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MODEL POLICY

AMERICANS WITH DISABILITIES ACT

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U.S. Department of Justice
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**A model policy statement prepared by the Police Executive
Research Forum as a guide to law enforcement agencies.**

September, 1992

This document provides general information to promote voluntary compliance with the Americans with Disabilities Act (ADA). It was prepared under a grant from the U.S. Department of Justice. While the Department of Justice has reviewed its contents, any opinions or interpretations in the document are those of the Police Executive Research Forum and do not necessarily reflect the views of the Department of Justice. The ADA itself and the Department's ADA regulations should be consulted for further, more specific guidance.

MODEL POLICY
AMERICANS WITH DISABILITIES ACT
GENERAL COMMITMENT

I. INTRODUCTION

For many years, police and public safety agencies have expressed a commitment to providing quality response and service to all people in a fair, impartial manner. Traditionally, agencies have addressed fairness and impartiality on the basis of race, color, sex, sexual preference, national origin, religion, and, more recently, age.

People with disabilities represent the largest minority group in the nation. With the passage of the Americans with Disabilities Act in 1990, it has become imperative that departments restate their commitment, ensuring accessibility to services and employment opportunities by people with disabilities.

Every department should recognize the needs of people with disabilities in their mission statement and agency values. Departments must develop policies and procedures that address specific accommodations to be afforded to people with disabilities. Through enforcement of these policies, agencies must ensure equal provision of law enforcement services.

Beyond adapting policies and procedures, it will be necessary for agencies to train police and public safety employees and physically modify facilities to make them accessible to and usable by people with disabilities. Agencies must eliminate physical and communication barriers that interfere with equality of employment. Agencies must ensure that workers with a disability are provided with the same benefits and privileges of employment as those enjoyed by employees without disabilities.

II. PURPOSE

The purpose of the following policy is to provide guidance to the agency in committing itself and its employees to providing quality services to people with disabilities and complying with provisions of the Americans With Disabilities Act.

III. POLICY

A. Introduction

It has been estimated that there are approximately 43 million people with disabilities in the United States. The Americans With Disabilities Act of 1990 (Title II) provides that departments of any state or local government may not exclude qualified individuals with disabilities from participation in any program, service, or activity or deny qualified individuals with disabilities the benefits of programs, services, or activities, or otherwise subject them to discrimination on the basis of disability.

B. Policy Statement

It shall be the policy of the _____ Department to ensure that a consistently high level of police service is provided to all members of the community including people who may require special consideration in order to access these services.

It is the policy of this Department to afford people with disabilities the same access to programs, services, and employment provided to all citizens. This includes, but is not limited to, services such as first responder recognition of the nature and characteristics of various disabilities and appropriate physical and emotional support to people with disabilities who seek to access police services or who come into contact with the police. Examples include, but are not limited to:

1. recognition of symptoms and appropriate medical and emotional support for people experiencing seizures;
2. sensitivity to and appropriate physical support in aiding people who are mobility challenged;
3. rapid access to interpreters for people with hearing and/or speech disabilities who have a need to communicate with police personnel;

4. 24-hour access to professional support systems for people with mental disabilities;
5. access to police information, programs, and publications for people who have impaired vision or hearing;
6. recognition of the difference between characteristics common to certain disabilities (such as epilepsy, diabetes, and deafness) and those associated with antisocial or criminal behavior or reaction to alcohol and drug abuse; and,
7. other accommodations to ensure service and access to all people with visual, mental, emotional and medical disabilities including "invisible" disabilities such as diabetes, epilepsy, multiple sclerosis, loss of hearing and others.

C. Definitions

1. The term "qualified individual with a disability" means an individual who, with or without reasonable modifications to rules; policies or practices; the removal of architectural, communication, or transportation barriers; or, the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

2. The term "disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such impairment; or being regarded as having such an impairment.

3. The term "reasonable accommodation" includes the modification of existing facilities to facilities that are readily accessible to and usable by individuals with disabilities; job restructuring, part-time, or modified work schedules; reassignment of an employee with a disability to a vacant position; acquisition or modification of equipment; and appropriate alteration of examinations, training materials, or policies.

