17)	Working group agrees.		
25	Perhaps these names should be noted under each symbol for clarity. (page 17)	Working group agrees.		
26	We should check this to see how they plan on collecting this data. (page 17)	Working group agrees.		
27	This DGO does not explain how SFPD plans on collecting this data. <a href="https://www.sanfranciscopolice.org/sites/default/files/2018-11/DGO5.20%20Language%20Access%20Services%20for%20Limited%20English%20Proficient%20%28LEP%29%20Persons.pdf">https://www.sanfranciscopolice.org/sites/default/files/2018-11/DGO5.20%20Language%20Access%20Services%20for%20Limited%20English%20Proficient%20%28LEP%29%20Persons.pdf</a>  Is this an error? If not, could you please clarify? (page 17)	Working group suggests data collection through incident report documentation (see Section M (1) and CAD.		

28	SFPD should clarify the timeframe for the appointments. (page 18)	Working group agrees.		
29	Is this timeframe realistic? (page 18)	SFPD agreed to provide training within four months during previous discussions.		
30	Are these available in other languages (Spanish, Mandarin?) (page 19, referring to Communication Card)	Communication card is currently available in English and has not been translated to San Francisco's core languages.		





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## Interactions with Deaf and Hard of Hearing Individuals

### XX.XX.01 PURPOSE

The San Francisco Police Department (SFPD) is dedicated to providing the highest level of service to all community members, including those who are deaf or hard of hearing. SFPD is required by Title II of the Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973 to communicate effectively with people who are Deaf or hard of hearing. Under the ADA, people who are Deaf or hard of hearing may not be excluded, segregated or denied services.

### XX.XX.02 POLICY

It is SFPD's policy that members, in the course of their official duties when encountering a Deaf or hard of hearing individual, shall provide free of charge a qualified interpreter or appropriate auxiliary aids to ensure effective communication. For individuals who are Deaf or hard of hearing and use American Sign Language (ASL), officers shall use their department-issued cell phone or other electronic device to obtain immediately an ASL video interpreter.

### XX.XX.03 DEFINITIONS

- A. **Deaf or Hard of Hearing Individual** – An individual who relies on visual system for communication instead of processing linguistic information through hearing, with or without amplification; also includes individuals who may have experienced loss of hearing because of age, illness or trauma.
- B. **American Sign Language (ASL)** – American Sign Language, the primary language of many North Americans who are Deaf, is a complete, complex language with its own grammar and syntax that uses signs made by moving the hands combined with facial expressions and postures of the body.
- C. **Auxiliary Aids** – Tools to help members communicate with Deaf or hard of hearing individuals. These aids include assistive listening devices, qualified interpreter services, written communications and materials, pads, pens, telecommunication devices for the Deaf (TDDs), videophones, and video remote interpreting devices (i.e., computers or tablets).
- D. **Qualified Interpreter** – an individual who has been certified by the National Registry of Interpreters for the Deaf, and is able to interpret and translate effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary given the Deaf or hard of hearing individual's

language skills and education. California Evidence Code section 754 mandates qualified interpreters for individuals who are Deaf or hard of hearing in civil and criminal cases. Evidence Code section 754 (k) states that a written or oral statement made by a deaf individual cannot be used against that individual unless the statement was made or elicited through a qualified interpreter.

- 1) For an individual who is Deaf or hard of hearing and uses American Sign Language for communication, the term "qualified interpreter" means a certified interpreter skilled in communicating in American Sign Language.
  - 2) The term "qualified interpreter" encompasses relay interpreter teams, when such are necessary for effective communication.
- E. Certified Deaf Interpreter (CDI)** – CDIs are Deaf or hard of hearing individuals who are certified interpreters. They are particularly useful when the communication mode used by the Deaf consumer is unique, such as when they have minimal or limited communication skills or use signs that a hearing interpreter may not be familiar with (non-standard signs, "home" signs, a foreign sign language, regional signs, etc.).
- F. Relay Interpreter Teams** – Teams used to communicate with Deaf individuals who have very minimal language skills, even in ASL. The teams consist of a hearing 'English to ASL' interpreter ("hearing interpreter") and a Certified Deaf Interpreter (CDI). The hearing interpreter interprets the spoken word to the CDI, who uses gestures, pantomime, drama and ASL to convey that information to the Deaf individual. The CDI and hearing interpreter may work together to understand a Deaf individual's message, confer with each other to arrive at their best interpretation, and then convey that interpretation to the hearing party.
- G. Video Remote Interpreting (VRI)** – When in-person, on-site interpreter is not available, video remote interpreting is an interim solution that uses video conference technology (i.e. a computer with a webcam and internet connection or a member's department-issued cell phone with video conferencing capacity) to access an ASL interpreter who can facilitate communication between a Deaf or hard-of-hearing individual and a hearing individual who are in the same location. VRIs are located at each district station. VRI is an interpreting service used by members to communicate with Deaf and hard of hearing individuals who use American Sign Language for short, same room conversations.
- H. Video Relay Service (VRS)** – Telecommunications relay service that enables individuals with hearing disabilities who use American Sign Language (ASL) to communicate with hearing people over Videophones in real-time, via a sign language interpreter. VRS allows Deaf and hard of hearing individuals to have access to the telephone system. VRS is not an interpreting service for members to communicate with Deaf and hard of hearing individuals.



- I. **Videophone** – a device with a video camera that can perform bi-directional video and audio transmissions between people in real-time.
- J. **Exigent Circumstances** – circumstances that require deviation from procedures, such as a threat to life, safety, or property, a fleeing suspect, or the potential loss or destruction of evidence.

**XX.XX.04**  
**PROCEDURES**

- A. **Effective Communication:** When encountering a Deaf or hard of hearing individual, members shall provide free of charge any method, including a qualified interpreter or appropriate auxiliary aids, preferred by the Deaf or hard of hearing individual to ensure effective communication. If the individual's preferred method is not available, the officer shall document the reason the method was not available and the method the officer used to communicate with the Deaf or hard of hearing individual.
- B. **Same Level of Service:** People who are Deaf or hard of hearing are entitled to the same level of services that are provided to hearing individuals.
- C. **Communication Tools:** To effectively communicate with Deaf and hard of hearing individuals, members shall use one or a combination of the appropriate tools below:
  - 1) Qualified interpreters (in person and through video conferencing)
  - 2) Written communication (e.g., pen and paper)
  - 3) TTY
  - 4) Videophones
  - 5) Text messaging
  - 6) Any method most effective in light of exigent circumstances
  - 7) Any method most effective as preferred by the Deaf or hard of hearing individual.
- D. **Notice of right to effective communication and determination of communication services:** Members, who in the course of their official duties encounter an individual who is Deaf or hard of hearing shall immediately take the following steps:
  - 1) Using the Communication Card (See Attachment A, SFPD Form XXX)  
(electronically on the officer's department-issued cell phone or in hard copy)

form), notify the individual that a qualified ASL interpreter or other auxiliary aids are available immediately free of charge.

