

Responding to and Interacting with Persons with Disabilities

**Municipal Police Training Council
Model Policy**

September 2018



**Division of Criminal
Justice Services**

**Municipal Police
Training Council**

New York State Division of Criminal Justice Services
80 South Swan Street, Albany, New York 12210
www.criminaljustice.ny.gov



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THE 2018 EDITION IS PUBLISHED BY THE:

New York State Division of Criminal Justice Services
Office of Public Safety
80 South Swan Street
Albany, New York 12210

<http://www.criminaljustice.ny.gov>

VERSION September 2018

PRINTED IN THE UNITED STATES OF AMERICA

Responding to and Interacting with Persons with Disabilities Model Policy

The Responding to and Interacting with Persons with Disabilities Model Policy is intended to allow for the individual needs of each of the police departments in New York State regardless of size or resource limitations. Law Enforcement are encouraged to customize these protocols to meet their regional needs, while being mindful of the intent of the policy. As with all model policies adopted by the Municipal Police Training Council (MPTC), this policy is non-binding upon agencies within New York State and is meant to serve as a guide to be used in developing a department's individual policy.

The Municipal Police Training Council (MPTC) approved the model policy during their September 2018 meeting.

Acknowledgements

The New York State Division of Criminal Justice Services (DCJS) acknowledges the extensive work done by the following associations and agencies:

Law Enforcement Training Directors' Association of New York State

New York State Association of Chiefs of Police

New York State Police

New York City Police Department

New York State Sheriff's Association

State University of New York

Office for the People with Developmental Disabilities

Law Enforcement Disability Awareness Training Niagara University

New York State Justice Center

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I Purpose

The purpose of this policy is to provide guidance to law enforcement agencies in developing written policies and procedures to handle interactions involving individuals with autism spectrum disorder and other developmental, intellectual, sensory, and physical disabilities.

This policy will provide officers with general guidelines on recognizing, responding to, and interacting with persons with disabilities, including communication and arrest processing methods, to ensure safe and effective outcomes for the individual, officers, and the local community.

II Policy

It is recognized that each disability has its own standards for proper etiquette and interaction skills. Officers will attempt to recognize and enact these standards to facilitate a dignified and respectful interaction. There is an obligation to provide equal access to programs and services to all persons, regardless of whether those persons have a disability¹.

III Definitions

A. Generally applicable terms

1. **Americans with Disabilities Act (ADA)²**: A civil rights law passed in 1990 that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation and all public or private places open to the general public. Title II of the ADA covers all activities of state and local governments regardless of receipt of federal funding.
2. **Americans with Disabilities Act Coordinator³**: A designated employee(s) who is responsible to coordinate its efforts to comply with and carry out its responsibilities pursuant to the Americans with Disabilities Act.
3. **Disability⁴**: A person who has a physical or mental impairment that substantially limits one or more major life activities, a person who

¹ NYS Executive Law Article 15 Human Rights Law

² 28 CFR §35.104

² 28 CFR §35.107 (a)

⁴ 28 CFR §35.108

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has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

- a. **Developmental Disability (DD):** A group of conditions that occur due to an impairment in physical, learning, language, or behavioral areas. These conditions begin during the development period, may impact daily functioning and usually persists throughout an individual's lifetime.
 - b. **Intellectual Disability (ID):** An individual with an IQ of 69 or below and is characterized by having challenges, to varying degrees, with cognition – thinking, problem solving, concept understanding, information processing, and overall intelligence. Social skills and adaptive daily living skills will be compromised, to some extent.
 - c. **Physical Disability:** Any limitation in the functional ability of an individuals' upper (arms) or lower (legs) extremities. For the purposes of law enforcement, the focus will be on individuals who have some form of ambulation challenge to include individuals who use walkers, wheelchairs, canes, have an unsteady gait or the loss of a limb.
 - d. **Sensory Disability:** An impairment of one of the senses (e.g. sight, hearing, smell, touch, taste) and is generally used to refer to a disability related to hearing and/or vision.
4. **Auxiliary Aids and Services⁵:** includes the services of a Qualified Interpreter, in person or by Video Remote Interpreting (VRI); a notepad and pen/pencil to exchange or communicate information through the use of written notes; real-time computer-aided transcription services; written materials; an assistive listening system or device to amplify sound; text telephones ("TTY"); a telephone with text capability; and/or other effective methods of communicating with a DHH Individual.
- a. **Teletypewriter (TTY):** A device that is used with a telephone to communicate with persons with hearing disabilities or speech disabilities. To communicate by TTY, a person types his or her conversation, which is then read on a TTY display by the person who receives the call.
 - b. **Video Remote Interpreting (VRI):** Use of a vendor that provides Interpretation Services by a Qualified Interpreter

