



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

April 8, 2015

President's Task Force on 21st Century Policing
Office of Community Oriented Policing Services
U.S. Department of Justice
145 N Street, N.E. 11th Floor
Washington, DC 20530
Via Email To: Comment@taskforceonpolicing.us

Dear Co-Chairs Ramsey and Robinson, and Members of the Task Force:

The undersigned members of the Consortium for Citizens with Disabilities (CCD) appreciate the opportunity to submit comments that may be helpful to the work of the President's Task Force on 21st Century Policing. CCD is a coalition of national disability organizations working for national public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. CCD organizations provided input at a White House listening session with members of the Task Force on February 4, 2015, and CCD submits these written comments to elaborate on some of the points raised during that listening session and to respond to the Task Force's interim report issued on March 4, 2015.

The work of the Task Force in undertaking a comprehensive review of the many issues that impact the relationship between law enforcement officers and the citizens and communities they serve, and making detailed recommendations for improving that relationship, is invaluable. In evaluating the many issues and concerns relating to policing in the 21st century, we urge the Task Force to give full consideration to the ways in which law enforcement officers interact with individuals with physical and mental disabilities. While CCD appreciates the references to disability issues that are included in the Interim Report, the report fails to give adequate consideration to the ways that the millions of Americans with disabilities interact with law enforcement and fails to make the kinds of specific recommendations for improved awareness and training that are needed to protect the rights and safety of these individuals.

As the Task Force noted in the introduction to the Interim Report, “Trust between law enforcement agencies and the people they protect and serve is essential in a democracy.” The Task Force describes its goal as “to build trust between citizens and their peace officers so that all components of a community are treating one another fairly and justly and are invested in maintaining public safety in an atmosphere of mutual respect.”¹ The issue of trust is just as critical for people with disabilities as it is for other communities. Individuals with disabilities must have trust that law enforcement officers are trained and equipped to respond appropriately when they know of or suspect an individual’s physical or mental disability, and that officers will take all reasonable steps to avoid unnecessary confrontation and harm to the person with a disability. This is fundamental to fairness and safety, and the alternative is lack of trust and fear on both sides. When officers do not know how to recognize and respond to situations involving a disability, they are likely to needlessly perceive these individuals as criminal suspects or safety threats, leading to heightened risk of confrontation, excessive force and harm both to the officer and the person with a disability. For individuals with disabilities and their families, the inconsistency and frequent inadequacy of law enforcement response mean an absence of trust in those charged with protecting them and fear that any interaction with law enforcement, whether in public or in the individual’s home, could turn hostile or deadly.

While CCD appreciates the Interim Report’s mention of people with disabilities at a few places (such as Action Item 1.5.4, which address the need to minimize use of physical control equipment and techniques on people with disabilities), and the specific recommendations relating to training law enforcement around mental health issues, we feel that the report does not adequately address disability issues. When compared to the numerous and detailed recommendations geared toward addressing racial groups, language minorities, and the LGBT community, among others, the report says very little about the serious issues surrounding police response to individuals with psychiatric disabilities, and practically nothing about responses to individuals with physical, intellectual or developmental disabilities. If these issues are not addressed, individuals with disabilities will continue to experience grave consequences, including injury or even death, as well as needless incarceration. We urge the Task Force to address these issues more fully in a final report, and offer an overview of the concerns related to law enforcement encounters with people with disabilities and recommendations for addressing those concerns below. These concerns and recommendations are discussed in greater depth in comments provided by individual disability organizations.

Disability-Specific Concerns

Law enforcement officers face particular challenges during encounters with individuals with a number of different types of disabilities. Because the nature of the disability and its effects on the individual often determines the appropriate law enforcement approach in a given

¹ Interim Report of the President’s Task Force on 21st Century Policing, March 2015, at 1.

situation, we next discuss particular concerns and recommendations with respect to these disabilities.