- 2) Using the Communication Card, determine whether the individual uses sign language or other auxiliary aids to communicate.
- 3) Officers must defer to the individual's expressed choices, unless there is another equally effective way of communicating, given the circumstances, length, complexity, and importance of the communication, as well as the communication skills of the individual who is Deaf or hard of hearing.
- 4) If the individual uses sign language, determine whether the individual uses American Sign Language.
- 5) If the individual uses American Sign Language (ASL), the member shall use their department-issued cell phone or other electronic device to obtain an ASL video interpreter immediately, absent exigent circumstances (see Section III (E)), if preferred by the Deaf or hard of hearing individual.
- 6) If the individual requests the use of written communication, the member shall provide a pad and pen/pencil or other method for written communication and shall communicate with the individual in writing. Written communication shall not be a substitute where the individual expressed a preference for a sign language interpreter.
- 7) The more lengthy, complex, and important the communication, the more likely that an in-person qualified interpreter will be required to communicate effectively with an individual whose primary means of communication is sign language. California Evidence Code section 754 mandates qualified interpreters for individuals who are Deaf or hard of hearing in civil and criminal cases. Evidence Code section 754 (k) states that a written or oral statement made by a deaf individual cannot be used against that individual unless the statement was made or elicited through a qualified interpreter.
- 8) Members shall review and use the suggestions for effective communication. (See Attachment B).
- 9) In conducting any criminal, traffic, or other investigation, no member shall rely solely on statements of others, without communicating effectively with a Deaf and hard of hearing individual, if the member would have communicated with a similarly situated individual who was not Deaf or hard of hearing.
- 10) Throughout the interaction, members will reassess communication effectiveness and will ask the Deaf or hard of hearing individual on a continuing basis what measures are required for effective communication. For example, while a video ASL interpreter accessed through a member's department-issued cell phone may be an effective way to communicate with a



Deaf driver while checking the driver's license and explaining the reason for stopping the driver, further questioning at a station may require an in-person interpreter. The member must reassess as the situation changes whether the individual requires a different auxiliary aid or service to ensure that effective communication is provided.

11) Lip Reading

- a. Do not assume that a Deaf individual reads lips. Even when a Deaf individual reads lips, only 25% of spoken language is visible on the lips.
- b. Deaf individuals may lose their "lip-reading" skills when under stress and trauma.

12) Video Relay Service (VRS) enables Deaf and hard of hearing individuals access to the telephone system. The Federal Communication Commission prohibits VRS use as a substitute for in-person interpretation or Video Remote Interpreting (VRI). Members shall not request a Deaf or hard of hearing person to use VRS on their phone or use VRS as an interpreting service.

**E. Exigent Circumstances**

- 1) When there is an exigency involving an immediate threat to the safety of the public or the officer and there is insufficient time to make available appropriate auxiliary aids or services, members may use whatever auxiliary aids or services most effective under the circumstances to communicate with individuals who are Deaf or hard of hearing, consistent with an appropriate law enforcement response to the threat. This may include, for example, exchanging written notes or using the services of an individual who knows sign language but who is not a qualified interpreter, during the exigency.
- 2) When the exigency has subsided, the member will provide the appropriate auxiliary aids and services consistent with this policy and will confirm or supplement the initial communication as soon as practical using the appropriate auxiliary aids and services.

**F. Restrictions: Family members and other unqualified third parties shall not be interpreters**

- 1) Officers shall not use family members, neighbors, friends, volunteers, bystanders or children to provide sign language interpretation unless exigent circumstances exist.
- 2) Family members and other third parties may not have the skill to interpret effectively. They may lack the vocabulary, impartiality or maturity to interpret effectively. Individuals with a rudimentary familiarity with sign language or finger spelling are not a "qualified sign language interpreter." Individuals

fluent in sign language but who do not possess the ability to process spoken communication into the proper signs or to observe someone signing and translate their signed or finger-spelled communication into spoken words are not qualified sign language interpreters.

- 3) If an exigent circumstance requires an officer to use family members, neighbors, friends, volunteers, bystanders or children for initial interpretation, the officer shall seek the assistance of a qualified sign language interpreter to confirm or supplement the initial interpretation as soon as practical.
- 4) A family member may interpret where an interpreter is not required. For example, a passenger may interpret when a Deaf individual asks for traffic directions.

**G. Routine Enforcement Actions**

Unless exigent circumstances, members shall follow the notice and determination procedures set forth in Section III (D) when conducting routine enforcement actions such as a detention, traffic stop, search, an arrest or execution of a search warrant.

**H. Handcuffing**

When communicating with or relaying information to a Deaf or hard of hearing individual, such as during an interview or interrogation, and a member deems it necessary to handcuff the individual, members will, safety permitting, reasonably modify standard operating procedures and handcuff the individual with their hands in front to enable the individual to communicate using sign language or writing.

**I. Consent**

A member may not obtain consent to enter or to search from a Deaf or hard of hearing individual until the notice and determination procedures in Section III (D) have been followed, and a qualified interpreter, if required, has been provided. For consent searches of private residences, members are required to obtain explicit consent in writing or verbally. Written consent shall be documented using the Permission to Search Form (SFPD 468). Verbal consent shall be recorded using the Body Worn Camera and/or digital recorder. Written or verbal consent shall be obtained prior to conducting a consent search of a suspect's residence.

**J. Reportees, Victims, Witnesses or Complainants**

- 1) Members shall follow the notice and determination procedures in Section III (D) to interview a reportee, victim, witness or complainant who is Deaf or hard of hearing. If a qualified interpreter is necessary to communicate effectively, the member shall request a qualified interpreter within an hour of contacting the reportee, victim, witness or complainant, unless exigent circumstances exist. The best method for effective communication is to have the qualified



interpreter, the interviewer/member and the deaf or hard of hearing individual in the same room.

- 2) If a qualified interpreter is not available to provide in-person interpretation services within two hours of the member's request, members may use video interpreters through the member's department-issued phone or other computer device. For lengthier interviews or those concerning felony conduct, officers shall, when feasible, access a video interpreter on a large screen device to better facilitate viewing of the interpreter. Members shall document the reason an in-person interpreter was not available and the method the officer used to communicate as required by Section III (A).
- 3) Members shall record the interview in accordance with Department General Order 10.11 (Body Worn Cameras).

**K. Suspects**

- 1) Members shall follow the notice and determination procedures in Section III (D) to interview or interrogate a suspect who is Deaf or hard of hearing.
- 2) Where a member seeks to interrogate a suspect, who is Deaf or hard of hearing, the notice and determination procedures outlined above must include notice to the suspect that the SFPD shall defer the interrogation pending the arrival of in-person qualified interpreter.
- 3) If it is determined, through the process outlined above, that a qualified interpreter is necessary to communicate effectively, members shall not interrogate, and shall not Mirandize, the suspect until a qualified interpreter has arrived. When the qualified interpreter arrives, the Miranda warning shall be administered through the qualified interpreter.
- 4) Members shall record the interview, including the Miranda warning.

**L. Detentions, Pat Searches, Arrests, Charging and Booking Information**

- 1) Detentions - In circumstances where a member, without communicating with the individual, has a reasonable suspicion that justifies a detention, the member may conduct a detention of a Deaf or hard of hearing individual, without first following the notice and determination procedures of Section III (D).
  - a. If, following the stop, the member wishes to question the suspect who is Deaf or hard of hearing, the member must provide the notice and determination procedures of Section III (D) immediately.
  - b. If, following the detention, the individual is free to go without any further communication, the notice and determination procedures of Section III (D) need not be followed, unless the Deaf or hard of hearing individual indicates a desire to communicate further. In that instance, members shall

follow the notice and determination procedures of Section III (D), use a video ASL interpreter, if the individual communicates through an ASL interpreter. The member shall also inform the detainee that the detainee is free to go.