⁵ 28 CFR §35.104

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through real-time video and audio over an internet connection that meets the requirements of 28 C.F.R. § 35.160(d). VRI can be accessed from a tablet, desktop computer, or any other device with internet access.

5. **Qualified Interpreter⁶:** A person who is able to interpret effectively, accurately, and impartially, both receptively (i.e., understanding what the person with the disability is saying) and expressively (i.e., having the skill needed to convey information back to that person) using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, translators, sign language interpreters and intermediary interpreters (a trained interpreter who is hard of hearing/deaf themselves, and can act as a mediator between the deaf person and the qualified interpreter).
 6. **Person-First Language:** The proper manner in which to communicate with and about people with disabilities. The first impression you make is imperative to the individual's recognition of your ability to properly intervene and interact with a person with a disability. (Example: a "child with autism", not an "autistic child").
 7. **Sign Language:** American Sign Language (ASL) is the form of sign language most often used in the United States and is the recognized mode of communication within the deaf community. Signs convey concepts or ideas even though a sign may stand for a separate English word. Signing individual letters by finger spelling can supplement sign language. Just as there are regional variations (dialects) in spoken English, there are regional differences in sign language.
 8. **Speech reading:** Also referred to as lip reading; the ability to use information gained from movements of the lips, face, and body to increase understanding.
- B. Common disabilities defined
1. **Autism-Spectrum Disorder:** A complex developmental disorder that can cause problems with thinking, communicating, language and the ability to relate to others. It is a neurological disorder, meaning it affects the functioning of the brain. The effects and severity of symptoms typically differ in each person.
 2. **Blind/Visually Impaired:** A person is legally blind if they have 20/200 or less in the better eye of central vision OR less than 20

⁵ 28 CFR §35.104

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degrees of visual field (peripheral). A person is visually impaired when they have difficulty seeing with one or two eyes even when wearing glasses. Only 10% of the blind population sees nothing, so while someone may identify as blind, they may still have some sight and do not live in total darkness.

3. **Dementia:** A general term for a group of brain disorders, the most common being Alzheimer's disease. Individuals will have mental decline that poses challenges with memory, judgement, visual perception, comprehension, directives, and language.
4. **Epilepsy:** A symptom of a Central Nervous System (neurological) disorder occurring from birth, or as the result of head trauma, resulting in abnormal brain activity, leading to seizures or periods of unusual behavior, sensations, and sometimes loss of awareness.
5. **Deaf or Hard of Hearing (DHH):** Hearing disability refers to both persons who are deaf or hard-of-hearing. "Deaf" describes a person with severe to profound hearing loss. "Hard-of-hearing" describes a person with any degree of hearing loss who can understand some speech sounds with or without an assistive hearing device.
6. **Tourette Syndrome:** A neurological disorder based on tics. Tics are involuntary sudden movements or vocalizations that occur repeatedly in the same way. Tics may occur many times a day or intermittently.
7. **Traumatic Brain Injury:** A form of acquired brain injury, occurs when a sudden trauma causes damage to the brain. TBI can result when the head suddenly and violently hits an object, or when an object pierces the skull and enters brain tissue.

IV Responding to and Interacting with Persons with Disabilities

A. Common indicators

1. Although officers are not in the position to diagnose persons with disabilities, officers shall be alert to indicators that are suggestive of such disabilities.
2. Indicators of disabilities in various combinations and degrees of severity may include but are not limited to:
 - a. Difficulty communicating and expressing oneself

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- b. Communication by pointing or gestures rather than words
 - c. Repetition of phrases or words
 - d. Repetitive body movements – may be harmful to themselves (movements may include, but are not limited to, swaying, spinning, clapping hands, flailing arms, snapping fingers, biting wrists, or banging head)
 - e. Little or no eye contact
 - f. Tendency to show distress, laugh, or cry for no apparent reason
 - g. Uneven gross or fine motor skills
 - h. Unresponsiveness to verbal commands
 - i. Aversion to touch, loud noises, bright lights, and commotion
- B. Common calls for emergency response where the individual may have a disability
- 1. Wandering: Individuals who are developmentally delayed, have autism, or other persons with developmental disabilities, sometimes evade their parents, family members, supervisor, caregiver, or professional staff and may be found wandering aimlessly, or engaged in repetitive or bizarre behavior in public places or stores.
 - 2. Seizures: Some persons with developmental disabilities, such as those with autism, are more subject to seizures and may be encountered by police in response to a medical emergency.
 - 3. Disturbances: Disturbances may develop and a caregiver may be unable to maintain control of the disabled person who is engaging in self-destructive or agitated or aggressive behavior.
 - 4. Strange or unusual Behaviors: Strange or unusual behavior may take innumerable forms prompting calls for service, such as picking up items in stores (e.g., perceived shoplifting), repetitive and seemingly nonsensical motions and actions in public places, inappropriate laughing or crying, and personal endangerment.

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5. Offensive or Suspicious Persons: Socially inappropriate or unacceptable acts, such as ignorance of personal space, annoyance of others, or inappropriate touching of others or oneself, are sometimes associated with individuals who have developmental disabilities who may not be aware of acceptable social behavior.

C. General interaction and communication guidelines

1. Various forms of communication which may be utilized by persons with disabilities.
 - a. Verbalization.
 - b. Written: Some individuals may communicate only by writing due to an inability to verbally communicate.
 - c. Sign language: Many individuals who are deaf/hard-of-hearing use American Sign Language (ASL) to communicate. Individuals with autism or an intellectual disability who do not verbalize may use some sign language.
 - d. Facial: Individuals who are non-verbal may convey intensity, seriousness, and/or feelings of unease in their expression. Conversely, individuals who are deaf and use ASL will accompany their signing with facial expressions. Individuals who speech read will gauge your facial expressions for indicators.
 - e. Body: Related to facial expressions for those who use ASL, they will accompany the signing with body language as well as read yours.
 - f. Augmentative communication: Used by individuals who cannot verbally communicate. They will use picture symbols, devices, tablets, smartphones, or boards that can display or say words, to include full sentences. Most individuals who communicate this way do NOT have an intellectual or cognitive deficit, however, they are often perceived as having one. Exercising patience will allow the individual to complete sentences.
2. Interacting with persons with disabilities

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- a. Utilize Person First language when interacting with, referring to, or documenting interaction(s) with a person with disabilities.
 - b. Be cognizant that some individuals with disabilities may have difficulty communicating about their needs and identity.
 - c. Avoid, when possible, the use of police animals (mounted/K-9), as some individuals with disabilities may have adverse reactions if the animal is too close.
 - d. Look and ask for personal identification, such as medical ID tags on wrists, neck, shoes, or belt. These may assist officers in identifying an individual with disabilities.
 - e. Use gentle gestures. When asking the person to do something, such as look at you, speak and gesture gently. Avoid abrupt movements or actions.
 - f. Contact the person's caregiver, if practicable. They may be the best resource for specific advice on calming the person and ensuring the safety of the person and the officer.
 - g. Take measures to prevent and de-escalate reactions of fear and frustration. Changes in daily routines and surroundings, even minor, may trigger tantrums, self-destructive, or aggressive behaviors in some persons with disabilities. Prepare for a potentially long encounter.
 - h. Maintain a safe distance for both the safety of the individual(s) as well as the officer.
3. Communicating with persons with Intellectual Disabilities (ID) / Developmental Disabilities (DD)
- a. It's appropriate to ask an individual his/her preferred method of communication.
 - b. Ask questions that verify their understanding if you are having difficulty communicating with an individual.
 - c. Speak calmly and use nonthreatening body language. A stern, loud, command tone to gain compliance may have no effect or a negative effect on an individual with a developmental disability.

