

ORLANDO POLICE DEPARTMENT POLICY AND PROCEDURE
1108.4, INTERACTING WITH INDIVIDUALS WITH DISABILITIES

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PURPOSE:

The purpose of this policy is to ensure that a consistently high level of service is provided to all community members, including those who have disabilities. This agency has specific legal obligations under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act to provide necessary accommodations and to communicate effectively with people who have disabilities, including those who are deaf or hard of hearing.

POLICY:

Persons with disabilities should be treated with dignity and respect, but safety concerns must be given priority consideration. Appropriate auxiliary aids and services, including qualified interpreters, will be provided when necessary to afford an individual with disabilities effective participation in a primary service, program or activity of the Department. In such instances, primary consideration will be given to the request of the individual with disabilities in determining what type of auxiliary aid or service is necessary.

DEFINITIONS:

Autism: A pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.

Autism Spectrum Disorder: Is any of the following disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association:

1. Autistic disorder;
2. Asperger's Syndrome; and
3. Pervasive developmental disorder not otherwise specified.

Auxiliary aids and services: Qualified oral or sign language interpreters, note pads, written materials, and other effective methods of making aurally- or visually-delivered materials available to individuals with hearing or visual impairments.

Developmental Disability: A disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willie syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

Professional: Is defined as a psychiatrist, psychologist, mental health counselor, special education instructor, clinical social worker, or related professional. The professional must have experience treating, teaching, or assisting patients or clients who have been diagnosed with autism or an autism spectrum disorder or related developmental disability or must be certified in special education with a concentration focused on persons with autism or an autism spectrum disorder.

Qualified interpreter: One who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Accordingly, an interpreter must be able both to sign to the individual who is deaf what is being said by the hearing person and to voice to the hearing person what is being signed by the individual who is deaf. The interpreter must be able to interpret in the language the deaf person uses (e.g., American Sign Language or Signed English) and must be familiar with law enforcement terms and phrases. Because a qualified interpreter must be able to interpret impartially, a family member or friend may not be qualified to render the necessary interpretation because of factors such as emotional or personal involvement or considerations of confidentiality. Certification is not required in order for an interpreter to be “qualified.”

PROCEDURES:

1. GENERAL INFORMATION

1.1 SPECIAL ACCOMMODATIONS

In emergency situations where the officer believes that time is of the essence in protecting life or property, necessary communication should be made by the quickest and most effective means possible. Special accommodations may need to be made when interacting with individuals who are disabled. Officers should accommodate the special needs of citizens to the extent that time and safety permit.

1.2 COMMUNICATING WITH PERSONS WHO ARE DEAF OR HARD OF HEARING

1.2.1 TECHNIQUES FOR OFFICERS TO COMMUNICATE EFFECTIVELY

Officers may utilize the following auxiliary aids to communicate effectively:

- Gestures
- Visual aids
- A notepad and pen or pencil
- A computer
- An assistive listening system or device
- A teletypewriter (TTY)
- A qualified oral or sign language interpreter

1.2.2 INTERPRETERS

If an employee requires the services of a qualified interpreter in order to accomplish his or her communication objective or in order to provide effective communication with a suspect, arrestee, crime victim or witness, OPD Communications should be contacted to arrange this service. The Department maintains agreements with agencies to provide qualified and certified oral and sign language interpreters. The OPD Communications supervisor will maintain the contact information for these interpreter agencies.

1.3 ADDITIONAL ASSISTANCE

In non-arrest enforcement encounters or non-enforcement encounters, if a person with a disability requests services additional to those available at the scene that are not deemed necessary by the employee in order to meet an enforcement objective, the individual should be instructed to contact the OPD Information Desk during regular business hours to request assistance.

1.4 DENIAL OF REQUESTS FOR AUXILIARY AIDS AND SERVICES

The on-duty watch commander serves as the designee for the chief of police and is the only person with the authority to deny auxiliary aid requests made by an individual with a disability. If agency personnel are not familiar with a requested auxiliary aid, the OPD Communications supervisor and the police legal advisor should be contacted.

2. LAW ENFORCEMENT CONTACT WITH THE DISABLED

2.1 ARRESTS OF INDIVIDUALS WITH DISABILITIES

2.1.1 ACCOMMODATING SPECIAL NEEDS

Personal aids (e.g., wheelchairs, special glasses, hearing aids, etc.), as well as special medication, should be transported with the prisoner and left at the booking office.