- 2) Pat searches - In circumstances where a member, without communicating with the individual, has a reasonable suspicion that the individual is armed and dangerous, the member may conduct a pat search of a Deaf or hard of hearing individual without first following the notice and determination procedures in Section III (D).
  - a. If following the pat search, the member wishes to question the suspect who is Deaf or hard of hearing, the member must provide the notice and determination procedures of Section III (D) immediately.
  - b. If, following the pat search, the individual is free to go without any further communication, the notice and determination procedures of Section III (D) need not be followed, unless the Deaf or hard of hearing individual indicates a desire to communicate further. In that instance, members shall follow the notice and determination procedures of Section III (D) and use a video ASL interpreter, if necessary.
- 3) Stations - Upon taking an individual who is Deaf or hard of hearing as a detainee or arrestee to a station, the member shall follow the notice and determination procedures of Section III (D) immediately.
  - a. Information - Information generally provided to detainees or arrestees at the stations shall be communicated effectively and promptly to detainees or arrestees who are Deaf or hard of hearing. This information includes, but is not limited to the notice of the right to counsel, the nature of the charges, the right to a telephone call, the procedure for posting bond or obtaining release, or any other information that is generally provided to detainees or arrestees in similar circumstances. This information shall be provided to the detainee or arrestee who is deaf or hard of hearing immediately. In circumstances requiring an in-person interpreter, such services shall be requested no later than one hour after arrest or detention unless exigent circumstances exist. If an in-person interpreter is not available within two hours, officers shall use alternate communication tools as described in Section III (C) and document the reason the method was not available and the method the officer used to communicate as required by Section III (A).
  - b. Phone Access - In instances where hearing individuals would be permitted a telephone call at a district station, including the right pursuant to Penal Code section 851.5 to make at least three completed phone calls no later

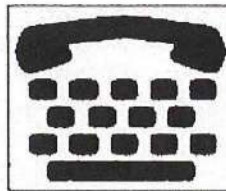


than three hours after arrest, members shall provide individuals who are Deaf or hard of hearing with their choice of an operable TTY or Videophone to enable them to place a telephone call with the same degree of independence and privacy that would be permitted to similarly situated individuals absent any hearing disability.

- c. Holding Cells - Pursuant to San Francisco Police Department's Booking and Detention Manual, Deaf or hard of hearing individuals shall not be detained in district station holding cells.

#### **M. Signage**

At all district stations and any other SFPD building open to the public, SFPD will post conspicuous signs in public areas advising individuals who are Deaf or hard of hearing the availability of auxiliary aids and services, including qualified interpreters, free of charge. The posted signs will include the International Symbol for Hearing Loss, the International Symbol for TTYs, and a sign to indicate the availability of sign language interpreters:



#### **N. Documentation**

- 1) Whenever a member prepares an incident report involving a Deaf or hard of hearing individual, the member shall include in the incident report the manner in which the member and the Deaf or hard of hearing individual communicated and if an interpreter was used, the name of the interpreter, the manner in which the interpreter provided assistance (i.e. American Sign Language), and whether the interpreter was in person or off-site through video conferencing.
- 2) In a yearly report to the Police Commission, the Department shall provide data concerning 1) the number of calls for service, contacts and investigations involving Deaf and hard of hearing individuals where an incident report was required; 2) the manner in which services were provided; 3) any complaints involving interactions between SFPD officers and Deaf or hard of hearing individuals; and the Department's resolution to these complaints. This data can be reported in the same yearly report that SFPD is required to provide concerning LEP data and services pursuant to Department General Order 5.20 Section (III)(O)(3).

**O. Liaison Officers**

The Chief, through the Commander of the Community Engagement Division and the Language Liaison officer, shall appoint at least two officers at each district station and SFPD Units and Divisions with public contact, to be responsible for providing assistance to Deaf and hard of hearing individuals in their interactions with police officers, monitoring compliance with this General Order, coordinating training on deaf and hard of hearing issues at the Academy and at the station, meeting with the Department of Police Accountability, Mayor's Office of Disability and community groups to discuss and resolve complaints arising from police interactions with Deaf and hard of hearing individuals, assisting officers to resolve communication needs involving Deaf and hard of hearing individuals, and ensuring that information about SFPD's services for Deaf and hard of hearing individuals are available at the stations, on the Department's website, and at community events.

**P. Language Liaison Officer's duties to Include Services for the Deaf and Hard of Hearing Individuals**

The Department shall designate the responsibilities of the Language Access Liaison officer established through Department General Order 5.20 to include addressing services, training, data collection, reporting, and outreach concerning police interactions with Deaf and hard of hearing individuals.

**Q. Training**

The Language Liaison officer in partnership with the designated officers described in Section III (O) shall develop training to implement this Department General Order, including the ADA requirements regarding effective communication with individuals who are Deaf or hard of hearing. The training will incorporate scenarios and be sufficiently practice-oriented to enable members to effectively implement all provisions of this DGO, including how to identify and provide the appropriate communication tools and work with an on-site and off-site interpreters. This training shall be provided to all SFPD members at least every two years. Initial training shall be provided within 120 days of the Police Commission's adoption of this General Order.



ATTACHMENT A  
(Front and Back of Communication Card for Officers)

**Hello, I am...**

**DEAF**      **Hard Of Hearing**

**The best way to communicate with me is...**

 Interpreter	 Captioning	 Writing
 Lip-Reading	 I Can't Lip-Read	 Assistive Listening Device

**Point to what you need...**

 Directions	 Car Tow	 Hospital
---------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------

**- HELP -**

 Gas Station	 Flat Tire Help	 Medication
 Other		




**Can I See Your...**

 Driver's License	 Registration	 Insurance
--------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------

**- Do Not Have -**

**Wait Here Please...**

**Reason I Stopped You:**

 SPEED LIMIT 65	 STOP	
 RECKLESS		 BROKEN
		

**- Other -**

**You Are Being:**

<b>Warned</b>	<b>Ticketed</b>	<b>Arrested</b>
<b>Free To Go</b>		



**ATTACHMENT B**

***SUGGESTIONS FOR COMMUNICATING EFFECTIVELY WITH PEOPLE  
WHO ARE DEAF OR HARD OF HEARING***

- Before speaking, get the individual's attention with a wave of the hand or a gentle tap on the shoulder.
- Identify yourself.
- Attempt to speak in a well-lit area.
- Face the individual and do not turn away while speaking.
- Do not cover your mouth or chew gum.
- If an individual is wearing a hearing aid, do not assume the individual can hear you.
- Minimize background noise and other distractions whenever possible.
- When you are communicating orally, speak slowly and distinctly. Use gestures and facial expressions to reinforce what you are saying.
- Use visual aids when possible, such as pointing to printed information on a citation or other document.
- Remember that only about one third of spoken words can be understood by lip-reading.
- When communicating by writing notes, keep in mind that some individuals who use sign language may lack good English reading and writing skills.
- If someone with a hearing disability cannot understand you, write a note to ask what communication aid or service is needed.
- If a sign language interpreter is requested, be sure to ask which language the individual uses. American Sign Language (ASL) and Signed English are the most common.
- When you are interviewing a witness or a suspect or engaging in any complex conversation with an individual whose primary language is sign language, a qualified interpreter is usually needed to ensure effective communication.
- Talk at your normal rate, or slightly slower if you normally speak very fast.
- Only one individual should speak at a time.

***WORKING WITH A SIGN INTERPRETER***

- Qualified sign language interpreters are professionals bound by a Code of Ethics. Their role is to ensure that all information is understood and accurate.
- Speak directly to the Deaf or hard of hearing individual, NOT the interpreter. Avoid saying to the interpreter, "tell him" or "ask her."
- Speak at a normal pace and volume.
- Do not speak privately to the interpreter in the presence of the Deaf individual.
- Interpreters will interpret everything you say. Do not have side conversations or whispers.
- An interpreter may interject for clarification or corrections.
- Provide the interpreter with any written materials that will be used prior to the appointment.





