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Via Email

Danielle Clayton
Assistant Corporation Counsel
City of Chicago Department of Law
121 North LaSalle St., Room 600
Chicago, IL 60602
danielle.clayton@cityofchicago.org

Allan Slagel
Counsel for the City of Chicago
Taft Stettinius & Hollister LLP
111 East Wacker, Suite 2800
Chicago, IL 60601
aslagel@taftlaw.com

Maggie Hickey
Independent Monitor
ArentFox Schiff
233 South Wacker Drive, Suite 7100
Chicago, IL 60606
maggie.hickey@afslaw.com

Karyn L. Bass-Ehler
Assistant Chief Deputy Attorney General
Office of the Illinois Attorney General
100 W. Randolph Street, 12th Floor
Chicago, IL 60601
karyn.bassehler@ilag.gov

Dear Counsel and Monitor Hickey:

We write on behalf of the Coalition to comment on the Chicago Police Department's recently revised policy suite on Interactions with Persons with Disabilities (S02-07, S02-07-01 and S02-07-02). CPD has continued to refine initial drafts of these policies on police interactions with people with disabilities in important ways. In several crucial areas, however, more work is needed before this draft is finalized. We highlight below serious omissions and confusing guidance that hinder the implementation of the policy and the goals of affording all people, including those with disabilities, equal access to police services, and to be free of harm.

The policies must be revised to adequately include mental illness and other behavioral and cognitive disabilities and that officers must accommodate those disabilities.

Mental health disabilities *are* disabilities within the meaning of federal and state civil rights law. *See e.g.*, 28 C.F.R. § 35.108 (Americans with Disabilities Act implementing regulation); *See also* Illinois Human Rights Act, 775 ILCS 5/1-3(I) (state civil rights law on public accommodation adopts the ADA definition). People with mental health disabilities are likely the largest segment of people with disabilities that officers engage with, and they must be fully incorporated into these policies. Specifically, 28 C.F.R. § 35.108(a)(1)(i), states “[d]isability 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...” It then defines physical or mental impairment in (b)(1)(ii) as “any mental or psychological disorder such as intellectual disability, organic brain syndrome, **emotional or mental illness**, and specific learning disability.” The regulation goes on to specifically list “major depressive disorder, bipolar disorder, post-traumatic stress disorder, traumatic brain injury, obsessive compulsive disorder, and schizophrenia” as clearly fitting within the definition of disability.

Mental and behavioral health disabilities are scarcely referenced in the policies. Where they do appear, it is only in definitions, but not in the substantive guidance to officers. We acknowledge that CPD has separate policies on crisis intervention that include guidance on interacting with people with mental illness (as well as other behavior health and developmental disabilities). Those CIT policies should be referenced in the disability suite, but they cannot substitute for or explain the omission of mental and behavioral health disabilities from the disabilities policy suite. The crisis policies are not sufficient for providing guidance to officers on generally interacting with people who have mental and behavioral health disabilities. Importantly, not all people who have mental and behavioral health disabilities are in crisis when they encounter an officer. Officers are required to make accommodations, whether or not they are in crisis.

More specifically, the non-visible disability policy (S02-07-01) continues to define non-visible disabilities without adequate incorporation of mental and behavioral health disabilities. Instead, it reads as a policy primarily regarding individuals with intellectual and developmental disabilities (I/DD). In section V., where the policy lists commonly encountered non-visible disabilities, it lists only autism spectrum disorder and dementia. While these are important disabilities to highlight, mental health disabilities, learning disabilities, speech and language disabilities and traumatic brain injury are all even more prevalent. By only listing autism spectrum disorder and dementia under section V. it gives the false impression that those are the most common non-visible disabilities. In section VI. of the non-visible disability policy, again the policy seems to separate someone being affected “by a mental health condition” or in crisis from someone who is a person with I/DD, and then goes on to frame the advice as only applying to those with I/DD. Importantly, the consent decree defines crisis specifically to include interactions with individuals with I/DD.

CPD officers must understand that mental and behavioral health disabilities *are* disabilities and that under federal and state civil rights law, they are *required* to make modifications and accommodations when interacting with individuals with all disabilities.

The policies continue to confuse federal disability law and must be revised to ensure officers understand the legal requirements for providing modifications and accommodations to individuals with disabilities.

The Americans with Disabilities Act (ADA) definition in Section III. A. of the umbrella policy (S02-07) continues to misstate the purpose of the ADA. The ADA requires that officers not only ensure that people with disabilities are treated the *same* as others but requires that officers must often do things *differently* when engaging with people with disabilities to ensure that, by virtue of their disabilities, they are not subjected to more harsh or disparate results from those encounters. *See, e.g.*, 28 C.F.R. § 35.130(b)(7) and (8). Those things that officers must do differently are “modifications” or “accommodations.” The policy improved its definition of “reasonable modification” in sec. III. M. of S02-07. However, it then mostly uses the term

“accommodations” throughout. Under the ADA and Section 504 of the Rehabilitation Act of 1973, reasonable modifications and reasonable accommodations are often used interchangeably. Thus, we suggest that in the policy’s definition of reasonable modifications, CPD adds a parenthetical noting they are “also referred to as reasonable accommodations.” The purpose is to clarify that, whether called a “modification” or an “accommodation,” both are required under the ADA.

To that end, it is imperative that the entire policy is grounded in the concept of legally required accommodations. Section IV. of the parent policy, S02-07, titled “Interactions with Persons with Disabilities,” does not use the words “accommodation” or “modification” at all. Despite containing an extensive list of reminders and guidance to officers framing the policy suite, the key section fails to include the governing legal concept: that officers must modify their approaches to ensure that people with disabilities receive legally adequate access to police services. Section IV. B. explains that the ADA affects virtually all aspects of policing but does not explain *how* it affects every aspect of policing. IV. B. should specifically state that the ADA may require specific accommodations to each aspect of policing and include examples of what those accommodations might be. Section VI. of that same policy, titled “Accommodating People with Disabilities,” starts with an important note about the need to provide accommodations regardless of knowing someone’s specific diagnosis, yet in that section, the policy only lists accommodations for facilities, service animals, parking, and sign language interpreters. This is far too narrow given that that majority of police interactions with people with disabilities involve those who have mental and behavioral health disabilities. Section VII. is titled “De-Escalation Techniques” but fails to note, as it should, that those techniques are also often legally required accommodations for people with disabilities. Section VIII., “Investigatory Stops and Custodial Arrests” does include language about reasonable modifications for effective communication during stops and arrests, however, it is not just communication that must be modified. Currently VIII. A. the policy states that department members will provide reasonable modifications and assistance “with effective communication” during Investigatory stops. This should be expanded to include that department members will provide reasonable modifications and assistance “with effective communication, physical interactions, de-escalation, decisions to deflect or arrest, use of restraints and virtually every aspect of the stop and arrest procedure,” and the list of suggested modifications should be expanded accordingly.

For example, one member of the coalition who testified at our consent decree public hearing on June 10, 2025, has epilepsy and a traumatic brain injury, causing sensitivity to bright and flashing lights. When she was subjected to a police traffic stop (for expired license plates), and had safely pulled over, she requested that the officers turn off the flashing lights because it affected her epilepsy. Instead of accommodating her request (for which she had both a bumper sticker and a letter from her neurologist in her glove compartment), the officers laughed at her. What should have been a simple accommodation was instead humiliating and harmful. Moreover, the officers’ conduct escalated the risks of the stop for all involved. The policy must

be clear that these types of accommodations are not just the right thing to do or a helpful de-escalation technique but are also *required under federal law*.

In this policy structure, where the parent policy is the overarching policy, and the sub-policies provide more specific guidance, it is essential that the parent policy set forth the overall framework of the ADA. The parent policy must guide members on how to think about their practices in all interactions with people with disabilities and how and when reasonable modifications may be needed. The sub-policies should then detail guidance on that framework as specifically applied to those types of disabilities.