IV. PROCEDURAL OVERVIEW

No single policy or procedure can address police response to all people with disabilities. It is the intent of this policy and procedure to guide employees in responding to and assisting those people with disabilities with whom they will have the most contact in the performance of their duties and responsibilities. This policy and procedure addresses common police interaction with people with disabilities including those who are complainants, victims, witnesses, arrestees, members of the community who desire to participate in department-sponsored programs, people seeking information, and uninvolved bystanders.

In all cases, employees must take all steps necessary to assist people with disabilities in accessing the full range of immediate and follow-up services provided by this Department. Consideration must be given to those steps that will lead to a positive outcome while, at all times, maintaining employee safety.

V. OVERVIEW OF SPECIFIC DISABILITIES

A. Introduction

It is not the intent of this policy to provide detailed information on all disabilities.

It is incumbent on this Department to make information available to employees, through training and other sources, on various disabilities.

It is incumbent on all employees to become aware of the characteristics of various disabilities and the needs of people who have them.

Employees should be aware that many people have multiple disabilities.

The following section provides a brief overview of several disabilities and how the Department and its employees should respond to the needs of people with these disabilities.

B. Visual Disabilities

One of the most difficult issues facing people in need who are blind or vision impaired is identifying police officials. Employees should offer detailed information in identifying themselves as members of the Department. Whenever possible, if the presence of a visual disability is known, officers may have dispatch contact the victim or complainant to verify to him or her that a member of the Department has arrived. If needed, badges may be offered to the individual to verify the officer's identity.

Knowing what not to do is as important as knowing what to do to assist a person who is vision impaired. Employees do not need to raise their voice when speaking. Employees should not grab the person's arm to lead him or her in a particular direction. If needed, the individual will take the officer's arm for guidance.

Signs and printed information at police facilities should be in large print in order to assist people with vision impairments. Room identification signs and elevator information in those facilities where people may proceed unaccompanied should be in braille for blind people.

C. Mental, Emotional and Psychological Disabilities

The terms "mental illness," "emotional illness," and "psychological illness," describe varying levels of a group of disabilities causing disturbances in thinking, feeling, and relating. It has been estimated that ten percent of the population of the United States has some type of mental illness.

Providing accessibility to police services for people with mental, emotional, and psychological disabilities usually involves providing only general assistance. At times, exceptional police service and safe custodial care may be required.

Employees must ensure that people with mental, emotional, and psychological disabilities are assisted in accessing agency services, which may require time and patience beyond that usually provided. For example, time spent on a call for service may have to be extended in order to reassure the individual, sort facts, interact with family members and others, and bring the call to successful resolution.

If an individual with a mental, emotional, or psychological disability is taken into custody, employees must make reasonable efforts, while taking precautions, to use the least restraint possible and protect the arrestee from self-injury.

Frequently, a family member or friend is of great value in calming an individual exhibiting unusual behavior as a result of mental or emotional impairment. If needed, steps should be taken to gain placement for the individual in an appropriate emergency medical, health care, or shelter facility.

Officers must become familiar with appropriate government agencies, nonprofit agencies, volunteer organizations, and emergency medical services available to provide assistance to people with mental, emotional, and psychological disabilities.

Officers must remain familiar with appropriate emergency commitment/detention procedures to be used when providing shelter care and related support to people with mental, emotional or psychological disabilities.

D. Mental Retardation

Mental retardation encompasses a broad range of developmental disabilities from mild to profound. Mental retardation and mental illness are distinct conditions, with no similarity. The largest percentage of people with mental retardation are in the ranges termed "mild" or "moderate."

Employees should recognize that people who have mental retardation have varied degrees of limited intellectual functioning. In all situations, employees should ask short questions, be patient when waiting for answers, repeat questions and answers if necessary, have individuals repeat the question in their own words, and provide reassurance. In many situations, and particularly when dealing with someone who is lost or has run away, the employee may gain improved response by accompanying the person through a building or neighborhood to seek visual clues.