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Interactions with Deaf and Hard of Hearing Individuals

XX.XX.01  
PURPOSE

The San Francisco Police Department (SFPD) is dedicated to providing the highest level of service to all community members, including those who are deaf or hard of hearing. People who are deaf or hard of hearing are entitled to the same level of services that are provided to hearing individuals. It is estimated that up to nine percent of the population has some degree of hearing or hearing loss, and this percentage will increase as the population ages. Deaf or hard of hearing individuals may be criminal suspects, arrestees, crime victims, persons in need of assistance, or witnesses. Under federal and state law, including SFPD is required by Title II of the Americans with Disabilities Act of 1990 (ADA), and the Section 504 of the Rehabilitation Act of 1973, and California Government Code section 11135, provide that SFPD shall to communicate effectively with people who are dDeaf or hard of hearing and ma-Deaf or hard of hearing individuals may be criminal suspects, arrestees, crime victims, persons in need of assistance, or witnesses. Under the ADA state and federal law, people who are dDeaf or hard of hearing may not be subject themed to unlawful discrimination, or excluded, segregated or denied deny them SFPD services -or be subject to discrimination.

XX.XX.02  
POLICY

It is SFPD's policy that members, in the course of their official duties when encountering a Deaf or hard of hearing individual, shall provide free of charge a qualified interpreter or appropriate auxiliary aids to-as needed to ensure effective communication. For individuals who are Deaf or hard of hearing and use-prefer to use American Sign Language (ASL), officers shall use their department-issued cell phone or other electronic device to obtain immediately an ASL video interpreter or make available a live SFPD interpreter.

In addition-eConsistent with DGO 5.17, Bias-Free Policing, Section II.B., SFPD remains committed to public service that is not only impartial and, but does not foster free from a perception of bias.

XX.XX.03  
DEFINITIONS

- A. Deaf or Hard of Hearing Individual** – An individual who relies on visual system for communication instead of processing linguistic information through hearing, with or without amplification; also includes individuals who may have experienced loss of hearing because of age, illness or trauma.
- A.B. Deaf-Blind Individual** – A person who is both deaf and has significant vision loss. Such individuals may best communicate by -Tactile-of Tactile or Low Light

**Commented [Comment1]:** General comment: Somewhere in this policy, SFPD should include a brief mention and cross-reference to policies and ordinances governing 911 services and dispatcher communications with deaf and hard of hearing persons.

**Commented [Comment2]:** SFPD may wish to check in with local community stakeholders on the subject, but generally you see "deaf" in lower-case when referring to a person with hearing loss, but "Deaf" when referring to someone who is a member of the Deaf community. See, e.g., National Center on Disability and Journalism Style Guide ([link](#))

Also it is preferable to not characterize the individual by their disability, rather to state that the person is an "individual who is deaf or hard of hearing."

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[Interpreting \(see Definition L below\).](#)

**C. American Sign Language (ASL)** – American Sign Language, the primary language of many North Americans who are Deaf, is a complete, complex language with its own grammar and syntax that uses signs made by moving the hands combined with facial expressions and postures of the body.

**D. Signed English** – A form of communication employing the signs of American Sign Language but using English grammar in place of ASL syntax and using invented forms for English grammatical elements, such as of, to, the, and -ing, where no ASL sign exists.

**E. Lip Reading** – Lip reading takes into account inferences drawn only from the speaker's lips.

**B.F. Speech Reading** – Speech reading takes into account all other non-verbal communications that go along with speech (gestures, facial expressions and so forth).

**C.G. Auxiliary Aids** – Tools to help members communicate with Deaf or hard of hearing individuals. These aids include assistive listening devices, qualified interpreter services, written communications and materials, pads, pens, gestures, telecommunication devices for the Deaf (TDDs), videophones, and video remote interpreting devices (i.e., computers or tablets).

**D.H. Qualified Interpreter** – an individual who has been certified by the National Registry of Interpreters for the Deaf, and is able to interpret and translate effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary (including basic law enforcement terminology) given the Deaf or hard of hearing individual's

**Commented [Comment3]:** If SFPD is defining ASL we recommend that you define Signed English based on use of both terms in the policy. There may be a better definition and cite, but this one is from dictionary.com that works:



language skills and education. Because a qualified interpreter must be able to interpret impartially, a family member, child, or friend of the individual who is deaf may not be qualified to render the necessary interpretation because of factors such as professional, emotional, or personal involvement, or considerations of confidentiality. California Evidence Code section 754 mandates qualified interpreters for individuals who are Deaf or hard of hearing in civil and criminal cases. Evidence Code section 754 (c) states that a written or oral statement made by a deaf individual cannot be used against that individual unless the statement was made or elicited through a qualified interpreter.

**Commented [Comment4]:** As a suggestion, Seattle Police Department requires that the qualified interpreter have no responsibilities other than interpreting. From the [Seattle PD policy](#) -relevant to the standard or impartiality.

- 1) For an individual who is Deaf or hard of hearing and uses American Sign Language for communication, the term "qualified interpreter" means a certified interpreter skilled in communicating in American Sign Language or Signed English.
- 2) The term "qualified interpreter" encompasses relay interpreter teams, when such are necessary for effective communication.

**E.I. Certified Deaf Interpreter (CDI)** – CDIs are Deaf or hard of hearing individuals who are certified interpreters. They are particularly useful when the communication mode used by the Deaf consumer is unique, such as when they have minimal or limited communication skills or use signs that a hearing interpreter may not be familiar with (non-standard signs, "home" signs, a foreign sign language, regional signs, etc.).

**F.J. Relay Interpreter Teams** – Teams used to communicate with Deaf individuals who have very minimal language skills, even in ASL. The teams consist of a hearing "English to ASL" interpreter ("hearing interpreter") and a Certified Deaf Interpreter (CDI). The hearing interpreter interprets the spoken word to the CDI, who uses gestures, pantomime, drama and ASL to convey that information to the Deaf individual. The CDI and hearing interpreter may work together to understand a Deaf individual's message, confer with each other to arrive at their best interpretation, and then convey that interpretation to the hearing party.

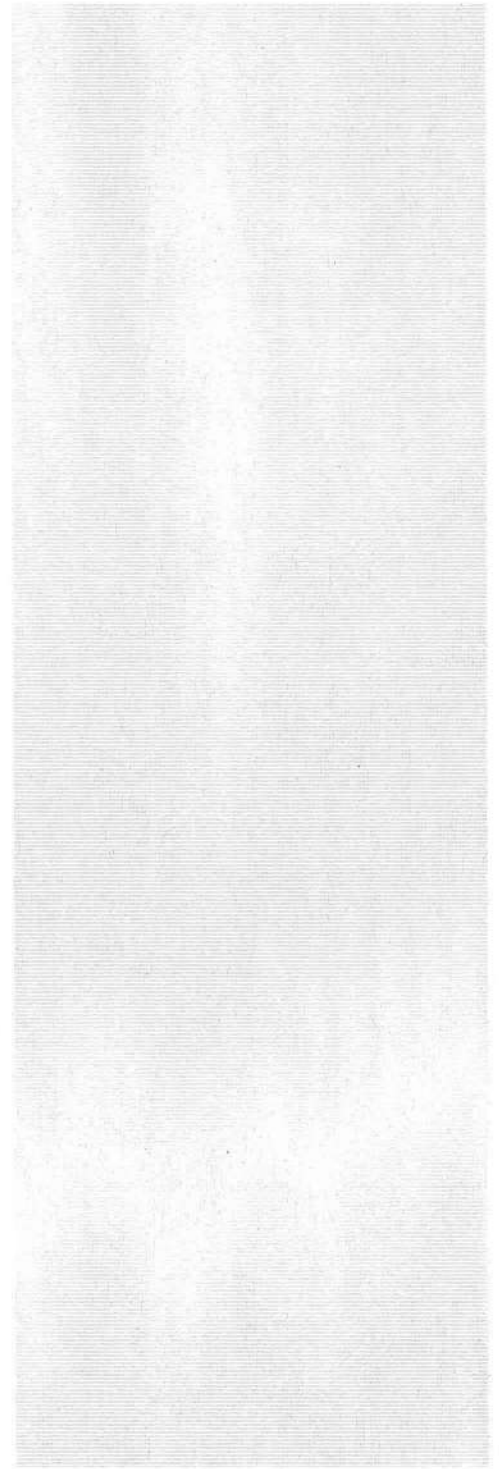
**G.K. Video Remote Interpreting (VRI)** – When in-person, on-site interpreter is not available, video remote interpreting is an interim solution that uses video conference technology (i.e. a computer with a webcam and internet connection or a member's department-issued cell phone with video conferencing capacity) to access an ASL interpreter who can facilitate communication between a Deaf or hard-of-hearing individual and a hearing individual who are in the same location. VRIs are located at each district station. VRI is an interpreting service used by members to communicate with Deaf and hard of hearing individuals who use American Sign Language for short, same room conversations.

