

Coalition Comments on CPD's Draft Policies on Interactions with People with Disabilities

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CPD has revised and expanded its policies on police interactions with people with disabilities in several important ways. These drafts are a long-awaited step forward on consent decree mandates years overdue. While there is progress here, more must be done for the policies to provide the needed guidance and prevent harm to people with disabilities from police encounters.

CPD must revise these drafts after direct engagement with a broader range of disability communities to develop comprehensive and specific guidance on the array of disability issues that Chicago's police officers encounter daily

- CPD must go beyond taking comments on drafts to meet with stakeholders and organizations representing the diversity of Chicago's disability communities. The Deaf, Deaf-Blind, and Hard of Hearing policy is the best example of how this type of needed engagement brings real improvement to CPD's policies. That type of engagement must be extended to fill in the many gaps in these policies.
- **The policies must include interactions with people with all types of disabilities. Mental health disabilities should not be excluded from the invisible disabilities policy, and directives more broadly should specifically address many other disability types, whether visible or not, whether physical or mental.**
- The definitions should be revised to use clear, plain language that is understandable—without legal jargon—and applicable to policing.

The policies must be revised to give detailed directives on the duty to make reasonable accommodations more broadly, regardless of disability type, while also giving guidance as to the specific type of modifications typically needed for different types of interactions or different disability needs.

- The specifics within the current drafts are limited to mobility and physical disability, suggesting that other types of disability and accommodation needs are not required. See, for example, Sect. III(I), V(B), and VII(E).
- The invisible disabilities policy, for example, only requires modifications (or reasonable accommodations) for effective communication, service animals or physical accessibility.

The policies should acknowledge and address the disproportionate harm by police on people with disabilities, particularly people of color who are at higher risk of use of force and arrest.

- Importantly, the policy acknowledges indicators of disability can be misinterpreted as non-compliance. **But there needs to be clear guidance on how officers can avoid harming anyone, de-escalate, and avoid arrests.**
 - For example, when a person with a disability is seen on the street moving in a way that is thought to be “abnormal” or lingering in manner that the officers find suspicious, all too often police officers move in closer, raise their voices, and even lay hands on the individual. These typical police reactions escalate the interaction and can lead to unnecessary use of force, arrest and other harms.

- **The policies must give specific guidance on how to prevent harm, such as by avoiding an interaction altogether if law enforcement response is not needed; calling on non-police responders as an alternative; or modifying their typical manner of approach and engagement as needed, including by offering time, space, avoiding yelling or chaotic orders and questions, and alternative methods of communication to prevent escalation.**
 - Section IV. E. should be revised to address how police presence and typical methods, such as use of raised voices or physical touch, can exacerbate the “volatile and emotionally charged” nature of these encounters. Officers should be directed to modify their own approach to avoid escalation.
 - In assessing the situation, the officers should be directed to consider the outcome risks to the person with the disability and whether the law enforcement response is needed or if other resources could be more effectively utilized to resolve the issue.
 - **The policies should direct officers to avoid arrests or even police involvement in the situation if a law enforcement response is not required.** With the enactment of CESSA and development of other non-police response options, guidance is required on the role of CPD members and CPD’s commitment under the consent decree to reducing criminal systems involvement of people with disabilities.

- **Guidance must be provided for officers to understand why alternative approaches are needed.** They must understand that people with disabilities, particularly in Black and Brown communities in Chicago, are disproportionately subjected to police violence and arrest. They must also understand that the police interactions can also lead to unintended harms, including, for example, criminalization of disability; discontinuation of disability

services that they rely on; challenges to navigating criminal court systems which lead to over-incarceration.

- As mandated by the Illinois Civil Rights Act and the ADA, **the policies should require CPD to determine whether Chicago police more frequently stop, search, arrest, detain, and use force against Black and Latinx people with disabilities** compared to white people and if so, analyze whether other law enforcement strategies could achieve the same or better public safety outcomes while reducing the disparate impact on people of color with disabilities.
 - CPD should set an express goal of reducing any intersectional disparate impact of policing on people of color with disabilities and create a plan to meaningfully reduce these long-standing disparities.

The policies must convey that the need to make reasonable accommodations to usual methods of interacting or handling an encounter are required by federal law. The policies need to be revised to lift up the federal disability rights mandates and their application to all police interactions.

- The definition of reasonable accommodations must be revised to expand on and explain how the law requires modifications of policies, procedures and police conduct when needed to provide the expected police services or appropriate interaction with people with disabilities. The current version starts with areas of modification not as relevant for the audience (police officers) and fails to explain the most relevant requirement of modifications under Title II to policing.
- The purpose of the ADA should be revised to correctly explain how the law applies to policing. This includes that it goes beyond treating people with disabilities the *same* to often requiring that police must often do things *differently* when engaging with people with disabilities in order to insure that, by virtue of their disabilities, they are not subjected to more harsh or disparate results from those encounters.
- Section VII.E of “when safe and feasible” is too far too vague. The exceptions under the law to providing needed reasonable accommodations are far narrower. This guidance should track the law in this area and explain how modification can be made consistent with safety considerations.

The policies must direct officers on how to record and report disability information required by the consent decree while also providing more guidance on needed confidentiality.

Paragraph 119 of the consent decree requires reporting of all incidents involving individuals with mental, behavioral health, developmental, and intellectual disabilities, as well as co-occurring

conditions, whether known, suspected, or perceived. See Paragraph 759 (defining broadly the term “individual in crisis”). Reporting of disability information is also required in use of force reports. See Paragraphs 571 and 572. The policies must direct members of their responsibilities for the reporting requirements of disability information. The policy revision should include evaluation of the forms used and whether changes are needed to appropriately collect the needed information.

Relatedly, guidance should be provided on the confidentiality of disability information, including the exceptions on when and how disability information may be disclosed or utilized by CPD members. Officers should be directed to limit their inquiries into disability-related information. Individuals should not be unnecessarily questioned about their disabilities, such as, for example, why they need an assistive device during investigatory stops, traffic stops and other encounters.

Section X’s mandate of a training bulletin is insufficient. For training to be effective it must be in-person, interactive and incorporate the experiences of people with a broad range of disabilities. A training bulletin simply is not enough.

The consent decree requires that the Department’s ADA Officer be a liaison to Chicago’s disability communities, but that function has gone unfulfilled. In addition to the requirement under this policy of regular meetings to gain input and gauge compliance, the ADA Officer should be responsible for outreach more broadly to gain knowledge and understanding of Chicago disability communities and build relationships. The ADA Officer should be a person with a disability or whose work is deeply rooted in disability communities to fulfill this function more effectively.