



Policy 1739

Subject	
REASONABLE ACCOMMODATIONS FOR INTERACTIONS WITH THE PUBLIC	
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By Order of the Police Commissioner

POLICY

It is the policy of the Baltimore Police Department (BPD) to fully comply with the Americans with Disabilities Act (ADA) and the U.S. Department of Justice's regulations enforcing Title II of the ADA, and make Reasonable Accommodations to the Department's policies, practices, and procedures in order to better-serve Individuals with Disabilities. The purpose of this policy is to provide broad guidance on how members will be expected to provide Reasonable Accommodations in interactions with Individuals with a Disability.

The Department operationalizes the principle of Reasonable Accommodations through certain programs listed below. These programs, and this policy, exist to ensure that the BPD can provide services in a non-discriminatory manner:

- **Application and Employment Accommodations:** See Policy 1737, *Accommodation Procedure*.
- **Video Remote Interpreter Services:** See Policy 1103, *Communicating with Individuals who are Deaf and Hard of Hearing*.
- **Accommodations for Individuals who Experience Behavioral Health Disabilities:** See Policy 712, *Crisis Intervention Program*.

CORE PRINCIPLES

Civil Rights. Members who respond to Individuals with Disabilities shall respect their dignity, civil rights, and contribute to their overall health, safety, and welfare. Individuals with Disabilities retain their constitutional rights, including their rights to liberty and due process. Consistent with these rights and Maryland law, a member may detain and/or transport an individual for emergency evaluation or civil commitment **only if** they present a danger to the life and safety of themselves or others (MD Health Gen. § 10 602). The use of reasonable modifications for individuals who experience qualifying Behavioral Health Disabilities, including de-escalation techniques, may mean that the individual no longer meets the standard for an involuntary emergency evaluation depending on the circumstances of the interaction. For the Department's policy governing emergency evaluation or civil commitment, see Policy 713, *Petitions for Emergency Evaluation & Voluntary Admission*.

Members and communications dispatchers shall be trained to i) Understand that Individuals with Disabilities should reside in the community whenever possible, with the supports they need to be successful ii). Understand the value to society of Individuals with Disabilities residing in the community; iii). Understand the need to avoid assumptions, stereotyping, and discrimination against persons with disabilities; iv). Have increased awareness of bias as it relates to interactions with Individuals with Disabilities; and v). Provide Reasonable Accommodations to Individuals with Disabilities as needed. The

duty to make Reasonable Accommodations applies during the entirety of the member's encounter with the Individual with a Disability, from initial encounter, to custody, to transport, and through to when custody is relinquished to another member – whenever the individual is interacting with the member.

Americans with Disabilities Act, Title II. As a public entity, the BPD is required to make reasonable modifications to its governing policies, practices, and procedures in order to ensure that Individuals with Disabilities have equitable access to the Department's services. The BPD may not deny police service or any other Department activity to an Individual with a Disability, and will instead make Reasonable Accommodations to its policies, practices, and procedures so that the individual may participate or receive the service in an accessible manner.

Non-Discriminatory Policing. Members are prohibited from relying, to any extent or degree, on a person's race, ethnicity, national origin, religion, gender, sexual orientation, age, disability, gender identity or expression, or affiliation with any other similar identifiable group as a factor in conducting a field interview, investigative stop, vehicle stop, weapons pat-down, search, or arrest except when physically observable as part of an actual and credible description of a specific suspect or suspects in any criminal investigation that includes other appropriate non-demographic identifying factors (such as clothing or associated vehicle). See Policy 317, *Fair and Impartial Policing*.

DEFINITIONS

Behavioral Health Disability – Primarily refers to any Mental Illness and/or substance use disorder but also may be used to describe any disabling condition that impacts a person's ability to self-regulate their thinking, mood, or behavior. A person may be suspected of experiencing a Behavioral Health Disability through a number of factors including:

- Self-report,
- Information provided to dispatch or members directly by witnesses or informants,
- An individual's previous interaction(s) with the BPD, or
- A member's direct observation including, but not limited to, behaviors consistent with psychiatric diagnoses, such as disorientation/confusion, unusual behavior/appearance (neglect of self-care), hearing voices/hallucinating, anxiety/excitement/agitation, depressed mood, crying, paranoia or suspicion, self-harm, and/or threatening violence towards others.

NOTE: The terms "disability" and "disorder" are often used interchangeably. In this context, the preferred term is disability.