**H.L. Video Relay Service (VRS)** – Telecommunications relay service that enables individuals with hearing disabilities who use American Sign Language (ASL) to



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communicate with hearing people over Videophones in real-time, via a sign language interpreter. VRS allows Deaf and hard of hearing individuals to have access to the telephone system. VRS is not an interpreting service for members to communicate with Deaf and hard of hearing individuals.



**I.M. Videophone** – a device with a video camera that can perform bi-directional video and audio transmissions between people in real-time.

**N. Exigent Emergency Situations**~~Circumstances~~ – ~~e~~Circumstances that would cause a reasonable person to believe that there is a ~~n~~ emergency situation requiring swift action to prevent imminent danger to the safety of an individual or serious damage to property, or to forestall the imminent escape of a suspect, or destruction of evidence. Exigent circumstances are exceptions to the general requirement of a warrant under the Fourth Amendment when conducting a search or seizure.

**O. Tactile and Low Light Interpreting** – communication with a deaf or hard of hearing individual who is also vision impaired. Tactile interpreting involves the individual feeling the interpreter's hands while the interpreter signs or fingerspells. Low light interpreting may be used with individuals who can see signs, but only at very close range with added illumination, such as lighting the interpreters face and hands~~circumstances that require deviation from procedures, such as a threat to life, safety, or property, a fleeing suspect, or the potential loss or destruction of evidence.~~

~~**J. Tactile and Low Light Interpreting** – communication with a deaf or hard of hearing individual who is also vision impaired. Tactile interpreting involves the individual feeling the interpreter's hands while the interpreter signs or fingerspells. Low light interpreting may be used with individuals who can see signs, but only at very close range with added illumination, such as lighting the interpreters face and hands.~~

XX.XX.04  
PROCEDURES

**A. Equivalent Level of Service:** People who are Deaf or hard of hearing are entitled to the same level of services that are provided to hearing individuals.

**B. Effective Communication:** When encountering a Deaf or hard of hearing individual, members shall provide free of charge any method, including a qualified interpreter or appropriate auxiliary aids, preferred by the Deaf or hard of hearing individual to ensure effective communication.

**1) Members shall use the individual's preferred method unless:**

- a. The individual's preferred method is not available;**
- b. The individual's preferred method would cause a significant~~n~~ undue burden, given the circumstances, length, complexity, and importance of the communication, as well as the communication skills of the individual who is Deaf or hard of hearing, and another equally effective way of communicating is available;**



- c. An emergency situation does not permit the use of the use of the individual's preferred method, as described in Section IV(D); or
- d. The individual's preferred method is for family members, neighbors, friends, volunteers, bystanders or children to provide sign language interpretation, as described in Section IV(E).
- 2) The more lengthy, complex, and important the communication, the more likely that an in-person qualified interpreter will be required to communicate effectively with an individual whose preferred method of communication is sign language.
- 3) If the individual's preferred method is not available, the officer shall document the reason the preferred method was not available and identify the method the officer used to communicate with the Deaf or hard of hearing individual.

Commented [Comment5]: Where should the officer document this? Can this be clarified?

Officers must defer to the individual's expressed choices, unless there is another equally effective way of communicating, given the circumstances, length, complexity, and importance of the communication, as well as the communication skills of the individual who is Deaf or hard of hearing.

A. Same Equivalent Level of Service: People who are Deaf or hard of hearing are entitled to the same level of services that are provided to hearing individuals.

B.C. Communication Tools: To effectively communicate with Deaf and hard of hearing individuals, members shall use any method most effective as preferred by the Deaf or hard of hearing individual or, if the preferred method is unavailable, one or more combination of the appropriate tools below:

Commented [Comment6]: Is this list meant to be exhaustive of permissible communications methods or a list of examples? SFPD may want to clarify.

- 1) Qualified interpreters (in person and through video conferencing)
- 1) Written communication (e.g., pen and paper)
- Qualified interpreters (in person and through video conferencing)
- 2)
- 3) TTY
- 4) Videophones
- 5) Text messaging
- 6) Any method most effective in light of exigent circumstances an emergency situation
- 6)

Commented [Comment7]: Does SFPD use RTT? If so, SFPD should add RTT to the list and possibly the definitions section.

#### D. Emergency Situations

- 1) When there is an emergency situation involving an immediate threat to the

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safety of the public or the officer and there is insufficient time to make available appropriate auxiliary aids or services, members may use whatever auxiliary aids or services most effective under the circumstances to communicate with individuals who are Deaf or hard of hearing, consistent with an appropriate law enforcement response to the threat. This may include, for example, exchanging written notes or using the services of an individual who knows sign language but who is not a qualified interpreter, during the emergency situation.

- 2) When the emergency situation has subsided, the member will provide the appropriate auxiliary aids and services consistent with this policy and will confirm or supplement the initial communication as soon as practical using the appropriate auxiliary aids and services.

**E. Restrictions: Family members, friends, and other unqualified third parties shall not be interpreters absent emergency situations.**

- 1) Officers shall not use family members, neighbors, friends, volunteers, bystanders or children to provide sign language interpretation unless an emergency situation exists.
- 2) Family members and other third parties may not have the skill to interpret effectively. They may lack the vocabulary, impartiality or maturity to interpret effectively. Individuals with only a rudimentary familiarity with sign language or finger spelling are not a "qualified sign language interpreter." Individuals



fluent in sign language but who do not possess the ability to process spoken communication into the proper signs or to observe someone signing and translate their signed or finger-spelled communication into spoken words are not qualified sign language interpreters.

3) If an emergency situation requires an officer to use family members, neighbors, friends, volunteers, bystanders or children for initial interpretation, the officer shall seek the assistance of a qualified sign language interpreter to confirm or supplement the initial interpretation as soon as practical.

7) A family member may interpret where an interpreter is not required. For example, a passenger may interpret when a Deaf individual asks for traffic directions. Any method most effective as preferred by the Deaf or hard of hearing individual.

**E.F. Notice of right to effective communication and determination of communication services:** Members, who in the course of their official duties encounter an individual who is Deaf or hard of hearing shall immediately take the following steps:

1) Using the Communication Card (See Attachment A, SFPD Form XXX)  
(electronically on the officer's department-issued cell phone or in hard copy

**Commented [Comment8]:** Reference two-hour rule from Section J (2).

**Commented [Comment9]:** Perhaps include a few more examples that would be common and acceptable. What if the individual prefers the family member and will not communicate with an interpreter.

**Commented [Comment10]:** Does an officer have any duty to notify dispatch or a supervisor. That may be good practice in certain contexts, such as when detaining an individual, questioning a suspect, or interviewing a victim so that SFPD knows what the officer is doing for purposes of providing any necessary support, supervision, and clearance from other call duties to handle the communication.

For example the Charlotte-Mecklenburg PD policy (CMPD manual at pdf pages 526-27) contains this provision:

"If the officer believes that a person he or she has arrested is deaf, the officer shall notify Communications that a qualified and licensed interpreter is needed. The type of aid or service requested by the person with the hearing disability must be given primary consideration"

**Commented [Comment11]:** If there are any dispatch protocols, they should be cross-referenced here. To the extent needed, those protocols should also be updated.

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form), notify the individual that a qualified ASL interpreter or other auxiliary aids are available immediately free of charge.

- 2) Using the Communication Card, determine whether the individual uses sign language or other auxiliary aids to communicate.

~~3) Officers must defer to the individual's expressed choices, unless there is another equally effective way of communicating, given the circumstances, length, complexity, and importance of the communication, as well as the communication skills of the individual who is Deaf or hard of hearing.~~

- 4) If the individual uses sign language, determine whether the individual uses American Sign Language.

5) If the individual uses American Sign Language (ASL), the member shall use their department-issued cell phone or other electronic device to obtain an ASL video interpreter immediately, absent ~~exigent circumstances~~ an emergency situation (see Section III-IV(ED)), if preferred by the Deaf or hard of hearing individual.

- 6) If the individual requests the use of written communication, the member shall provide a pad and pen/pencil or other method for written communication and shall communicate with the individual in writing. Written communication shall not be a substitute where the individual expressed a preference for a sign language interpreter.

~~The more lengthy, complex, and important the communication, the more likely that an in-person qualified interpreter will be required to communicate effectively with an individual whose primary means of communication is sign language.~~

- 7) California Evidence Code section 754 mandates qualified interpreters for individuals who are Deaf or hard of hearing in civil and criminal cases. Evidence Code section 754 (k) states that a written or oral statement made by a deaf individual cannot be used against that individual unless the statement was made or elicited through a qualified interpreter.

8) Members shall review and use the suggestions guidelines for effective communication. (See Attachment B).

- 9) In conducting any criminal, traffic, or other investigation, no member shall rely solely on statements of others, without communicating effectively with a Deaf and hard of hearing individual, if the member would have communicated with a similarly situated individual who was not Deaf or hard of hearing.

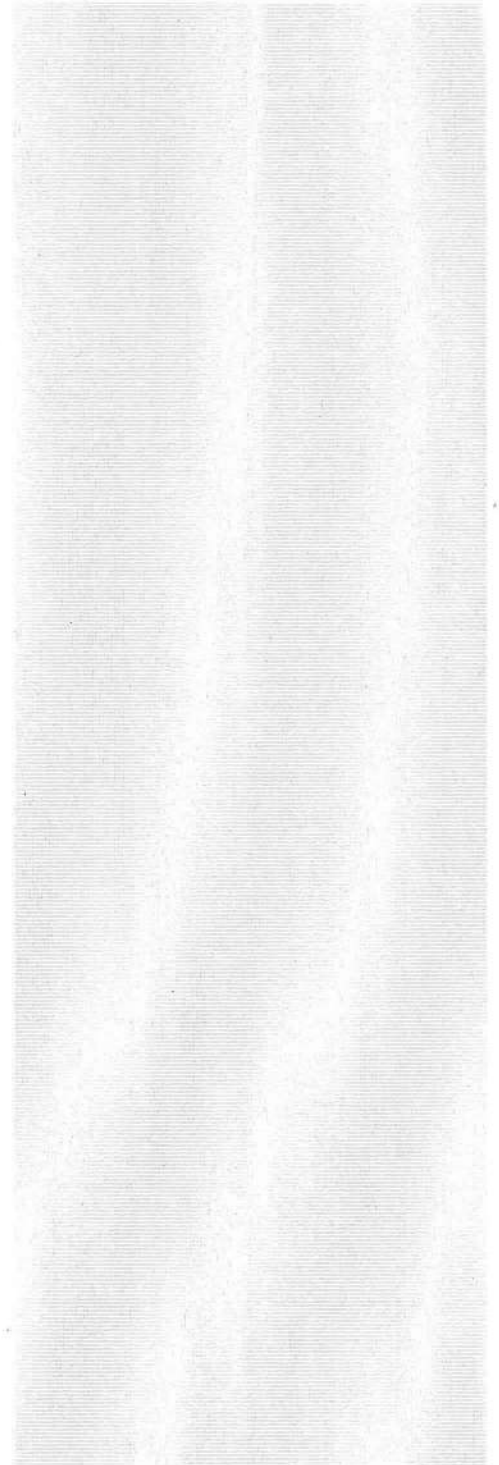
10) Throughout the interaction, members will reassess communication effectiveness and will ask the Deaf or hard of hearing individual on a continuing basis what measures are required for effective communication. For

**Commented [Comment12]:**  
What are supervisors' duties when learning of a field need for communicative assistance?



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example, while a video ASL interpreter accessed through a member's department-issued cell phone may be an effective way to communicate with a



Deaf driver while checking the driver's license and explaining the reason for stopping the driver, further questioning at a station may require an in-person interpreter. The member must reassess as the situation changes whether the individual requires a different auxiliary aid or service to ensure that effective communication is provided.

~~4)10~~ Lip / Speech Reading

- a. Do not assume that a Deaf or hard of hearing individual reads lips. Even when a Deaf individual reads lips, only 25% of spoken language is visible on the lips.
- b. ~~Deaf~~ individuals ~~may lose their "lip- or speech reading" skills when may diminish for a variety of reasons, including under stress stress and trauma, sleep deprivation, or the influence of alcohol or medication.~~

11) Video Relay Service (VRS/VRS) enables Deaf and hard of hearing individuals access to the telephone system. The Federal Communication Commission prohibits VRS use as a substitute for in-person interpretation or Video Remote Interpreting (VRI). Members shall not request a Deaf or hard of hearing person to use VRS on their phone or use VRS as an interpreting service.

12) Except in circumstances described in this Department General Order, members should follow the notice and determination procedures described above in all circumstances involving an individual who is Deaf or hard of hearing, including when:

- a. interviewing a reportee, victim, witness or complainant;
- b. interviewing or interrogating a criminal suspect;
- c. conducting routine enforcement actions such as a detention, traffic stop, search, an arrest or execution of a search warrant;
- d. questioning a suspect following a detention or a pat search; and
- e. taking a detainee or arrestee to a station.

**Commented [Comment13]:** Added this section in and removed the repeated directives to comply with the notice and determination procedures below).

~~D. Exigent Circumstances~~

- ~~1) When there is an exigency involving an immediate threat to the safety of the public or the officer and there is insufficient time to make available appropriate auxiliary aids or services, members may use whatever auxiliary aids or services most effective under the circumstances to communicate with individuals who are Deaf or hard of hearing, consistent with an appropriate law enforcement response to the threat. This may include, for example, exchanging written notes or using the services of an individual who knows sign language but who is not a qualified interpreter, during the exigency.~~

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- 2) ~~When the exigency has subsided, the member will provide the appropriate auxiliary aids and services consistent with this policy and will confirm or supplement the initial communication as soon as practical using the appropriate auxiliary aids and services.~~

**~~E. Restrictions: Family members, friends, and other unqualified third parties shall not be interpreters absent exigent circumstances.~~**

- 1) ~~Officers shall not use family members, neighbors, friends, volunteers, bystanders or children to provide sign language interpretation unless exigent circumstances exist.~~
- 2) ~~Family members and other third parties may not have the skill to interpret effectively. They may lack the vocabulary, impartiality or maturity to interpret effectively. Individuals with only a rudimentary familiarity with sign language or finger spelling are not a "qualified sign language interpreter." Individuals~~



fluent in sign language but who do not possess the ability to process spoken communication into the proper signs or to observe someone signing and translate their signed or finger-spelled communication into spoken words are not qualified sign language interpreters.

