

**San Diego County Sheriff's Department Detention Services Bureau – Manual of Policies and Procedures**

DATE:	JULY 24, 2023
NUMBER:	M.39
SUBJECT:	DISABLED INCARCERATED PERSONS
RELATED SECTIONS:	<a href="#">C.1</a> , <a href="#">M.9</a> , CCR TITLE 15, SEC, 1057, CA Penal Code 2656, Americans with Disabilities Act

**PURPOSE**

To establish uniform procedures to identify, evaluate and house disabled incarcerated persons in the safest manner possible while ensuring the accommodation of major life activities.

**POLICY**

The department recognizes disabled incarcerated persons are entitled to the same rights, privileges, and services as other incarcerated persons of the same classification level per the Americans with Disabilities Act (ADA). An incarcerated person is covered by the ADA when the incarcerated person has a permanent, temporary, or intermittent condition that impacts a major life activity.

Qualified incarcerated persons with disabilities shall not be excluded from participation in, denied the benefits of, or subjected to discrimination in any detention facility's services, programs, work assignments or activities, based on a disability. Each incarcerated person identified as having a disability must be reasonably accommodated through some means.

**ADA DEFINITIONS**

**DISABILITY** - An individual has a disability if there is a physical or mental impairment that substantially limits one or more major life activities. The ADA also recognizes individuals with a record of impairment, or individuals regarded as having an impairment, as meeting the definition of disabled. Generally, such individuals will not require special accommodations.

**PHYSICAL IMPAIRMENT** - Includes any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine.

**MENTAL IMPAIRMENT** - Includes any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

**MAJOR LIFE ACTIVITIES** - Includes but not limited to such functions as caring for oneself, reading, communicating, performing manual tasks, walking, seeing, hearing, speaking, and thinking.

**CARING FOR ONESELF** - Personal care such as toileting, dressing, bathing and feeding.

**COGNITIVE DISABILITY** - A broad term to describe conditions affecting types of mental tasks such as problem solving, reading comprehension, attention, and/or remembering. A cognitive disability is not the same as a mental disorder.

**M.39 DISABLED INCARCERATED PERSONS**

MENTAL DISABILITY - An individual who has a past medical record of, or is regarded as, having one or more mental disorders as defined in the American Psychiatric Association's Diagnostic Manual.

BLIND - An individual whose visual acuity in their best eye has an acuity of 20/200 or worse and/or if their peripheral vision is less than 20 degrees.

DEAF - An individual who cannot readily understand spoken language through hearing alone and who may have a speech defect that renders them unintelligible to most normal hearing people.

REASONABLE ACCOMMODATION - Any modification or adjustment that is effective in enabling an individual to perform the major life activities. Any change in the facility, policies, procedures, or the manner in which tasks are completed that enables a qualified individual with a disability to participate in and receive the same benefits from a program or service. Reasonable accommodation does not require fundamental alteration of the nature of a program or activity.

## PROCEDURE

### I. IDENTIFICATION AND SCREENING

- A. The identification of an incarcerated person with a disability generally will occur during the receiving screening process. However, the identification of an incarcerated person with a disability can occur at any point during an individual's incarceration (e.g., Jail Population Management Unit (JPMU) interview, outside agency, by the advisement of a family member, etc.).
- B. Sheriff's health staff will evaluate and determine if an incarcerated person qualifies as 'disabled.'
- C. All incarcerated persons who have been screened and determined to be disabled will be housed in a facility with the appropriate accommodations. Based on their disability, each incarcerated person covered under the ADA must be reasonably accommodated through some means, such as but not limited to modified housing for wheelchair access, grab bars in bathrooms, shower chairs, closed captioning on the television, interpreter services, telecommunications device for the deaf, assistive listening devices, magnification devices, large, printed materials, and braille materials. Health screening staff shall enter health instructions into the incarcerated person's health record. The shift charge nurse or designee will inform JPMU of the health instructions. They will also inform the Reentry Services Division (RSD) Manager or their designee via email with the names of those incarcerated persons who have an identified need for accommodations for adaptive or programming services.
- D. Medical instructions for housing requirements (e.g., "lower bunk," "lower tier") shall be initiated and entered into the incarcerated person's health record upon determination by health staff that the required instructions are necessary for the safety and/or welfare of a disabled incarcerated person.
- E. If sworn staff is unable to accommodate the aforementioned housing requirement, health staff shall be notified.

### M.39 DISABLED INCARCERATED PERSONS

- F. Re-evaluation of functional performance will be conducted by the registered nurses/designee once a month for those incarcerated persons identified as having a temporary medical disability. A possible reassignment of housing unit and/or facility may be recommended.

## II. ACCOMMODATIONS

Incarcerated persons requiring ADA accommodations will be assisted in receiving access to the following by either the Medical Services Division (MSD) or RSD staff:

- A. Medical services
- B. Psychiatric services
- C. Adaptive services to assist in participation in programs or services
- D. Adaptive services to report to health and/or sworn staff if they have been sexually assaulted.

## III. REQUEST FOR ACCOMMODATIONS

- A. A request for reasonable accommodation may be initiated by the incarcerated person, their family members, or an outside agency.
- B. A request for an assessment of accommodations will be forwarded to the MSD ADA case manager for review. Assessments can be completed by either a registered nurse or by a physician. The findings and disposition will be documented in the incarcerated person's health record.
- C. Requests will be acted upon within 72 hours

## IV. ADA GRIEVANCE PROCEDURE

Grievances will be handled according to Detention Services Bureau Policies and Procedures section N.1 and forwarded to a MSD supervisor or designee. All ADA related grievances will be forwarded to the MSD ADA case manager for processing.