

KERN COUNTY SHERIFF'S OFFICE

Detentions Bureau Policies and Procedures

TITLE: INCARCERATED PEOPLE WITH DISABILITIES

H-1200

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REFERENCE: Title II, Americans with Disabilities Act,
Armstrong v. Schwarzenegger (94-CV-02307-CW),
Valdivia v. Schwarzenegger (94-CV-00671-LKK-GGH),
CDCR Form 1824 – Reasonable Modification or Accommodation
Request, DBPPM: I-200, Title 15, Section 1057

POLICY

In an effort to ensure Sheriff's Office detentions facilities are operated in such a manner that provides appropriate classification and housing for incarcerated people with disabilities, and to the degree reasonably possible, equal access to services and protection, the Detentions Bureau has established the following policy.

This policy establishes procedures for the identification of incarcerated people with disabilities and establishes reasonable accommodations that allow them equal access to programs and services while maintaining the security and smooth operation of Detentions Bureau facilities.

This policy will be in compliance with Title II of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, including those programs offered within jails.

Each facility will implement procedures that detail what accommodations will be offered to incarcerated people with disabilities and how those accommodations will be accomplished in the specific environment of that facility. Such procedures shall be documented in the appropriate post orders.

DEFINITIONS:

- **Disability:** One (1) or more physical or behavioral impairment(s) that substantially limits one (1) or more major life activities. An incarcerated person shall be considered as having a disability if there is a record of such Impairment(s), or if the incarcerated person is regarded as having such impairment(s).

Major life activities include such things as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. To be substantially limited means that such activities are restricted in the manner, condition, or duration in which they are performed in comparison with most people.

- **Jail Management System (JMS):** The software currently being utilized to manage incarcerated person records and track incarcerated person movement.

Procedure A: Identification of Incarcerated people with Disabilities During Intake

If a new arrestee advises that he/she has a disability, or a deputy suspects that a new arrestee has a disability, that deputy will attempt to ascertain the type and degree of disability the incarcerated person has and notify a classification deputy and facility medical and/or Correctional Behavioral Health (CBH) staff.

Upon notification that a new arrestee has or may have a disability, the classification deputy will:

- Attempt to ascertain what, if any, accommodation(s) may be required to ensure equal access to services and programs provided by the facility;
- Enter the information gathered in the assessment into the incarcerated person's JMS record to inform other staff of the incarcerated person's needs via an ADALT flag.

DIRECTIVE #A-1

If the arrestee appears or claims to be deaf or hard of hearing, a classification deputy will:

- Interview the arrestee and attempt to ascertain what kinds of communication (reading lips, written notes, sign language) the incarcerated person is able to communicate with;
- Complete a Communication Assessment Form (**Attachment A**) based on the information gained during the interview;
- Make the appropriate entries into the incarcerated person's JMS record to inform other staff of the incarcerated person's needs via an ADALT flag;
- Advise the Dress-Out or Laundry Deputy to give the deaf/hard of hearing incarcerated person a "Deaf" identification vest as described in Procedure B of this section.

The completed Communication Assessment Form will be routed to classification clerical staff, who will forward a copy of the form to the Administrative Sergeant of the facility in

which the incarcerated person is housed. Classification clerical staff will retain the original form for a minimum of two (2) years.

DIRECTIVE #A-2

If the arrestee appears or claims to be blind or visually impaired, a classification deputy will:

- Make the appropriate entries into the incarcerated person's JMS record to inform other staff of the incarcerated person's needs via an ADALT flag;
- Advise the Dress-Out or Laundry Deputy to give the blind or visually impaired incarcerated person a "Visually Impaired" identification vest as described in Procedure B of this section.

DIRECTIVE #A-3

If the arrestee appears or claims to have mobility impairment, a classification deputy will:

- Make the appropriate entries into the incarcerated person's JMS record to inform other staff of the incarcerated person's needs via an ADALT flag;
- Advise the Dress-Out or Laundry Deputy to give the mobility impaired incarcerated person a "Mobility Impaired" identification vest as described in Procedure B of this section.

DIRECTIVE #A-4

If a deputy becomes aware that an incarcerated person has a disability that was not identified during the initial receiving and booking process, that deputy will notify a classification deputy and medical/CBH staff assigned to the facility in which the incarcerated person is housed. The deputy making the notification will obtain the appropriate identification vest from the facility Laundry Warehouse and provide it to the incarcerated person.

Upon receiving such notification, the classification deputy will review the incarcerated person's JMS record and make any housing changes necessary to accommodate the incarcerated person's disability. Classification will note the incarcerated person's disability in JMS via an ADALT flag.

Procedure B: Identification of Incarcerated people Designated as Impaired

In order to facilitate easy identification and to prevent potential misunderstandings, any incarcerated person who is determined to have an impairment disability will be provided with the appropriate yellow vest to indicate their disability:

- Deaf or hard of hearing – the word “DEAF” will be printed on vest.
- Blind or Visually Impaired – the words “VISUALLY IMPAIRED” will be printed on vest.
- Mobility Impaired – the words “MOBILITY IMPAIRED” will be printed on the vest.