The updated sub-policies provide important guidance under the sections labeled “general guidelines,” “accommodating persons who have non-visible disabilities,” “effective communication,” “de-escalation,” and “investigatory stops and custodial arrests.” However, by organizing it this way without clearly explaining that the guidance set forth in each of these sections are examples of what would be considered reasonable accommodations under the law, it falsely implies that only the section labeled “accommodating persons...” is the section containing legally required guidance. This is not just a matter of semantics. These concepts need to be understood consistent with their legal meaning and import. But by labeling only one of the sections “accommodations,” it confuses what is an accommodation that may be required by law to ensure equal access of people with disabilities with what are suggestions of how to interact with individuals with disabilities. In fact, many of the suggestions in the various sections could be legally required accommodations or modifications. Examples like the one above may be useful to include in the policies so that officers can better understand how in various situations they may be required to implement modifications and act *differently* when a member of the community has a disability.

The policy must require more than a training bulletin to train officers.

Disability is a complex topic. The disability community is not monolithic and there are critical legal requirements to ensure those with disabilities are accommodated according to the law and not discriminated against. To achieve the goals of this new policy suite, many officers may need to shift their framework of policing. That is not possible with just a training bulletin. For training to be effective it must be in-person, interactive and incorporate the perspectives and experiences of people with a broad range of disabilities. A diverse range of disability organizations, grassroots groups, and the coalition should be provided an opportunity to watch the training, provide feedback, and be updated on how that feedback is incorporated into the training.

The policy suite must be revised to give adequate guidance on recording, reporting, and confidentiality of disability information as required by the Consent Decree.

Many paragraphs throughout the consent decree require data reporting on disability information. 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 also* ¶ 759 (defining broadly the term “individual in crisis”). Paragraph 509 requires CPD’s Case Management System (CMS) to separately track and have capacity to analyze trends by one’s self-reported disability. Reporting of disability information is also required in use of force reports. *See* ¶¶ 571 and 572. Notably, in CPD’s existing use of force annual reports, crisis incidents seem to be separated out from data about individuals with disabilities, even though often those in crisis should also be understood as people with disabilities. The policy revision should include evaluation of the forms used and whether changes are needed to appropriately collect the needed information for this required data reporting. It is critical that as CPD better tracks this data, the data is used to update the policy and training of officers.

The policy suite also correctly cautions officers about protecting the confidentiality of people’s disability information. Yet, it only provides a two-sentence notice that the information should be considered confidential and that they must only disclose as needed in carrying out their official law enforcement duties. This is not sufficient guidance. The policy on confidentiality should more specifically delineate when there are exceptions to confidentiality and how the 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.

The policy suite must do more to acknowledge the disproportionate harm by police on people with disabilities, particularly those of color, and have clear guidance on avoiding interactions and prioritizing non-police responses.

The policy should direct officers to avoid unnecessary interactions with people with disabilities, utilize non-police responders and avoid arrest whenever possible. 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 at all or if other resources could be more effectively utilized to resolve the issue. Specifically, it is important that the policy include the mandates of Illinois law under Community Emergency Services and Supports Act (CESSA), 50 ILCS 754/1, and recent program development to increase non-police response options. Clear and effective guidance must be provided to officers on CESSA, the CPD’s commitment to collaborate and enhance available non-police response options, and to set forth officer’s responsibilities and duties in calls where non-police responders may also be present or may be more appropriate. CPD committed under the consent decree to working to reduce criminal legal systems involvement of people with disabilities due to police interactions. *See* ¶¶ 85 and 86. That commitment must be reflected and implemented in this policy with specific protocols to direct police conduct in these interactions to avoid arrest, use of force, and other harmful outcomes.

While the policies include guidance on de-escalation, they should also provide clear guidance on the approach to prevent any escalation in the first instance, including consideration of how police interactions can escalate interactions with people with disabilities into crisis, or lead to use of force. This is particularly important in this policy given the well documented history of police escalation of interactions involving people with disabilities.

The Coalition appreciated the open dialogue we had last fall about the initial drafts of this policy suite. We would welcome the opportunity for further conversation, and to bring other disability community groups to the table to ensure that this policy suite is effective in protecting the rights of those with disabilities and ensuring safety for all.

Sincerely,

Amanda Antholt
Sheila Bedi
Alexandra Block
Joe DiCola
Craig Futterman
Michelle García
Jessica Gingold
Wallace Bertram Hilke
Imani Thornton
Attorneys for the Coalition