Developmental Disability – A long-term disability attributable to a physical, mental, or combination of impairments that result in functional limitations in major life activities, such as understanding and expressing language, learning, moving, self-direction, self-care, independent living, and economic self-sufficiency. The disability must have originated before the age of 22 and is likely to continue throughout the individual's life. Developmental Disability is a term that encompasses Intellectual Disability, but also covers some physical disabilities. Some Developmental Disabilities might consist of physical or sensory impairments only, such as blindness from birth. Other Developmental Disabilities involve both physical impairments and diminished intellectual functioning stemming from genetic or other causes, such as Down syndrome.

Individual with a Disability – Under the ADA, the following individuals must receive Reasonable Accommodations as needed to prevent disability-based discrimination:

- Individuals who have a physical or mental impairment that substantially limits one or more major life activities;
- Individuals who have a record of a physical or mental impairment that substantially limits one or more of the individual's major life activities; and
- Individuals who are regarded as having such an impairment, whether they have the impairment or not.

Intellectual Disability – A group of disabilities characterized by limited or diminished intellectual functioning and difficulty with adaptive behaviors, such as managing money, schedules, routines, or social interactions.

Mental Illness – A health condition that significantly impairs a person's thinking, mood, or behavior and may affect their ability to effectively address individual, interpersonal, and social challenges.

Reasonable Accommodations – According to the ADA Title II Technical Assistance Manual, public entities (e.g., police departments) must reasonably modify their policies, practices, or procedures to avoid discrimination. In addition, individual members must modify their practices and approaches in order to make Reasonable Accommodations. Accommodations are reasonable when they do not create undue hardship or a direct threat.

Support Person – In this policy, Support Person means a parent, relative, guardian, friend, or other adult who can provide emotional support and reassurance for the Individual with a Disability.

GENERAL

1. While members are not expected to diagnose a disability, they are expected to make reasonable observations of individuals in an effort to determine disability status. Members shall not make assumptions about an individual's disability status. Instead, when interacting with an individual suspected of having a disability, members shall ask the individual what assistance they need. Apart from individual disclosure, members may know or should know that they are interacting with an Individual with a Disability when:
 - 1.1. Information relayed by dispatch/Communications indicates that the individual has a disability,
 - 1.2. When the individual exhibits apparent signs of a disability,
 - 1.3. When the member has prior knowledge of the individual and their disability, and
 - 1.4. When the member is responding to a petition for emergency evaluation.
2. Modifications should be individualized in accordance with the nature and history of the individual's disability as known by the member at the time, and made when reasonable under the circumstances.

3. Members are encouraged to gather as much information as possible about an individual's disability, with the individual's consent. In addition to medical identification tags, some individuals carry wallet cards noting their disability status, and may include a contact name for a Support Person. Members may ask the individual if they can contact their Support Person for additional guidance or to respond to the scene.
4. In all interactions with Individuals with a Disability, members shall – when feasible – use de-escalation techniques (see Policy 1107, *De-Escalation*). The use of de-escalation techniques is **especially** important in these interactions as Individuals with a Disability may demonstrate behaviors (e.g., slurred speech, staggering gait, delayed response) that can be mistaken for intoxication or non-compliance. When feasible, members shall de-escalate and slow down the pace of incidents in order to not misidentify disability symptoms as other behaviors.
5. Reasonable modifications when responding to an Individual with a Disability may include contacting persons with special expertise, such as a mobile crisis worker, caregiver, or family member in order to communicate with the individual or consult with the member on effective strategies for a positive resolution.

DIRECTIVES

Effective Communication

6. Members shall modify their communications with Individuals with a Disability, whether they are victims, witnesses, suspects, or arrestees, as well as with the individual's parent, spouse, or companion in appropriate circumstances, to ensure that they receive equal access to Departmental services.
7. Members must conduct an individualized assessment of the person's needs, and shall give primary consideration to the person's preference. The member shall ask how the person wishes to communicate. Further, members should consider the nature, duration, and complexity of the communication in determining the type of auxiliary aid or service that will ensure effective communication.
8. For interactions with Individuals with a Disability that affects their hearing, members shall refer to Policy 1103, *Communicating with Individuals who are Deaf and Hard of Hearing*. As directed in that policy, members may communicate with individuals who are deaf and/or hard of hearing by using any of the below communication aids or others acquired by the Department:
 - 8.1. Gestures or visual aids to supplement oral communication,
 - 8.2. A notepad and pen or pencil to exchange written notes,
 - 8.3. Maryland Relay and video relay services to communicate by telephone,
 - 8.4. A qualified oral or sign language interpreter, and/or
 - 8.5. Video remote interpreter services.