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- d. Repeat short, direct phrases in a calm voice. Slang and police jargon have little or no meaning to individuals with disabilities. Rather than complex requests or commands, they will normally understand only the simplest and most direct language, e.g.: (a) stand up; (b) turn around; (c) raise hands over head.
 - (1) Rather than saying "Let's go over to my car where we can talk," simply repeat "Come here," while pointing until the person's attention and compliance is obtained.
 - (2) Be direct by repeating, "Look at me," while pointing to the person's eyes and yours. Keep in mind, however, that some individuals with autism avoid eye contact. If they do not respond to the command of "Look at me", that may be why.

D. Common types of disabilities an officer may recognize and encounter

Although there are many disabilities and subsets of a disability that may or may not exist, these are the most common forms an officer may encounter, general indicators, and interaction and communication guidelines for each.

- 1. Autism-Spectrum Disorder:
 - a. Indicators
 - (1) Signs such as door identification stickers or car bumper stickers.
 - (2) The individual may present with disinterest or annoyance with your presence.
 - (3) In a tense or even unfamiliar situation, these individuals may shut down and close off unwelcome stimuli (e.g., cover ears or eyes, lie down, shake or rock, repeat questions, sing, hum, make noises, or repeat information in a robotic way). This behavior is a protective mechanism for dealing with troubling or frightening situations.

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(4) Individuals may automatically reach for identification upon encountering a police officer. (They may not understand to cease reaching for identification if directed to stop.)

(5) Individuals may repeat what you say (echolalia).

b. Interacting

(1) Approach the individual in a calm demeanor. The initial interaction can set the tone for a positive or negative outcome. This does not mean they do not understand and should be overlooked. Always address the person directly.

(2) Avoid physical contact whenever possible. Unless the person is in an emergency situation (e.g., has been seriously injured or is in imminent peril), speak with the person quietly and in a nonthreatening manner to gain compliance.

(3) Provide ample time for a response to instructions or questions. People with autism spectrum disorder require additional processing time and additional questions will tend to overwhelm the person who is already attempting to formulate an answer to a previous question.

(4) Look for signs that the person is unable to fully understand what happened to them when it comes to describing abuse or understanding that their actions were criminal.

(5) Be prepared for a wide range of assistive communication devices, sign language, or writing.

(6) Consider using fixation on a topic or object to help you interact or divert challenging behavior.

(7) Do not interrupt self-calming mechanisms- behaviors like rocking back and forth, flicking fingers, humming or buzzing, etc.

(8) Many persons who have autism-spectrum disorder have sensory impairments that make it difficult for

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them to process incoming sensory information properly. For example, some may experience buzzing or humming in their ears that makes it difficult for them to hear.

c. Communicating

- (1) When asking the person to do something, such as look at you, speak and gesture quietly. Individuals may have difficulty maintaining eye contact. If this is the case, don't insist on it.
- (2) Eliminate, to the degree possible, loud sounds, bright lights, and other sources of overstimulation. Move the person to more peaceful surroundings if possible.
- (3) Use direct and simple language.
- (4) Ask the person to sit down, but do not demand it. Lack of compliance may not be intended to be rude or defiant.
- (5) Do not interpret odd behavior as belligerent.

2. Deaf or Hard of Hearing (DHH):

a. Indicators

- (1) Unless there is some form of assistive hearing device evident, people with hearing loss, especially those who are deaf, will not initially present as having a disability. Lack of response to verbal commands may be an indicator that an individual is hard of hearing/deaf.

b. Interacting

- (1) Whether deaf or hard of hearing, individuals with this disability are usually capable of fully cooperating.
- (2) Hearing loss will vary widely resulting in different forms of communication an individual will utilize. To effectively meet the person's needs, the responding officer should determine as early as possible the

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method by which the individual wishes to communicate.

- (3) A lack of response to verbal commands may be interpreted as disrespectful and non-compliant behavior which can potentially pose a high risk to both the officer's and individual's safety. Consider the possibility of a hearing disability. If an individual does try to communicate, it may be evident the disability exists.
- (4) When interacting with an individual who is deaf or hard of hearing, a light touch may be required/useful for attention and awareness of presence.

c. Communicating

- (1) Stand directly in front of the person and look directly at them when speaking, so they can see you if needed. They may reposition you.
- (2) Some people will prefer to write. Have pen and paper available and expect plenty of shorthand. Keep messages simple and direct.
- (3) Since the individual is following the flow of conversation, you should not jump from topic to topic. There may be a need to repeat what you said. Do not exaggerate or overemphasize your speech.

3. Dementia:

a. Indicators

- (1) Dementia primarily affects an individual's mental functioning and may not demonstrate any overt or recognizable physical characteristics.
- (2) Check and ask for identifying jewelry, such as a bracelet, pendant, key chain, wallet card or clothing label that bears the person's Safe Return ID Number and the emergency 800 number.⁷

⁷The Alzheimer's Association "SAFE RETURN" Program is a nationwide identification registry program designed to assist law enforcement agencies with information to quickly identify and return those individuals who have wandered off. 1-800-272-3900. <http://www.alz.org/About Us/overview.htm>

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b. Interacting

- (1) Officers should expect difficulty in every aspect of interaction and consider the assistance of programs⁸ to quickly identify individuals with dementia.

c. Communicating

- (1) When encountering a person who may have Alzheimer's, employ a non-threatening tone of voice. Maintain a calm environment and be cognizant of voice level so as not to give false perception of anger or threat. Look into their eyes.
- (2) Attempt to remove the individual from noisy or stressful environmental situations. Sirens should be turned off and radio volume should be turned down.
- (3) Identify yourself as a law enforcement officer and state the purpose of you being there, no matter how obvious it may seem. They may not recognize you as a "police officer", just someone who is interacting with them.

4. Intellectual Disability:

a. Indicators

- (1) 85% of individuals with ID are in the mild range (IQ 55-69), often making identification of the disability challenging.

⁸ Project Lifesaver International is a non-profit organization that provides law enforcement and caregivers with technology (a transmitter bracelet, worn on the wrist or ankle) designed to protect, and when necessary, quickly locate individuals with cognitive disorders who are prone to the life-threatening behavior of wandering.

The NYS DCJS Missing Persons Clearinghouse has partnered with Project Lifesaver to provide this tracking technology to law enforcement agencies throughout the state. A list of 48 participating agencies can be found at: <http://www.criminaljustice.ny.gov/missing/docs/Project-Lifesaver-Agency-Contact-List%20.pdf>.

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- (2) Check to see if the person has identification that provides a phone number, or has a caseworker/friend at a center or group home.
 - (3) Do not assume incompetence. Many individuals will understand and be responsive to plain English, know their residential address, and have identification.
 - b. Interacting
 - (1) One common cause of intellectual disability is Down Syndrome, that may be recognized by characteristic features. **In the rare case an individual with Down Syndrome needs to be handcuffed**, officers should be mindful that this could pose a health risk due to potential medical risks of respiratory issues, heart problems, and musculoskeletal issues.
 - (2) Care should be taken not to lie the individual on the floor face-down to avoid potential asphyxiation
 - c. Communicating
 - (1) Find a quiet area free from distractions
 - (2) Speak slowly, clearly and directly to the person and keep sentences short.
 - (3) Do not use ambiguous phrases like “cut it out” or “knock it off”.
5. Blind/Visually Impaired:
 - a. Indicators
 - (1) Most visually impaired persons are not completely blind. Some can see shapes, shadows, or colors. Accordingly, it may be difficult to recognize a blind person from the outset. They may have the assistance of a cane or a guide dog.
 - b. Interacting

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- (1) Officers may need to demonstrate they are law enforcement by allowing individuals to feel handcuffs, their badge, or calling dispatch among other means.
- (2) If the individual utilizes a cane, never hold on to it for them. They generally will not need assistance.
- (3) When interacting with an individual who is blind, a light touch may be required/useful for attention and awareness of presence.

c. Communicating

- (1) Officers MUST identify themselves when entering or departing a room. Ask if assistance is needed, do not assume it is. If the individual appears to be lost, uncertain, or in an unsafe predicament, always approach them. If the person does not need assistance, they will decline help.
- (2) Direct your comments, questions, or concerns to the individual, not their companion.
- (3) Address the individual by name when possible, especially if the conversation involves more than one person.

6. Tourette Syndrome:

a. Indicators

- (1) These individuals will have motor or vocal tics. Motor tics include eye rolling, facial grimaces, scratching, clapping or pinching. Vocal tics include but are not limited to whistling, coughing, throat clearing, screeching, involuntary cursing or vulgar language or animal noises. Keep in mind that these tics are involuntary, and the individual is not trying to behave in a rude or defiant manner.

b. Interacting

- (1) While individuals with tics are not aggressive, some motor tics may involve excessive movement of arms and legs. Maintaining a safe distance may be

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necessary to avoid being struck. Never direct them to stop tics, this may increase the involuntary nature.

c. Communicating

- (1) Many tics manifest when the individual is excited, anxious or under duress. Since most 911 calls involve some form of anxiety, excitement, or stress, it is not uncommon for an individual's tics to be more present upon arrival or during the interaction.

7. Traumatic Brain Injury (TBI):

a. Indicators:

- (1) Individuals will have a vast array of symptoms. Identification will be difficult. Indicators include memory loss, inability to process receptive language, irritability, processing information, delayed response, sensitivity to light, amongst many others.
- (2) Symptoms of Mild Traumatic Brain Injury include: loss of consciousness for a few seconds to a few minutes; confusion, dizziness or loss of balance; speech problems; sensitivity to light and sounds; and mood swings.
- (3) Symptoms of Moderate to Severe Traumatic Brain Injury include: loss of consciousness for a few seconds to a few minutes; dilation of one or both pupils of the eyes; loss of coordination; slurred speech; and agitation or combativeness.
- (4) Blast Induced Traumatic Brain Injury (bTBI), a subset of TBI, is caused by non-invasive explosions from improvised explosive devices (IED)/roadside bombs. This condition is a widespread problem for recent military veterans and may present itself in interactions with this specific population. Symptoms include exhibited memory loss, headaches, anxiety, depression, and/or confusion. These symptoms may be mistaken for Post-Traumatic Stress Disorder (PTSD).

b. Interacting

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- (1) Some individuals with TBI may have trouble concentrating or organizing their thoughts. Consider moving to a quiet place if needed.
 - (2) Be mindful that symptoms of TBI may fluctuate and are influenced by many factors, thus potentially influencing the behavior of the individual.
 - c. Communicating
 - (1) Be prepared to repeat what you say, either orally or in writing.
 - (2) If you are unsure whether the individual understands you, offer assistance with completing forms and interpreting written instructions.
8. Epilepsy/Seizure Disorder:
 - a. Indicators
 - (1) A person encountering a seizure will have altered consciousness and will not be responsive to directives. The most common seizure is a tonic-clonic (or grand mal) wherein the individual will have convulsions. Other seizures such as focal partial and petit mal will present differently as the person may be verbalizing, walking, or have a blank stare.
 - (2) Regardless of the type of seizure that the person is encountering, it is a medical event that needs an immediate EMS response.
 - b. Interacting
 - (1) Officers will most frequent encounter with an epileptic person are a medical assist or "person down" call. One of three seizure patterns may be visible, depending on response time to the scene.
 - (2) The most common seizure is a tonic-clonic (or grand mal) wherein the individual will have convulsions.

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- (3) Other seizures, such as focal partial and petit mal, will present differently as the person may be verbalizing, walking, or have a blank stare.
 - (4) Individuals who have seizures will not pose a direct threat to officers. Someone having a complex partial seizure may push an officer, but this is not done with malicious intent.
 - (5) Objects that may cause injury to a person having a seizure should be moved from the area, and the person should never be restrained.
 - (6) Individuals prescribed seizure medication may need to take the medication while in custody. Officers shall follow agency policy and procedure for emergency medical and health care services.
- c. Communicating
- (1) Individuals who experience seizures often feel embarrassed. Reassure them they are okay. Speak to them as you would anyone you have assisted in a time of need.

V Auxiliary Aids and Other Services⁹

- A. Officers will make every reasonable effort to provide equal access and timely assistance to persons with disabilities, including but not limited to auxiliary aids and/or services as described in this policy. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.¹⁰
1. In emergency situations involving an imminent threat to the safety or welfare of any person, officers may use whatever auxiliary aids and services reasonably appear effective under the circumstances.
 - a. Examples include: exchanging written notes, or; using the services of a person who has some ability to communicate in sign language or who is able to facilitate the communication

⁹ 28 CFR § 35.130

¹⁰ 28 CFR § 35.160 (2)

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of information to the individual, but is not a Qualified Interpreter.

- b. Once the emergency has ended, the continued method of communication should be reconsidered. Give primary consideration to the individual's communication preference.
2. In non-emergency situations, when an officer knows or suspects an individual requires assistance to effectively communicate, the officer shall identify the individual's choice of auxiliary aid or service.
3. Officers shall give primary consideration to the individual's preferred communication method, unless an equally effective method of communication is identified under the circumstances.¹¹
4. Factors to consider when determining whether an alternative method is effective include:
 - a. The methods of communication usually used by the individual.
 - b. The nature, length and complexity of the communication involved.
 - c. The context of the communication.
5. If an interpreter is requested, a qualified interpreter shall be selected and utilized from a list of available speech language interpreters maintained by the agency.
 - a. Accompanying adult¹²
 - (1) Officers shall not rely on an adult accompanying an individual with a disability to interpret or facilitate communication except:
 - (a) In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or

¹¹ 28 CFR § 35.160 (b)(2)

¹² 28 CFR §35.16 (2)

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- (b) If the individual with a disability requests that the accompanying adult interpret or facilitate communication, the officer may grant the request provided that:
 - i) the accompanying adult agrees to provide such assistance; and
 - ii) reliance on that adult for such assistance is appropriate under the circumstances.
 - (2) The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered for appropriateness (e.g., victim/suspect).
- b. Officers shall not rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available¹³.
- B. Officers will work with the ADA coordinator or local community resources to identify and access auxiliary aids and services that are available.
- C. A person with a disability may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.
 - 1. They are not required to furnish their own auxiliary aid or service, however, any personal or prescribed service/device¹⁴ such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; readers for personal use or study; or services of a personal nature including assistance in eating, toileting, or dressing as a condition for receiving assistance is the responsibility of the individual.
 - 2. A person with a disability cannot be charged to receive acceptable auxiliary aids or services.

¹³ 28 CFR §35.160 (3)

¹⁴ 28 CFR § 35.135

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- D. Persons with disabilities shall be afforded the same telephone access as those without a disability through use of an available teletypewriter (TTY). Additionally, the agency shall accept calls placed by TTYs or equally effective telecommunications systems used to communicate with individuals who are deaf or hard of hearing or have speech impairments.¹⁵

VI Arrest/Custody Procedures

- A. In some instances, persons with certain disabilities such as ID/DD taken into custody may initiate a severe anxiety response and escalate the situation. Diversion to other services may provide better long-term outcomes for the individual.
 - 1. Officers should evaluate the situation and consider all information reasonably available to them when making a determination to arrest the individual.
 - 2. If an arrest is necessary, the following procedures may be employed, when practicable and safe, and depending on the individual's known disability to assist in the calming and intervention process:
 - a. Request the person's caregiver to accompany the person.
 - b. Avoid placing the individual in a lockup or other holding cell.
 - (1) Consider the use of a quiet room with subdued lighting with a caregiver or other responsible individual.
 - (2) Consider the provision of any comfort items that may have been in the individual's possession at the time of arrest (e.g., toys, blankets, foam rubber objects).
 - c. Avoid lodging the individual with others.
- B. If an individual who is deaf, is hard of hearing or has impaired speech must be handcuffed while in custody, consideration should be given, safety permitting, in the placing of handcuffs to facilitate communication using sign language or writing.
- C. Whenever there is a concern in the accuracy of the information being obtained or understanding of instructions by the arrestee

¹⁵ 28 CFR §35.161

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during the booking process, officers shall seek the services of a qualified interpreter.

- D. During custodial interrogations and arrests, a qualified interpreter is generally necessary to effectively communicate with a person who's expressed primary method of communication is sign language.
 - 1. A qualified interpreter need not be available when an officer's immediate priority is to stabilize a situation or in order for an officer to make an arrest of an individual where probable cause is established independent of questioning the deaf or hard of hearing suspect.
 - 2. If probable cause to make an arrest must be established through interviewing a victim, witness, suspect or arrestee, a qualified interpreter must be provided on-site or via a video remote interpreting service.

- E. Miranda Warnings
 - 1. Many people with an intellectual or developmental disability (ID/DD) are not able to understand their rights, but will agree with the officer to hide their disability or to appear cooperative.
 - 2. Officers conducting interviews or interrogations of an individual who is known or suspected of having an ID/DD should consult with a supervisor to determine whether or not to proceed with the Miranda warning and interrogation or interview.
 - 3. Read Miranda without attempting to modify the Miranda statement. After Miranda is given, officers will make an additional attempt to ensure that the individual understands his or her rights by:
 - a. Asking the individual to repeat each phrase of the Miranda warnings using his or her own words that require the individual to use reasoning abilities and think conceptually.

For example, questions such as, "tell me what rights are, give me an example of a right you have, tell me what a lawyer is, how can a lawyer help you, why is a lawyer important, why do you want to talk to me

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instead of a lawyer, can you explain to me why you don't have to talk to me, etc.”

- b. Permitting the presence of a support person or advocate who can verify whether or not the individual can fully understand the meaning of the warning.
- F. Individuals with an ID/DD may have limited reasoning and the inability to effectively communicate their thoughts. Officers should observe the following while conducting the interview of an individual who has, or who is suspected of having an ID/DD:
1. Determine the individual's primary mode of communication and provide necessary accommodations.
 2. Use simple, straightforward questions. However, avoid yes or no answers, as the individual may simply choose either yes or no in an effort to please the officer, rather than provide factual information.
 3. Do not suggest answers, attempt to complete thoughts of persons slow to respond, or pose hypothetical conclusions, recognizing that people with an ID/DD are easily manipulated and may be highly suggestible.
- G. Officers shall record custodial interrogations to document an objective and accurate account of the interrogation when an individual is known to have a disability that may cause difficulty in understanding questions, recalling or articulating sequence of events, and as required by standards established by rule of the Division of Criminal Justice Services pursuant to Criminal Procedure Law 60.45(3)(e).
- H. Mobility devices¹⁶
1. Caution must be used when transporting an arrested individual that uses a mobility device. Officers should use caution not to harm an individual or damage the device.
 2. Prior to transport, officers will ask the individual what type of transportation he or she can use, and how to lift or assist him or her in transferring into and out of the vehicle.

¹⁶ 28 CFR § 35.137

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3. Safe transport of individuals who use non-collapsible devices such as power wheelchairs may require modifications to existing cars or vans, or use of lift-equipped vans or buses, or the use of other community resources.

VII Documentation and Reporting

- A. Officers shall document any assistance or auxiliary aids or services utilized by an individual with a disability, whether an individual choose to accept agency-provided auxiliary aids or services or choose to provide his or her own.
- B. Officers shall document the reason why another effective method of communication existed and was utilized in situations when the individual's preferred communication method is not honored.

VIII Responsibilities of the Agency American with Disabilities Act Coordinator

- A. Ensure persons with disabilities have equal access to services and programs.
- B. Maintain a list of available qualified interpreter services and contact information.
- C. Maintain in operable working condition features of the agency, signage¹⁷ and equipment that are required to be readily accessible to and usable by persons with disabilities.
- D. Ensure that persons with disabilities who wish to file a complaint are able to do so and complaints are appropriately processed in accordance with established grievance procedures.
- E. Ensure officers have familiarity with operation of equipment and accessibility to auxiliary aids and services.
- F. Periodically review and update persons with disabilities policy and procedures.

¹⁷ 28 CFR § 35.163

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- G. Collaborate with the local social services department, advocates, healthcare providers, counseling services, and other service providers, when practicable, to coordinate disability services and efforts.

IX Training¹⁸

- A. Officers will be periodically trained on:
 - 1. Interactions with individuals in emergency and non-emergency situations, with disabilities, and:
 - 2. Procedures for accessing, providing, and working with qualified interpreters and auxiliary aids and services.
- B. This policy is not intended to be a substitute for proper training in responding to, and interacting with, people with disabilities.

¹⁸ For additional training on the topics included in this policy, please consult the following courses:

1. Disability Awareness Training for LE Train-the-Trainer (Two-Day Course) <https://frdat.niagara.edu/>
2. Basic Course for Police Officers: Persons with Disabilities: <https://goo.gl/H3dVFK>
3. Missing Persons Training for 911 Dispatchers and First Responders (Available in eJustice Portal)
4. Basic Course for Police Officers: Missing Persons Cases: <https://goo.gl/H3dVFK>
5. Dial 211 for Essential Community Services: www.211.org
6. Approaching Alzheimer's for Law Enforcement Online Training <http://www.criminaljustice.ny.gov/ops/training/other/Approaching-Alzheimers-for-First-Responders/story.html>