Individuals who are Deaf or Hard of Hearing

Encounters with law enforcement can be stressful even in the best of circumstances, and effective communication with officers is critical to maintaining safety. People who are deaf or hard of hearing use a variety of methods to communicate, although many will require qualified interpreters to handle all sorts of interactions with law enforcement, many others will rely on speech reading in conjunction with their residual hearing or even hearing assistive technology or services. Communication barriers between deaf and hard of hearing individuals and law enforcement officers lead to misunderstandings, frustration, and sometimes even serious or fatal bodily harm. Too many deaf and hard of hearing individuals have died or become seriously injured as a result of miscommunications with law enforcement officers. Unfortunately, law enforcement personnel too often fail to provide effective communication to deaf and hard of hearing individuals.

The deaf or hard of hearing driver who is pulled over or stopped in public by a police officer needs to communicate quickly with the officer but may face great difficulty in doing so. During such stops, these drivers experience dread in anticipation of the difficulty in communicating with a police officer. If the officer shines a flashlight in the face of the person who is hard of hearing, the individual will be unable to understand the officer if that person relies on speech reading as well as his or her residual hearing. If a deaf or hard of hearing person misunderstands the instructions, it can lead to a difficult situation for all. If a deaf or hard of hearing driver reaches for a paper and pen anywhere in the car, especially a glove compartment, this action may be misinterpreted as an act of aggression. When a deaf or hard of hearing driver indicates that he or she does not understand what the officer is saying, the officer often becomes frustrated and begins yelling angrily at the driver. If a person touches the officer, as is often done in the deaf community to get a person's attention, the officer typically perceives this as a physical threat. Also, if a deaf person attempts to communicate using sign language at a time of heightened confrontation, an officer may view this as resisting arrest. Such miscommunication during a routine stop or other police encounter too often leads to more stressful situations, including wrongful arrests, physical beatings, and deaths.

Deaf and hard of hearing individuals involved in family or domestic situations are too often unable to communicate effectively with law enforcement officers which can lead to danger for such individuals. A deaf woman may not be able to tell a police officer about her violent husband's abuse, resulting in lack of probable cause for the police to arrest him. When police officers fail to communicate with a deaf person who is a victim or a witness, valuable information may not be obtained in time to arrest the right person. Problems also arise during investigations and interrogations involving deaf or hard of hearing individuals, when the communication can be more complex.

To address the problems with effective communications, law enforcement agencies need policies to ensure that officers make all reasonable efforts to determine what type of communication will be effective for a person they know or suspect to be deaf or hard of hearing.

The policies must also require the provision of such effective communication unless doing so puts the officer or the public in danger. Agencies should train and encourage officers to call for a qualified interpreter in most situations where needed, and not presume that all deaf or hard of hearing people can communicate in writing. Such false assumptions can lead to rising frustrations and conflicts, and perhaps resulting in injury or death. Likewise, if someone with a hearing loss does not understand sign language, the officers should work with the individual to determine how to best communicate, whether it's using an assistive listening device or Communication Access Realtime Translation (CART), an oral interpreter, sign language interpreter or whatever provides effective communication for that individual. These frustrations, conflicts, and injury or death are avoidable with proper policies in place.

Individuals with Diabetes

Diabetes is a disease affecting over 29 million Americans that results from the body's inability to sufficiently produce or properly use insulin, a hormone used to convert glucose from food into energy. Without insulin, life is not possible for long due to high glucose (hyperglycemia) and toxins that increase in the blood. Diabetes is often treated by administering insulin from an external source or other types of medications. Insulin and certain oral medications can, however, cause blood glucose levels to fall too low (hypoglycemia). Both severe hypoglycemia and severe hyperglycemia can result in medical emergencies, and both can cause changes in cognitive function that can impact interactions with law enforcement. Individuals experiencing hypoglycemia or hyperglycemia may appear to be lethargic or disoriented, unaware of their surroundings and unable to respond to simple direction from an officer. They may have some understanding of the need to ingest food or drink or take insulin to treat the problem, but may be physically or mentally unable to do so themselves. They may also become confused and aggressive, and may react with hostility to attempts to direct or restrain them. These symptoms are often mistaken for intoxication, uncooperativeness, or belligerence. Training can help the law enforcement officers distinguish between a person who is experiencing a medical emergency and a person who is choosing not to cooperate.