- 3) ~~If an exigent circumstance requires an officer to use family members, neighbors, friends, volunteers, bystanders or children for initial interpretation, the officer shall seek the assistance of a qualified sign language interpreter to confirm or supplement the initial interpretation as soon as practical.~~
- 4) ~~A family member may interpret where an interpreter is not required. For example, a passenger may interpret when a Deaf individual asks for traffic directions.~~

#### F. Routine Enforcement Actions

~~Unless absent exigent circumstances, members shall follow the notice and determination procedures set forth in Section III (D) when conducting routine enforcement actions such as a detention, traffic stop, search, an arrest or execution of a search warrant.~~

#### G. Handcuffing

When communicating with or relaying information to a Deaf or hard of hearing individual, such as during an interview or interrogation, and a member deems it necessary to handcuff the individual, members will, safety permitting, reasonably modify standard operating procedures and handcuff the individual with their hands in front to enable the individual to communicate using sign language or writing.

#### H. Consent

A member may not obtain consent to enter or to search from a Deaf or hard of hearing individual until the notice and determination procedures in Section III ~~IV(D)~~ have been followed, and a qualified interpreter, if required, has been provided. For consent searches of private residences, members are required to obtain explicit consent in writing or verbally. Written consent shall be documented using the Permission to Search Form (SFPD 468). Verbal consent shall be recorded using the Body Worn Camera and/or digital recorder. Written or verbal consent shall be obtained prior to conducting a consent search of a suspect's residence.

#### I. Reportees, Victims, Witnesses or Complainants

- 1) ~~Members shall follow the notice and determination procedures in Section III~~
- 2) ~~(D) to interview a reportee, victim, witness or complainant who is Deaf or hard of hearing.~~ If a qualified interpreter is necessary to communicate effectively, the member shall request a qualified interpreter within an hour of contacting the reportee, victim, witness or complainant, unless an emergency situation exigent circumstances exists. The best method for effective communication is to have the qualified

**Commented [Comment14]:** Reference two-hour rule from Section J (2).

**Commented [Comment15]:** Included this in the Notice and Determination Procedures section under (12)

**Commented [Comment16]:** SFPD could expand on this section. One example is from (Metro PD /D.C.):

1. Members will handcuff and transport Deaf and hard of hearing arrestees as they would other individuals
2. Members must recognize that rear handcuffing will temporarily limit the individual's to communicate and thus must be especially observant.
3. Members will, safety permitting, provide deaf or hard of hearing arrestees use of their hands to communicate in interview situations.



interpreter, the interviewer/member and the deaf or hard of hearing individual in the same room.

3) If a qualified interpreter is not available to provide in-person interpretation services within two hours of the member's request, members may use video interpreters through the member's department-issued phone or other computer device. For lengthier interviews or those concerning felony conduct, officers shall, when feasible, access a video interpreter on a large screen device to better facilitate viewing of the interpreter. Members shall document the reason an in-person interpreter was not available and the method the officer used to communicate as required by Section III-IV(A)(3).

4) Members shall record the interview in accordance with Department General Order 10.11 (Body Worn Cameras).

#### J. Suspects of Crime

1) ~~Members shall follow the notice and determination procedures in Section III (D) to interview or interrogate a criminal suspect who is Deaf or hard of hearing.~~

1) If it is determined, through the notice and determination procedures outlined above, that a qualified interpreter is necessary to communicate effectively with a criminal suspect who is Deaf or hard of hearing and a member wishes to interrogate the criminal suspect, members must not interrogate the suspect or administer Miranda warnings to the suspect until a qualified interpreter has arrived. Further, members must provide notice to the suspect that the SFPD shall defer the interrogation pending the arrival of in-person qualified interpreter.

2) When the qualified interpreter arrives, the Miranda warning shall be administered to the criminal suspect through the qualified interpreter.

~~Where a member seeks to interrogate a criminal suspect, who is Deaf or hard of hearing, the notice and determination procedures outlined above must include notice to the suspect that the SFPD shall defer the interrogation pending the arrival of in-person qualified interpreter.~~

2) ~~If it is determined, through the process outlined above, that a qualified interpreter is necessary to communicate effectively, members shall not interrogate, and shall not administer Miranda warnings, to the suspect until a qualified interpreter has arrived. When the qualified interpreter arrives, the Miranda warning shall be administered to the criminal suspect through the qualified interpreter.~~

3) Members shall record the interview, including the issuance of the Miranda warning.

#### K. Detentions, Pat Searches, Arrests, Charging and Booking Information

1) Detentions and Pat Searches- In circumstances where a member, without communicating with the deaf or hard of hearing individual, has a reasonable suspicion that justifies a detention or a pat search, consistent with DGO 5.03,

**Commented [Comment17]:** Included this in the Notice and Determination Procedures section under (12)

**Commented [Comment18]:** There is a one-hour time-frame to request an-person qualified interpreter when talking to a reportee, victim, witness or complainant. SFPD should consider a similar time-frame for suspects.

**Commented [Comment19]:** Since the detention and pat search procedures are essentially identical (except with the additional requirement that the member inform a detainee that the detainee is free to go), we have recommended consolidating this into one paragraph.

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the member may conduct a detention or a pat search, respectively, of a ~~Deaf or hard of hearing that~~ individual, without first following the notice and determination procedures of Section IV(F)~~Section III (D)~~.

~~a. If, following the stop/detention, the member wishes to question a the suspect who is Deaf or hard of hearing, the member must provide the notice and determination procedures of Section III (D) immediately.~~

~~b. a.~~ If, following the detention or pat search, the individual is free to go without any further communication, the notice and determination procedures of Section IV(F) ~~Section III (D)~~ need not be followed, unless the Deaf or hard of hearing individual indicates a desire to communicate further. In that instance, members shall

**Commented [Comment20]:** We recommend that SFPD reference their detention DGO (5.03).

**Commented [Comment21]:** Included this in the Notice and Determination Procedures section under (12)



follow the notice and determination procedures of Section IV(F)Section III (D), use a video ASL interpreter, if the individual communicates through an ASL interpreter. The member shall also inform an individual who was detained that the individual is free to gothe detainee that the detainee is free to go.

2) ~~Pat searches - In circumstances where a member, without communicating with the deaf or hard of hearing individual, has a reasonable suspicion that the individual is armed and dangerous, the member may conduct a pat search of thea Deaf or hard of hearing individual without first following the notice and determination procedures in Section III (D).~~

a. ~~If following the pat search, the member wishes to question the suspect who is Deaf or hard of hearing, the member must provide the notice and determination procedures of Section III (D) immediately.~~

b. ~~If, following the pat search, the deaf or hard of hearing individual is free to go without any further communication, the notice and determination procedures of Section III (D) need not be followed, unless the Deaf or hard of hearing individual indicates a desire to communicate further. In that instance, members shall follow the notice and determination procedures of Section III (D) and use a video ASL interpreter, if necessary.~~

3) ~~2) Stations - Upon taking an individual who is Deaf or hard of hearing as a detainee or arrestee to a station, the member shall follow the notice and determination procedures of Section III (D) immediately.~~

a. Information - Information generally provided to detainees or arrestees at the stations shall be communicated effectively and promptly to detainees or arrestees who are Deaf or hard of hearing. This information includes, but is not limited to:

- ~~the notice of the right to counsel,~~
- the nature of the charges,
- the right to a telephone call,
- the procedure for posting bond or obtaining release, or
- any other information that is generally provided to detainees or arrestees in similar circumstances.

This information shall be provided to the detainee or arrestee who is deaf or hard of hearing immediately.

Members should also seek information from the arrestees or detainees concerning any medical issues or medication needs.

**Commented [Comment22]:** We recommend that this language mirror the language of pat search in the detention DGO (5.03) when finalized.