In responding to the needs of people with severe or profound mental retardation, the aid of family, friends, and neighbors is invaluable.

E. Mobility Impairments

Among the disabilities that are the most visibly identifiable are mobility impairments. People with mobility-related impairments include those who have difficulty walking, those who use a wheelchair or other mobility aid, and those who are immobile.

In a critical or emergency situation, employees should be aware of the safest and most rapid methods for assisting people with mobility impairments to avoid causing them unnecessary strain or injury.

In an arrest encounter, once an arrestee with a mobility impairment is secure in a cell and safety concerns are resolved, an effort should be made to return use of any mobility aids (wheel chair, cane, etc.).

Department facilities should be accessible to people with mobility impairments. Entrances, interior routes, stairs, drinking fountains, rest rooms, and telephones should accommodate people with mobility impairments including those who use wheelchairs.

F. Invisible Disabilities

Many disabilities are difficult to notice. A law enforcement officer's failure to recognize characteristics associated with certain invisible disabilities could have serious consequences for the person with the disability. For example, outward signs of a disability such as epilepsy generally do not exist unless the person with the disability experiences a seizure. People with diabetes may have reactions from either too little insulin or too much insulin. Low blood sugar reactions are common and are usually treated by ingesting sugar. Detaining someone and preventing them from getting sugar could have serious health implications for the individual and liability consequences for the officer and department.

Officers should realize that involuntary behavior associated with some invisible disabilities may resemble behavior characteristically exhibited by intoxicated or, less frequently, combative individuals. For example, a person experiencing a mild seizure may appear incoherent and physically imbalanced. The response is temporary.

An officer's patience and understanding of the characteristics commonly associated with invisible disabilities will lead to a successful outcome. An inaccurate assessment may lead to unnecessary confrontation, injury, and denial of needed medication and/or medical treatment.

As with all types of disabilities, an employee's first obligation is to protect the individual from unnecessary harm. When aiding a person experiencing a seizure, protection from obstacles, a calm reassuring manner, and patience are important responses. Family members and friends should be sought to provide information and assistance. Their presence may prove invaluable in understanding the needs of the person with the disability and guiding the officer's actions.

G. Speech and Hearing Disabilities

Like other invisible disabilities, officers may confuse the behavior of individuals with hearing and speech disabilities with those of people who intentionally refuse to cooperate or those who abuse illegal substances. Officers should be aware that an individual's failure to comply with or respond to verbal orders does not always constitute defiance, but may be the result of that individual's inability to hear the officer or respond verbally. Before committing themselves to a course of action, officers should attempt to identify whether or not they are dealing with a person who has a communication-related disability.

It is essential that officers take extra measures to protect the rights of suspects who are deaf and hard of hearing, as well as others who may not have educational or communications comprehension levels sufficient to fully understand the basic Miranda rights. Simply reading the rights to someone with a hearing disability and having the individual acknowledge that they

are understood is insufficient.

All police facilities should be appropriately posted with clearly visible signs that provide essential information to people with hearing and impairments.

Each facility should be equipped with a variable volume public telephone and a TDD in order to provide telephone access to people who are deaf or hard of hearing who desire to call the police facility from an external location and those at the facility who desire to make a call to another.

VI. RESPONSIBILITY OF OFFICERS

In the performance of their duties, police officers and civilian staff will encounter people with disabilities in every possible situation. In providing police service to the public, it is incumbent on every employee to ensure that people with disabilities are afforded all rights, privileges, and access to the Department provided to those without disabilities.

People with disabilities may also be suspects or arrestees and require detention, transport, and processing. Employees must familiarize themselves with the proper methods of transport, arrest, and detention to ensure officer safety while providing all reasonable support to an arrestee with a disability.

Employees must develop the ability to recognize the characteristics of various disabilities, including symptoms, and physical reactions.

Employees must recognize that responses of people with certain disabilities may resemble those of people who have abused substances such as alcohol or drugs. At times, such traits may be exhibited by people with diabetes, epilepsy, multiple sclerosis, hearing impairments, and other disabilities.