The concern with regard to diabetes and law enforcement centers around the lack of adequate training on how to respond to diabetes emergencies. Individuals who experience severe hypoglycemia and hyperglycemia need immediate medical intervention, but too often, their medical needs are overlooked. It is all too common, for example, for officers to pull an individual over for erratic driving, or to find an individual stopped by the side of the road (because the individual has recognized they are experiencing a medical emergency and needed to stop driving). Officers approach the vehicle and issue commands to the driver, and when the person appears lethargic or does not immediately cooperate, the officers assume he or she is drunk or under the influence of drugs and take steps to remove the person from the vehicle. This can lead the individual, who is confused and in medical distress, to become aggressive, only heightening the chance that inappropriate and unnecessary force will be used by the officers. If the officers were simply trained to recognize that the individual has diabetes, or inquire into the

possibility, officers could allow the person to self-treat the diabetes emergency, if they are able, or summon emergency medical personnel. Both hypoglycemia and hyperglycemia can be easily and quickly treated if the symptoms are recognized and appropriate treatments available, but unnecessary attempts to subdue or restrain the person with diabetes as a criminal suspect can delay or prevent access to needed treatment. For this reason, police departments should incorporate training on recognizing and responding appropriately to diabetes emergencies into their training programs.

Individuals with Epilepsy or Seizure Disorder

Epilepsy is a medical condition that produces seizures affecting a variety of mental and physical functions; it is also called a seizure disorder. Epilepsy affects more than 2.8 million Americans³ and 65 million people worldwide. This condition will develop in approximately one out of 26 people at some point in their lives, making it the fourth most common neurological disorder in the United States. Those living with epilepsy face serious barriers to proper care and first aid. A lack of knowledge about proper seizure first aid exposes affected individuals to injury from unnecessary restraint and from objects needlessly forced into their mouths.

Law enforcement personnel sometimes may respond with inappropriate force to those experiencing a seizure, especially a complex partial seizure. Complex partial seizures are the most common type of seizure and are non-convulsive seizures with altered awareness and automatic behavior. This type of seizure is also sometimes called a psychomotor or temporal lobe seizure, and can be difficult to recognize. The unusual behavior associated with complex partial seizures is often misinterpreted as stemming from intoxication or mental illness. It is this type of seizure that is also associated with symptoms that may be erroneously perceived as aggression. A lack of public understanding has resulted in people with complex partial seizures being unfairly arrested and sometimes seriously injured in the process.

Law enforcement personnel should be trained on how to recognize a seizure and the proper steps to take to ensure everyone's safety. When an officer is called to a scene where a person may be experiencing a seizure, the officer should try to identify if the person has a history of epilepsy or seizures (for example, by talking to others present or identifying epilepsy medication or medical identification), if the unusual behavior was preceded by normal behavior, or if a cry or blank stare began the event—all signs that a seizure may have occurred. Further signs of a seizure include that the individual is unresponsive throughout the event, has a blank stare when asked a question, or if his or her body stiffens and begins to jerk as muscles contract and relax involuntarily.

If a seizure is occurring, it is critical that the person not be restrained unless it is essential for his or her personal safety or the safety of others. Restraint of persons during or soon after a

seizure may exacerbate or precipitate combativeness--the opposite of the intended result. Furthermore, restraining someone face-down and/or with his or her arms restricted behind the back is especially dangerous. Officers should also refrain from putting anything into an individual's mouth, and ensure the person is fully conscious before giving anything to drink or administering medications.