9. Asking friends, family, or bystanders to interpret for a deaf individual may result in a breach of confidentiality, represent a conflict of interest, or result in inadequate interpreting. Therefore, absent exigent circumstances where these additional individuals are the only option, members shall utilize friends, family, and/or bystanders to interpret for a deaf individual only in very informal, non-confrontational (e.g., non-investigatory) contexts, and only to obtain basic information.
10. Members shall make Reasonable Accommodations in order to communicate with individuals who have a speech impairment. Members may use, among other strategies:
 - 10.1. A qualified speech-to-speech transliterator (a person trained to recognize unclear speech and repeat it clearly), especially if the person will be speaking at length, such as during an interrogation.
 - 10.2. A communication board. A communication board displays photos, symbols, or illustrations to help people with limited language skills express themselves. The user can gesture, point to, or blink at images to communicate with others.
 - 10.3. More time for communication.
11. Members shall make Reasonable Accommodations in order to communicate with individuals who have vision loss or a visual impairment. Members may:
 - 11.1. Print a document in a larger font, or zoom-in on an electronic document, or electronically for use with a computer screen-reading program;
 - 11.2. Read documents aloud to the individual or provide an audio recording of printed information (refer to steps 12.1. – 12.4. below).
12. Any Individual with a Disability may request that a member read a form or other Departmental document aloud. Upon request, and when reasonable under the circumstances, members shall:
 - 12.1. Read the document slowly and clearly, pausing for comprehension,
 - 12.2. Answer any questions the individual may have as they arise,
 - 12.3. Accurately document the individual's substantive responses on the form, and
 - 12.4. Repeat documented responses back to the individual prior to their signing the completed form.
13. During communications with Individuals with Intellectual or Developmental Disabilities (IDD), members should expect that they 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) during tense or unfamiliar situations. These behaviors **may not** indicate non-compliance, but rather are protective mechanisms for the individual in dealing with the troubling or frightening situations. Therefore:

- 13.1. Members shall only request that the individual stop, and/or intervene to stop the repetitive behavior if becomes harmful to themselves or others.
- 13.2. Some individuals with IDD carry a book of universal communication icons. Pointing to one or more of these icons will allow them to communicate where they live, their family member or Support Person's contact information, and more information about their disability.
14. When taking a statement from an individual who the member suspects has IDD or a Behavioral Health Disability or who has a Disability that affects their hearing, vision, or speech, members should repeat the statement back to the individual to ensure understanding.
15. Members should be prepared for a potentially long encounter, and not rush an individual who the member suspects has IDD or a Behavioral Health Disability unless there are exigent circumstances. When anticipating a potentially long encounter, such as a field interview, witness or victim statement, or investigative stop, members shall notify dispatch.
16. If communicating with an individual experiencing a Behavioral Health Disability or in crisis, members shall first de-escalate and refer to the guidance in Policy 712, *Crisis Intervention Program*. Exercising discretion regarding enforcement is an example of a modification that can promote a positive resolution when encountering individuals with Behavioral Health Disabilities.

Reasonable Accommodations in Custodial Situations

17. When a member knows or suspects that an individual has a disability, the member shall make reasonable modifications to investigation and arrest tactics in accordance with an individual's disability.
18. If an arrestee has a disability and requires the use of medical equipment (e.g., wheelchair, crutches, prosthetic devices), members shall adhere to Policy 1114, *Persons in Police Custody*, which requires members to transport medical equipment to the final destination of transport for Individuals with a Disability.
19. For serious offenses where members are required to take an individual who the member suspects has IDD into custody, members shall:
 - 19.1. Contact their supervisor, if feasible.
 - 19.2. Deploy calm and reassuring language and de-escalation.
 - 19.3. Request the individual's Support Person, if identified, to respond to the scene or place of confinement. Members shall also request that a CIT officer, if available, respond to the scene.
 - 19.4. When possible, avoid using body weight to restrain the individual. If no other option exists, members shall take extreme caution when restraining an individual with IDD.
20. For individuals with IDD and/or Behavioral Health Disabilities, avoid physical restraints when reasonable and practical, especially if the individual needs to communicate via sign language,

requires a wheelchair or scooter to move, if the use of handcuffs may exacerbate the mental health disability, or if the use of handcuffs might re-escalate the crisis situation for a person with a Behavioral Health Disability or IDD.

NOTE: An individual with IDD or a Behavioral Health Disability or who has a disability that affects their hearing, vision, or speech might react in “fight or flight” mode if being restrained. Members should consider that this response is not always indicative of aggression.

21. Upon arrival at CBIF, indicate on the booking form that the individual may have IDD or a Behavioral Health Disability, and notify the booking staff that they require appropriate placement and medical arrangements, such as a quiet room with a Support Person or caretaker (if available).

Reasonable Accommodations for Custodial Interrogations

In addition to the requirements of Policy 1105, *Custodial Interrogations*, members shall make the following Reasonable Accommodations for Individuals with a Disability during custodial interrogations:

22. Determine the individual’s primary mode of communication, if a disability affects communication, and provide the necessary devices, interpreter services, or any combination of those in order to accommodate the individual.
23. Assess the individual’s competence and understanding through a series of baseline questions not related to the investigation.
24. If the member suspects the individual has an IDD or a Behavioral Health Disability, contact a supervisor or a State’s Attorney before they begin the interrogation to determine how to proceed.
25. If a member suspects that an individual has an IDD or a Behavioral Health Disability, they shall:
 - 25.1. Inquire about whether the individual has a disability that may affect their ability to understand or engage in the process,
 - 25.2. When advising individuals who are suspected of having IDD or a Behavioral Health Disability of their constitutional rights, members will speak slowly and clearly and ask the individual to explain their response rather than simply answer yes or no.
 - 25.3. All Miranda advisements for individuals who have IDD should occur in the presence of an attorney.
 - 25.4. Inquire about whether the individual has a legal guardian.
 - 25.4.1. If the individual has a legal guardian, the member will make a reasonable effort to notify the individual’s guardian, and afford them the opportunity to be present during questioning. If unable to make contact, the member will record the date and time that attempts were made and the reason the effort failed. If contact is made and the guardian declines, the member will document the date and time and reasons why. An individual with IDD or a Behavioral Health Disability may not

waive Department policy to notify a guardian **unless** they can articulate, or if the member has reason to believe, any of the below-listed exceptions.

EXCEPTION: A guardian will not be permitted to be present when the guardian is either: 1) a complainant in the offense under investigation, 2) is suspected of being an accomplice in the offense under investigation, or 3) the member has articulable reason to believe there is a history of abuse between the guardian and the individual.

- 25.5. A Support Person or legal guardian **cannot** waive an individual's right to counsel, right to remain silent, or otherwise interfere with questioning.
 - 25.6. All interrogations of individuals who are suspected of having IDD or Behavioral Health Disability shall be audio and visually recorded, and the individual being interrogated shall be advised that the proceedings are being recorded.
 - 25.7. A supervisor shall view the statement from outside the interview room for any person suspected of having IDD.
 - 25.8. Members will attempt to conduct the interrogation of any individual suspected of having IDD or a Behavioral Health Disability during reasonable hours and within a reasonable period of time, unless exigent circumstances dictate otherwise.
 - 25.9. Members will ensure adequate breaks are provided during the interrogation of any individual suspected of having IDD or a Behavioral Health Disability and any apparent needs met.
26. When interrogating individuals who are suspected of having IDD or a Behavioral Health Disability, members should incorporate the following considerations:
- 26.1. Not interpret a lack of eye contact or typically "strange" responses as indicative of deception or evasion of questions.
 - 26.2. Speak slowly and clearly, using simple, concrete, and straight-forward language, ideas, and questions, **but** avoid "yes or no" questions. Individuals who have IDD may be more likely to answer "yes" in an effort to please the interrogator and may not represent an accurate answer.
 - 26.3. Individuals with IDD can be easily persuaded, thus members shall not ask "leading" or suggestive questions, or attempt to complete the thoughts of individuals slow to respond. Members shall avoid hypothetical conclusions.
 - 26.4. Repeat questions using slightly different wording to ensure the individual understands the line of questioning.

REQUIRED ACTION**Education and Training Division**

27. The CIT Coordinator shall ensure that the following training courses include instructional material on the Department's requirements to provide Reasonable Accommodations and/or practical material for interactions with individuals who have IDD:
- 27.1. Each academy class's entry-level training,
 - 27.2. Once every three (3) years as part of annual behavioral health in-service training,
 - 27.3. Each CIT Certification course, and
 - 27.4. Once every three (3) years as part of refresher training for CIT-certified members.

Public Information Office

28. The Director, Public Information shall ensure that any Departmental press briefings to occur at BPD facilities include a sign-language interpreter.

ASSOCIATED POLICIES

Policy 317, *Fair & Impartial Policing*
Policy 712, *Crisis Intervention Program*
Policy 713, *Petitions for Emergency Evaluation & Voluntary Admission*
Policy 1103, *Communicating with Individuals who are Deaf and Hard of Hearing*
Policy 1105, *Custodial Interrogations*
Policy 1107, *De-Escalation*
Policy 1114, *Persons in Police Custody*
Policy 1737, *Accommodation Procedure*

COMMUNICATION OF POLICY

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.