2.1.2 DEAF OR HARD OF HEARING

If a suspect is deaf or hard of hearing, the officer should make every effort to communicate basic information to the person in the quickest and most effective means possible. If an individual without a hearing impairment would have been arrested on probable cause without an interview, then a subject with a hearing impairment in the same situation does not need to be provided with a qualified interpreter. If, however, an individual without a hearing impairment would have been questioned or offered an opportunity to explain facts related to the incident, then the deaf or hard-of-hearing subject needs to be questioned with the services of a qualified interpreter. If no other effective means of communication is available at the scene of the arrest, the arrestee should be advised in writing that he/she is under arrest and will be transported to the booking office. Neither an arrestee nor a suspect who is deaf or hard of hearing should be questioned about the crime without the services of a qualified interpreter.

2.2 NON-CRIMINAL ENFORCEMENT ENCOUNTERS WITH INDIVIDUALS WITH DISABILITIES

2.2.1 ACCOMMODATING SPECIAL NEEDS AT THE SCENE

In non-arrest enforcement situations (i.e., issuance of traffic summons, trespass warnings, or notices to appear), relevant information should be read to persons who are visually impaired. For persons who are deaf or hard of hearing, relevant information should be communicated in writing or by other effective means, utilizing such resources as may be available at the scene.

2.3 ENCOUNTERS WITH WITNESSES, VICTIMS OR OTHER PERSONS WITH DISABILITIES REQUESTING INFORMATION OR OTHER ASSISTANCE

2.3.1 ACCOMMODATING SPECIAL NEEDS

If the employee requires the services of a qualified interpreter for the deaf or hard of hearing to accomplish his or her communication objective or to provide effective communication, the OPD Communications supervisor should be contacted to arrange this service. Information required by law or policy to be provided to victims or witnesses should be provided in an accessible format to persons who are visually impaired (including verbally or in large print).

2.4 INTERVIEWS OF VICTIMS, SUSPECTS AND DEFENDANTS WITH AUTISM

When a victim, suspect or defendant, diagnosed with autism or autism spectrum disorder, or his or her parent or guardian, request a professional to be present during interviews, the interviewing officer or other individual designated by the interviewing officer, shall take the following steps:

1. Advise the individual making the request for a professional to be present, that all expenses related to the attendance of the professional shall be borne by the requesting parent, guardian, or individual. If the individual making the request for a professional is a victim, upon conviction of the offense in which the individual is a victim, the defendant shall reimburse the victim for all expenses related to the attendance of the professional at the interview as part of restitution.

2. Ask the individual making the request for a professional, if they have a particular professional he or she would like to request or knows of a professional who may be requested. If so, obtain the professional's contact information and contact the professional for assistance. The individual making the request for a professional may contact the professional directly if that is his or her preference.

3. If the individual making the request does not have or know of a particular professional to contact, the interviewing officer or designee may contact The Autism Society of Greater Orlando, 407-855-0235 during normal business hours. If assistance is needed on weekends and/or after normal business hours, The Autism Society of Greater Orlando can be contacted at phone number 407-616-6201.

4. The interviewing officer or designee shall document all attempts to obtain a professional for the interview.

5. If after all known sources for a professional have been exhausted and a good faith effort has been made to locate a professional and all attempts were unsuccessful, the interviewing officer may begin the interview without a professional present.

6. Officers should be aware that a professional may not be available on weekends and/or after normal business hours and in order to have a professional present during all interviews, advance arrangements may need to be made. The determination to delay an interview should be on a case by case basis at the officers or supervisor's discretion.

7. Failure to have a professional present at the time of the interview is not a basis for suppression of the statement or the contents of the interview or for a cause of action against the law enforcement officer or agency.

2.4 WRITTEN COMMUNICATIONS

Any written communications given to or received from a suspect or arrestee must be preserved by the employee and shall be placed into evidence.

2.5 USE OF AN INTERPRETER

The use of an interpreter will be documented in the incident report and/or arrest affidavit, listing the interpreter as a witness.

3. INVISIBLE DISABILITIES

Many disabilities are difficult to notice. 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.

Employees should be aware that involuntary behavior associated with some invisible disabilities may resemble behavior characteristically exhibited by intoxicated or combative individuals. For example, a person experiencing a mild seizure may temporarily appear incoherent and physically imbalanced.

Florida Statute 901.215 states that every arrested person who appears to be inebriated, intoxicated, or not in control of their physical functions must be examined by a law enforcement officer to determine whether the arrestee is wearing a medic-alert bracelet, necklace or some other visible device identifying a medical disability that would account for the person's actions. If a device of that nature is discovered, the officer must take immediate steps to obtain medical assistance for the person.

4. TRAINING

Per Florida Statute 943.0439, all sworn members shall receive training on Autism Awareness and the Department's policies and procedures for interviews of victims, suspects, and defendants with Autism or Autism Spectrum Disorder.

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