Individuals experiencing seizures are too often improperly restrained, denied proper medical care, and threatened with arrest by law enforcement personnel unaware of how to properly respond. Proper awareness of and training regarding appropriate seizure response can help avoid these events and promote the safety of individuals with epilepsy and law enforcement personnel alike.

Individuals with Mental Illnesses

Approximately 10 million Americans have a serious mental illness, such as schizophrenia, bipolar disorder, major depression, or post-traumatic stress disorder. Law enforcement's role in responding to individuals with mental illness has increased over the last several decades, as more people with such disabilities are living and receiving services in the community. Community mental health systems across the country are under-resourced and, as a result, many individuals with serious mental illness cannot obtain needed services. Many are homeless and/or unemployed, and experience more frequent encounters with police. The rate of arrest among public mental health system service recipients is approximately 4.5 times higher than arrests in the general population. People with mental illness represent an extremely high percentage of individuals injured or killed in encounters with the police. In addition, law enforcement encounters result in many people with mental illness being swept up into the criminal justice system. These individuals are disproportionately represented among incarcerated people; 25% of inmates in local prisons and jails have a mental illness, and 17% have a serious mental illness.

These circumstances can be prevented – through (1) strategies to protect officers and better serve individuals with mental illness during encounters with law enforcement, (2) strategies to expand community mental health services that help prevent encounters with law enforcement, and (3) strategies to divert individuals with mental illness away from incarceration once they have been swept up into the criminal justice system.

(1) Strategies to protect officers and better serve individuals with mental illness during encounters with law enforcement

Police are increasingly responding to calls relating to individuals in mental health crisis who have committed no violent act or crime. With proper training, the risk to both officers and the

individual in crisis can be greatly reduced. Among the modifications officers can make to their practices when interacting with people in mental health crisis is the use of **Crisis Intervention Teams (CITs)**. CITs consist of officers with specialized training in de-escalation techniques, who safely and effectively respond to situations involving people in mental health crisis. Officers who are not part of a CIT can receive CIT training on these same techniques. CIT training gives officers the knowledge they need to connect people in crisis with mental health services rather than channeling them into the criminal justice system. The results of properly-implemented CITs and CIT training for officers are dramatic: increased officer safety, improved outcomes for people with mental illness, and cost savings. According to the National Alliance on Mental Illness (NAMI), which provides CIT training to many police officers around the country, the introduction of CIT-trained officers has resulted in an 80% reduction in officer injuries when responding to situations involving a person in mental health crisis. By teaching officers how to better interact with people with mental health illness and avoid channeling them into the criminal justice system, CIT training also results in lower arrest rates and thus reduces burdens on criminal justice systems.

Mobile Crisis Teams (“MCTs”) arrange for one or more highly-trained mental health treatment providers—psychiatric nurses, social workers, or paraprofessionals—to respond to a mental health crisis. Some MCTs accompany police officers in responding to crises and can be deployed as needed to help officers assess a situation, or meet with individuals without a law enforcement presence. MCTs de-escalate crises and connect people with the public mental health system. Depending on the jurisdiction, MCTs can be called by police dispatchers or even social workers or family members, and they often facilitate rapid treatment and transportation to hospitals or other mental health providers.

(2) Strategies to expand community mental health services that help prevent encounters with law enforcement

Ensuring better practices in encounters between law enforcement and people with mental illness is important, but such encounters can be prevented in the first place if individuals can access appropriate community-based mental health services. Our primary focus should be to eliminate these encounters through providing needed services. Key mental health services that have a proven track record of success in reducing law enforcement encounters and incarceration include:

Assertive Community Treatment (ACT) teams are comprised of multidisciplinary teams, including psychiatrists, nurses, case managers, housing specialists, employment specialists, and others—working in a coordinated fashion to help people with serious mental illness live independently and avoid crises. ACT teams are mobile, provide services in people’s homes and in other community settings where people spend time, and are available twenty-four hours a day,

seven days a week. ACT teams help people access mental health care, maintain stable housing, secure and maintain employment, become part of a community, manage physical health, and develop other skills.

