



## *Kern County Sheriff's Office*

# **Policies and Procedures**

<b>TITLE: INTERVIEWING HEARING IMPAIRED PERSONS NO: H-700</b>			
<b>APPROVED: Donny Youngblood, Sheriff-Coroner</b>			
<b>EFFECTIVE:</b> <b>February 1, 1996</b>	<b>REVIEWED:</b> <b>10/20/2020</b>	<b>REVISED:</b> <b>04/01/1996</b>	<b>UPDATED:</b> <b>11/28/2017</b>

### **POLICY**

It is the policy of the Kern County Sheriff's Office to furnish appropriate auxiliary aids and services whenever required by law and whenever reasonable and/or necessary to ensure effective communication with individuals who are deaf or hard-of-hearing. This policy addresses only those situations where a Sheriff's deputy determines that the services of a qualified interpreter are necessary to ensure effective and accurate communication.

For purposes of this policy, a deaf or hard-of-hearing person means a person with a hearing loss so great as to prevent his or her understanding language spoken in a normal tone. It does not include a hard-of-hearing person who is able to understand through the use of electronic devices or hearing aides.

Auxiliary aids and services include qualified interpreters, written materials, note pads, and other effective methods of making aurally delivered materials available to individuals who are deaf or hard-of-hearing.

Evidence Code section 754(j) mandates that a qualified sign language interpreter be provided by law enforcement when interviewing a deaf witness, victim, or suspect. The section provides that statements taken without qualified interpreter may be subject to exclusion from use in court.

### **PROCEDURE A**

**Communicating with a suspect** – If an individual without a hearing impairment would have been arrested on probable cause, then a suspect with a hearing impairment in the same situation may be arrested. However, a qualified interpreter may still be required if an officer is unable to convey to the arrestee the nature of the criminal charges. The arrestee may be transported to a Sheriff's jail or office facility prior to obtaining the interpreter.

If an officer needs to interview a suspect with a hearing impairment to determine if there is probable cause to make an arrest, a qualified interpreter must be provided if written communication is ineffective. An officer must keep in mind that communications with hearing impaired suspects, without the use of a qualified interpreter, **will** be challenged in subsequent court proceedings and may be excluded from evidence.

## PROCEDURE B

**Interrogating an arrestee** – If an officer cannot effectively inform the arrestee of the *Miranda* warnings without the use of an interpreter, the officer **shall** secure the services of a qualified interpreter prior to any interrogation.

If an officer can effectively communicate the *Miranda* warnings to the arrestee, and the arrestee specifically declines the opportunity to communicate through an interpreter, the officer may proceed with the interrogation using a note pad. **If in doubt, get an interpreter.**

## PROCEDURE C

**Interviewing a victim or critical witness** – If an officer is able to communicate effectively through writing, the officer may proceed with the interview using a note pad. If communication is not effective, the officer must provide a qualified interpreter. Keep in mind that victim and/or witness statements, taken without an interpreter, are also subject to challenge and may be excluded from evidence in court. For example, the field identification of a suspect may be excluded if it cannot be clearly shown that the communication between the officer and the hard-of-hearing victim/witness was effective.

## PROCEDURE D

**Completing the report** – All identifying information on the interpreter must be included in the report along with his/her qualifications as an interpreter. All written questions and responses between and among officers and hard-of-hearing persons must be treated as evidence and handled accordingly. A copy of any written communications shall be attached to the report and the originals shall be placed into evidence.

## PROCEDURE E

**Obtaining an interpreter** – The Sheriff's Communications Center maintains a list of qualified interpreters. Officers may also use interpreters selected by the hard-of-hearing person to be interviewed. In either case, the qualifications of the interpreter shall be clearly described in the report. Whenever possible, interviews should be scheduled in advance so that interpreter(s) may be scheduled.

H-700-2

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