The incarcerated person will be required to wear the vest at all times, with reasonable exceptions (such as showering and sleeping).

Deputies must ensure they are using an effective form of communication as indicated in the incarcerated person’s JMS record.

Deputies can determine if impaired incarcerated person(s) are assigned to the housing unit they are supervising by accessing an ADALT flag list in JMS, which will generate a list of all incarcerated people who have been identified as having a disability.

DIRECTIVE #B-1

Since incarcerated people who have a hearing disability cannot hear general announcements made over public address systems, such communications must be repeated directly to the incarcerated person(s). Similarly, since incarcerated people who have a hearing disability are often unable to communicate using an intercom, deputies must respond directly to cells in which the cell intercom has been activated if an incarcerated person with a hearing disability resides in that cell.

DIRECTIVE #B-2: TTY Telephone Access

Each facility will maintain at least one (1) TTY phone system and will ensure that incarcerated people who have a hearing disability are afforded reasonable and timely access to the unit upon request during any time other incarcerated people have phone access.

Deputies will:

- Allow sufficient time for the incarcerated person to complete their call, taking into account that a phone call using a TTY system may take as much as three (3) times as long to complete as a spoken conversation of the same content.
- Document use of the TTY phone system including the incarcerated person’s name, booking number and time used in the appropriate post logbook:
 - IRC: logbook
 - Minimum: Male or Female Duty Office logbook

- Pre-Trial: Pod or Infirmary logbook
- Maximum-Medium: Law Library logbook

DIRECTIVE #B-3: Sign Language Interpreters

While it is often possible to communicate with incarcerated people who have a hearing disability through written notes or hand signals for basic communications, a sign language interpreter must be provided for more complex communications if so, indicated in the incarcerated person's JMS record or if requested by an incarcerated person who has a hearing disability. Communications that require an interpreter on request, or as indicated in the incarcerated person's JMS records include, but are not limited to:

- Medical appointments
- Disciplinary notifications and hearings
- Legal communications, when not otherwise provided by other entities, such as the courts or the incarcerated person's attorney
- Educational programs

Generally, non-emergency sign language interpreter services require three (3) days advance notice. The Administrative Sergeant will attempt to arrange such services within that timeframe. In case of an emergency for which a translator is required, an interpreter can generally respond within forty-five (45) minutes.

If a staff member becomes aware of an upcoming appointment for which a sign language interpreter is required, that staff member will advise the Administrative Sergeant, or in the Administrative Sergeant's absence, the Shift Supervisor, providing as much advance notice as possible.

When a sign language interpreter responds to a facility, he or she will be issued an identification tag as required in Section A-1700 of this manual and will be subject to the escort requirements of that section.

Procedure C: Movement and Transportation of Incarcerated people Who Have a Hearing Disability

To provide a means of communication for incarcerated people who have a hearing disability when restrained during transportation, such incarcerated people will be permitted to keep a pad of paper with them when being transported to and from appointments. If the incarcerated person indicates the need to communicate with transportation deputies, the incarcerated person will be provided with a writing implement to write notes to the deputy.

Procedure D: Armstrong Class Member Incarcerated people

Following the implementation of the State's realignment program in 2011, certain incarcerated people that would have previously been housed in CDCR custody are now housed in county jail facilities. These incarcerated people are able to complete CDCR Form 1824 in order to request a reasonable modification or accommodation to have their disabilities recognized by county facilities. Parolees may request the CDCR Form 1824 from their parole agent and submit it back to them.

Note: Some parolees may have this form on file from their most recent CDCR incarceration. When incarcerated people are booked on a parole hold, the Compliance Sergeant receives an automated Armstrong Class Member notification from CDCR staff via e-mail (CDCR possible need for incarcerated person/parolee accommodation or disability).

Upon receiving the automated Armstrong Class Member notification via email, the Compliance Sergeant will:

- Review and forward the form via e-mail to designated classification, medical, correctional behavioral health staff, or other appropriate department staff;

Classification staff will:

- Make an entry in the JMS, noting that an Armstrong Class Member notification was received;
- Ensure that reasonable housing accommodation is made if appropriate.

Medical and/or correctional behavioral health staff will:

- Ensure that reasonable modification or accommodation is made if appropriate;
- Notify the incarcerated person of any modification or accommodation;
- Place the Armstrong Class Member notification form in the incarcerated people's medical file.

Procedure E: Armstrong Class Member Incarcerated Person Appeal Process

If an Armstrong Class Member incarcerated person does not agree with the level of modification or accommodation being provided by the facility, they may submit a grievance as outlined in DBPPM I-200 (Incarcerated Person Grievances) or contact their assigned parole agent to obtain a CDCR Form 602 to appeal the decision.