Supportive housing, another critical service that reduces homelessness and improves mental health outcomes, provides an individual with rental assistance as well as individualized supportive services that enable the person to live successfully in his or her own home, engage in community life, and maximize independence and choice. There are no preconditions to participating in supportive housing (such as treatment compliance), the housing is permanent and affordable, and residents have the rights and responsibilities of tenants.

Mobile Crisis Teams, as described above, respond to individuals in mental health crisis. While MCTs sometimes operate in conjunction with police departments and/or accompany police in responding to crises, MCTs also help individuals before law enforcement becomes involved, de-escalating crises and averting the need for law enforcement responses.

(3) Strategies to divert individuals with mental illness away from incarceration

In addition to helping people with mental illness avoid police encounters in the first place, the mental health services described above have been successfully used to divert individuals already involved in the criminal justice system from incarceration. These services have also been shown to dramatically reduce the risk of recidivism upon individuals' release from police custody or incarceration—improving individuals' lives and saving criminal justice system costs.

Individuals with Intellectual Disability

Individuals with intellectual disability may have difficulty understanding police commands or instructions, be overwhelmed by police pressure, or try to run away while being detained by police. Due to these misunderstandings, people with intellectual disability may experience significant harm, and even death, as a result of police encounters. Effective training of police is required to address these issues. Training should focus not on teaching law enforcement personnel to diagnose disabilities, but rather on creating greater awareness about people with disabilities and promoting attitudes of doing what it takes to understand the person being served. In addition, people with disabilities should be included in these trainings in meaningful ways, in order to help remedy misperceptions and foster healthy relationships on all sides.

The Arc's National Center on Criminal Justice and Disability has urged training of multidisciplinary teams called Disability Response Teams (DRTs) bringing together criminal justice professionals (including law enforcement, legal professionals, and victim advocates), disability professionals, and people with intellectual disabilities and their family members to

share expertise; such teams help all stakeholders learn to improve interactions. DRTs may be used eventually to play a direct role in responding to crises, and some are currently doing so.

Another accommodation that law enforcement officers can make in order to improve communication with individuals with intellectual disabilities is the use of augmentative communication devices such as communication boards. These devices may use pictures, symbols, signs, and words to help individuals with disabilities communicate more effectively with law enforcement and others.

Individuals with Autism Spectrum Disorders

Persons with autism spectrum disorders (ASD) also face physical injury and death when their behavior is misinterpreted during encounters with law enforcement. An autistic person may take longer to process and understand information, and may be unable to follow instructions promptly. An autistic person may take instructions very literally, or be unable to maintain eye contact. Some autistic persons may repeat words or imitate officers. These behaviors can be misunderstood as being rude, evasive, or suspicious. Some autistic persons are unable to tolerate the sensory overload of a police interaction, such as lights, sirens, uniforms, and loud voices, invasions of personal space, unanticipated touch, or involuntary restraint. As a result they may scream or try to flee the situation, or resist attempts to approach, touch or restrain them. Often the police response aggravates the individual's distress, further impairing the ability to communicate or comply. The result can be death.

Training for law enforcement officers on identifying and responding appropriately to the needs of people with autism and other disabilities is critical. In addition, real accountability is necessary to ensure that where law enforcement officials act irresponsibly or outside the scope of established practice, appropriate disciplinary action is taken, including consideration of criminal prosecution where death or serious injury occurs as a result.