Employees should be able to identify and apply appropriate responses, such as emergency medical aid, protecting and/or calming the individual, using basic sign language, securing professional medical attention, locating and enlisting support of family and friends, and rendering proper physical support.

Officers should be able to identify and apply appropriate restraint to a person with a disability, if needed to facilitate an arrest. When affecting an arrest of a person with a disability, officers should be able to access the support systems necessary to secure the rights of the individual. This may include use of interpreters, attorneys, and legal guardians.

In all cases, officer safety must prevail. No employee should jeopardize his or her safety or that of others in an attempt to accommodate a person with a disability.

VII. DEPARTMENT RESPONSIBILITIES

The Department will provide training and information to all employees on recognition of various disabilities and the provision of appropriate police services to people with disabilities. The Department will provide training to all officers on appropriate response to both nonarrest and arrest situations involving people with disabilities.

In order for employees to provide the highest level of service or safe custodial care to people with disabilities, the Department will develop and regularly update a list of agencies available to provide guidance, support, and direct assistance.

The Department will maintain a roster of support agencies and individuals who may be contacted on a 24-hour-per-day basis to provide support in situations involving people with disabilities. The Department will provide reasonable accommodation to all qualified individuals who have disabilities.

A. Routine and Emergency Interaction

In providing routine and emergency services, equality in response, support and protection will be provided to all people including those with disabilities. Officers will make every effort to access appropriate support organizations when needed. (Successful liaison between law enforcement and support services agencies has led to improved service to people with disabilities in major cities and counties throughout the United States.) All Department services will be made available to people with disabilities. This includes:

1. Communications accessibility for both emergency and routine situations

All dispatchers will be trained to recognize characteristics of people whose

disabilities may require special communications techniques and methods for providing service. The Department will maintain TDD services for deaf and hard of hearing people and provide direct access to telephone emergency systems for individuals who use TDD's.

2. Access to Department programs

Crime prevention programs such as target hardening and neighborhood watch, youth programs, in-school programs, and other programs will be made available to people with disabilities through outreach, modified program schedules, use of interpreters or other auxiliary aids and services, and other efforts to accommodate special needs.

3. Response to routine calls for service

Department employees should be aware that people with disabilities have special needs that may have to be met in order to provide the best possible police response to calls for service. Officers should be able to identify specific needs of people with disabilities.

Employees should be sensitive to the fact that some people with disabilities may be targeted as crime victims as a direct result of their disability.

Employees should be familiar with techniques they may employ at a scene (during the initial call for service and follow-up) to provide support to people with disabilities. All reasonable steps should be taken to aid people with disabilities in bringing calls for police service to successful completion.

4. Response to emergency calls for service

Employees should be able to identify characteristics common to specific disabilities in a crisis or emergency so that appropriate action may be taken to render aid and assistance. If the person with the disability is unable to communicate, employees should seek a medical alert bracelet or similar form of ID and input from family, witnesses, and others to aid in identifying the nature of the disability.

As first responders, all employees should be aware of emergency medical techniques applicable to various disabilities.

All employees should be able to apply emergency signs to people who are deaf

to obtain basic information on matters such as nature of the incident, location and extent of injury, name and address, and family member or other person to be contacted.

5. Response to criminal and disruptive behavior

Some people with disabilities commit crimes. Some people with disabilities also exhibit disruptive behavior.

Generally, people with disabilities who commit crimes or engage in disorderly conduct should receive no preferential treatment. However, disorderly conduct should not be treated as a criminal activity when it is the manifestation of a disability. For example, when such conduct is the result of a seizure or mental disability, the call for service should be handled as a medical call rather than an arrest situation.

Officers should be aware that, in such situations, it is common for people with disabilities to seek sympathy as a way to lessen the outcome of the police response.

In all such situations, officers should take reasonable precaution to protect themselves and others.

B. Arrest and Incarceration

Employees should employ appropriate precautions and safety techniques in arresting and incarcerating all people, whether or not they have a disability. Officers should follow all policies and standard techniques for arrest and incarceration when taking a person with disabilities into custody.

Consideration should be given to the special needs of some people with disabilities in an arrest situation. Response in these situations requires discretion and will be based, in great part, on the officer's knowledge of characteristics and severity of the disability, the level of resistance exhibited by the suspect, and immediacy of the situation. In arrest and incarceration situations, employees may encounter the following:

1. A person whose disability affects the muscular and/or skeletal system may not be able to be restrained using handcuffs or other standard techniques. Alternative methods (transport vans, seat belts) should be sought.

2. Some people with disabilities require physical aids (canes, wheel chairs, leg braces) to maintain their mobility. Once the immediate presence of danger has diminished and the suspect is safely incarcerated, every effort should be made to return the device. If mobility aids must be withheld, the prisoner must be closely monitored to ensure that his or her needs are met.
3. Prescribed medication may be required at regular intervals by people with disabilities (diabetes, epilepsy). Medical personnel (the suspect's physician, on-call medical staff, emergency room medical staff) should be contacted immediately to determine the importance of administering the medication, potential for overdose, etc.
4. Some people with disabilities may not have achieved communications comprehension levels sufficient to understand their individual rights in an arrest situation. (For people who are deaf, there is no sign language for the term "waive" in regard to the Miranda rights. Yet, in an effort to be cooperative, a suspect who is deaf may acknowledge that he or she is willing to give up his or her rights.) Officers must take extra care to ensure that the rights of the accused are protected.
5. Lack of speech or other speech impairment may make it difficult for a suspect to notify the arresting officer or jailer of an urgent need. Frequent cell checks should be conducted.

VIII. EMPLOYMENT ISSUES

It is not the intent of this section of the policy to set forth all directives dealing with employment. Rather, it is designed to reinforce the Department's commitment to all components of the Americans With Disabilities Act. Recruitment, screening, hiring, and promotions are addressed in detail in other policies and procedures of this Department and policies and laws of this City and State.

A. Policy Statement

It is the policy of this Department, as required by Titles I and II of the ADA, that qualified individuals with a disability are not discriminated against because of their disability in regard to job application procedures, hiring, advancement, compensation, training, and other terms of employment. To ensure fairness and that discrimination does occur in the employment process, employees of the Department are prohibited from engaging in the following practices:

1. Limiting, segregating, or classifying a job applicant in a way that adversely affects the opportunities of the applicant because of the disability;
2. Using standards, criteria or methods of administration that discriminate; or that perpetuate the discrimination of others who are subject to common administrative control;
3. Excluding or otherwise denying equal jobs or benefits to a qualified individual because of a known disability of an individual with whom the applicant is known to have a relationship or association;
4. Failing to provide reasonable accommodation to the known disability of an otherwise qualified individual (applicant or employee), unless the accommodation imposes an undue hardship;
5. Using qualification standards, employment tests, or other selection criteria that tend to screen out individuals with disabilities unless such tests have been shown to be job-related and consistent with business necessity for the position in question; and,
6. Selecting and administering tests that measure an individual's impaired sensory, manual, or speaking skills resultant to a disability rather than the knowledge,

skills, and abilities required by a specific position.

B. Medical Screening

While engaged in preemployment inquiries of any applicant, prior to an offer of employment, the Department may make inquiries about the ability of an applicant or employee to perform job-related functions. The Department will not conduct a medical examination prior to making an offer of employment or make any specific inquiries regarding any disability or disabilities the applicant may have.

After a conditional offer of employment has been made, the applicant may be required to undergo a medical examination and related inquiry, if such examination and inquiry is required for all entering employees in the same job category. This inquiry may include questions about the ability of an applicant or employee to perform job-related functions.

IX. INFORMATION ON ADA

Any employee having questions regarding the Americans With Disabilities Act, providing services to people with disabilities, or employment of people with disabilities, should direct his or her inquiry to the following members of the Department or to the Office of the Chief of Police/Sheriff.

<u>Employee Or Unit</u>	<u>Extension</u>
a. _____	_____
b. _____	_____
c. _____	_____
d. _____	_____
e. _____	_____