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In circumstances requiring an in-person interpreter, such services shall be requested no later than one hour after arrest or detention unless ~~exigent~~ emergency circumstances exist. If an in-person interpreter is not available within two hours, officers shall use alternate communication tools as described in Section ~~III-IV(CE)~~ and document the reason the method was not available and the method the officer used to communicate as required by Section ~~III-IV(BA)(3)~~.

a-h Phone Access - In instances where hearing individuals would be permitted a telephone call at a district station, including the right pursuant to Penal Code section 851.5 to make at least three completed phone calls no later

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than three hours after arrest, members shall provide individuals who are Deaf or hard of hearing with their choice of an operable TTY or Videophone to enable them to place a telephone call with the same degree of independence and privacy that would be permitted to similarly situated individuals absent any hearing disability.

Commented [Comment23]: Add RTT if used

b.c. Holding Cells - Pursuant to San Francisco Police Department's Booking and Detention Manual, Deaf or hard of hearing individuals shall not be detained in district station holding cells.

Commented [Comment24]: Cal DOJ recommends that SFPD cite the appropriate section of the manual.

L. Signage

At all district stations and any other SFPD building open to the public, SFPD will post conspicuous signs in public areas advising individuals who are Deaf or hard of hearing the availability of auxiliary aids and services, including qualified interpreters, free of charge. The posted signs will include the International Symbol for Hearing Loss, the International Symbol for TTYs, and a sign to indicate the availability of sign language interpreters.

Commented [Comment25]: Perhaps these names should be noted under each symbol for clarity.



M. Documentation

- 1) Whenever a member prepares an incident report involving a Deaf or hard of hearing individual, the member shall include in the incident report the manner(s) in which the member and the Deaf or hard of hearing individual communicated and if an interpreter was used, the name of the interpreter, the manner in which the interpreter provided assistance (i.e. American Sign Language), and whether the interpreter was in person or off-site through video conferencing.
- 2) In a yearly report to the Police Commission, the Department shall provide data concerning 1) the number of calls for service, contacts and investigations involving Deaf and hard of hearing individuals where an incident report was required; 2) the manner in which services were provided; 3) any complaints involving interactions between SFPD officers and Deaf or hard of hearing individuals; and the Department's resolution to these complaints. This data can be reported in the same yearly report that SFPD is required to provide concerning LEP data and services pursuant to Department General Order 5.20 Section (III)(O)(3).

Commented [Comment26]: We should check this to see how they plan on collecting this data.

Commented [Comment27]: This DGO does not explain how SFPD plans on collecting this data.  
<https://www.sanfranciscopolice.org/sites/default/files/2018-11/DGO5.20%20Language%20Access%20Services%20for%20Limited%20English%20Proficient%20%28LEP%29%20Persons.pdf>

Is this an error? If not, could you please clarify?

**N. Liaison Officers**

The Chief, through the Commander of the Community Engagement Division and the Language Liaison officer, shall appoint at least two officers at each district station and SFPD Units and Divisions with public contact, to be responsible for providing assistance to Deaf and hard of hearing individuals in their interactions with police officers, monitoring compliance with this General Order and related policies, coordinating training on deaf and hard of hearing issues at the Academy and at the station, meeting with the Department of Police Accountability, Mayor's Office of Disability and community groups to discuss and resolve complaints arising from police interactions with Deaf and hard of hearing individuals, assisting officers to resolve communication needs involving Deaf and hard of hearing individuals, and ensuring that information about SFPD's services for Deaf and hard of hearing individuals are available at the stations, on the Department's website, and at community events.

Commented [Comment28]: SFPD should clarify the timeframe for the appointments.

**O. Language Liaison Officer's duties to Include Managing Services for the Deaf and Hard of Hearing Individuals**

The Department shall designate the responsibilities of the Language Access Liaison officer established through Department General Order 5.20 to include addressing services, training, data collection, reporting, and outreach concerning police interactions with Deaf and hard of hearing individuals.

**P. Training**

The Language Liaison officer in partnership with the designated officers described in Section ~~HH-IV~~(O) shall develop training to implement this Department General Order, including the ADA requirements regarding effective communication with individuals who are Deaf or hard of hearing. The training will incorporate scenarios and be sufficiently practice-oriented to enable members to effectively implement all provisions of this DGO, including how to identify and provide the appropriate communication tools and work with an on-site and off-site interpreters. This training shall be provided to all SFPD members at least every two years. Initial training shall be provided within 120 days of the Police Commission's adoption of this General Order.

Commented [Comment29]: Is this timeframe realistic?



ATTACHMENT A  
(Front and Back of Communication Card for Officers)

Commented [Comment30]: Are these available in other languages (Spanish, Mandarin?)

**Hello, I am...**

**DEAF**      **Hard Of Hearing**

**The best way to communicate with me is...**

**Interpreter**      **Captioning**      **Writing**

**Lip-Reading**      **I Can't Lip-Read**      **Assistive Listening Device**

**Point to what you need...**

**Directions**      **Car Tow**      **Hospital**

**- HELP -**

**Gas Station**      **Flat Tire Help**      **Medication**

**Other**

**Can I See Your...**

**Driver's License**      **Registration**      **Insurance**

**- Do Not Have -**

**Wait Here Please...**

**Reason I Stopped You:**

**SPEED LIMIT 65**      **STOP**      **WALKING**

**PEDESTRIAN**      **TRAFFIC LIGHT**      **BROKEN**

**WINE**      **HOUSE**      **PERSON**

**- Other -**

**You Are Being:**

**Warned**      **Ticketed**      **Arrested**

**Free To Go**

ATTACHMENT B

***SUGGESTIONS/GUIDELINES FOR COMMUNICATING EFFECTIVELY  
WITH PEOPLE WHO ARE DEAF OR HARD OF HEARING***

- Before speaking, get the individual's attention with a wave of the hand or a gentle tap on the shoulder—keeping in mind the desire to avoid unnecessarily frightening the individual.
- Identify yourself.
- Attempt to speak in a well-lit area.
- Face the individual and do not turn away while speaking.
- Do not cover your mouth or chew gum.
- If an individual is wearing a hearing aid, do not assume the individual can hear you.
- Minimize background noise and other distractions whenever possible.
- When you are communicating orally, speak slowly and distinctly. Use gestures and facial expressions to reinforce what you are saying.
- Use visual aids when possible, such as pointing to printed information on a citation or other document.
- Do not assume that a Deaf or hard of hearing individual reads lips. Remember that only about one third of spoken words can be understood by lip-reading.
- When communicating by writing notes, keep in mind that some individuals who use sign language ~~may~~ may not be proficient in reading and writing English ~~lack good English reading and writing skills.~~
- If someone with a hearing disability cannot understand you, write a note to ask what communication aid or service is needed.
- If a sign language interpreter is requested, be sure to ask which language the individual uses. American Sign Language (ASL) and Signed English are the most common.
- When you are interviewing a witness or a suspect or engaging in any complex conversation with an individual whose primary language is sign language, a qualified interpreter is usually needed to ensure effective communication.
- Talk at your normal rate, or slightly slower if you normally speak very fast.
- Only one individual should speak at a time.

***WORKING WITH A SIGN INTERPRETER***

- Qualified sign language interpreters are professionals bound by a Code of Ethics. Their role is to ensure that all information is understood and accurate.
- Speak directly to the Deaf or hard of hearing individual, NOT the interpreter. Avoid saying to the interpreter, "tell them," "him," or "ask her."
- Only one individual should speak at a time.
- Speak at a normal pace and volume.
- Do not speak privately to the interpreter in the presence of the Deaf individual.
- Interpreters will interpret everything you say. Do not have side conversations or whispers.
- An interpreter may interject for clarification or corrections.
- Provide the interpreter with any written materials that will be used prior to the appointment.
- Consistent with DGO 5.17, Bias Free Policing, use the sign interpreter to explain the basis of SFPD.

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- actions, such as the basis for a stop, search, or delay.
- Before concluding the interaction, ask the interpreter if they or the person they are assisting wish to add or repeat information.