Recommendations

We encourage the Task Force to include specific recommendations in its final report to address the disability-related concerns discussed above and give clear guidance on policies and best practices to law enforcement agencies. First, the report should include recommendations designed to increase law enforcement awareness of and engagement with people with disabilities. Agencies and personnel should be encouraged to reach out to and form relationships with community organizations representing the interests and voices of these individuals, and to use these relationships to increase awareness and facilitate communication and trust between law enforcement and people with disabilities. Such outreach and dialogue is consistent with the concepts of community policing addressed in the Task Force's work, and many local and

national disability organizations (including many of the groups signing this letter) would welcome opportunities for collaboration.

The final report should also recommend that law enforcement agencies provide training to law enforcement personnel to improve outcomes of law enforcement interactions with people with disabilities. Such training can be incorporated into training for new officers and ongoing follow-up training just like much of the other training recommended in the interim report.

This training should include components designed to enable law enforcement officers to better understand and interact with people with disabilities they may encounter as suspects, victims, witnesses, and in other roles. In addition, it should include specific training of officers on how to respond appropriately to situations which may arise during interactions with people with particular disabilities, including but not limited to those discussed in this letter. Such training should be comprehensive and should focus on the needs of specific disability groups where appropriate, and should be included in both training provided to new officers and follow up training.

Although the substantive content of the training need not be specified in the Task Force report, agencies should be encouraged to consult with local and national organizations representing the interests and voices of people of disabilities, many of which will have recommendations for and experience with providing or planning such training. The sections above relating to specific disabilities outline some of the approaches that have been found to be effective in de-escalating situations, promoting alternatives to the use of force, and helping officers to be aware when a disability may be causing behavior that otherwise would be viewed as dangerous, uncooperative or aggressive, and to react accordingly.

We also recommend that the final report consider and make recommendations regarding law enforcement functions beyond traditional police officers, such as housing authority police officers, court security officers, and school police officers. Those performing these functions will face many of the same challenging situations relating to disabilities as will the more traditional cop on the beat, and need training tailored to their situation and functions to properly interact with those with disabilities and avoiding unnecessary harm.

Finally, the specific challenges facing youth with disabilities should be properly addressed. Youth with disabilities are also more likely to experience challenging interactions with law enforcement. They are more likely than youth without disabilities to fall into the “school to prison pipeline,” in part because of schools’ increasing reliance on law enforcement and school resource officers to address issues of school discipline or behavior that are inappropriate to address in the criminal context. Our police force suffers when we ask it to perform tasks outside its expertise. Police officers are not educators or mental health

professionals and should not be asked to serve as such in our nation's public schools. The Task Force should recommend that school resource officers and other law enforcement personnel in the educational environment be used with caution and only where absolutely necessary to protect student safety, and that agencies be strongly encouraged to work with school districts and educators to find alternative ways to maintain safety in the school setting. The continued expansion of law enforcement personnel in the schools has the potential to lead to more harmful interactions and to erode trust of youth with disabilities in our law enforcement system.

Conclusion

We appreciate the work of the Task Force on these important issues. We urge you, however, to reach out to disability organizations through the Consortium for Citizens with Disabilities to obtain further information about the particular concerns of people with disabilities with respect to law enforcement encounters. We believe it is critically important for the Task Force to take the risks of law enforcement encounters as seriously for people with disabilities as it has for other groups, and to include in its Final Report recommendations for improving these encounters. Implementation of such recommendations would save lives as well as money. We would be happy to work with you to ensure that disability concerns are appropriately addressed in the Final Report.

Sincerely,

American Diabetes Association

American Network of Community Options and Resources

The Arc of the United States

Autistic Self Advocacy Network

Bazelon Center for Mental Health Law

Conference of Educational Administrators of Schools and Programs for the Deaf

Council of Parent Attorneys and Advocates

Disability Rights Education and Defense Fund

Epilepsy Foundation

Institute for Educational Leadership

Lutheran Services in America Disability Network

Mental Health America

National Association of State Directors of Developmental Disabilities Services

National Disability Rights Network

National Down Syndrome Congress

National Down Syndrome Society

School Social Work Association of America

United Spinal Association

cc: