



Disability Rights Ohio
200 Civic Center Drive, Suite 300
Columbus, Ohio 43215

614-466-7264 or 800-282-9181
FAX 614-644-1888
TTY 614-728-2553 or 800-858-3542
disabilityrightsohio.org

Michael Kirkman, Executive Director of Disability Rights Ohio
Interested Party Testimony on House Bill 115
Senate Government Oversight and Reform Committee
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Chairman Coley, Vice Chair Uecker, Ranking Member Schiavoni, and members of the Senate Government Oversight and Reform Committee, thank you for the opportunity to submit this written testimony as an interested party in consideration of House Bill 115. As the federally authorized and state-designated system to protect the rights of Ohioans with disabilities, Disability Rights Ohio (DRO) brings a unique perspective to the issues presented by this bill.

BACKGROUND

DRO appreciates Representatives Gavarone and Wiggam for bringing forward legislation that aims to improve interactions between law enforcement officers and people with communication disabilities. Under the bill, a person whose physician, psychiatrist, or psychologist certifies him or her as having a communication disability¹ could voluntarily submit a verification form to the Department of Public Safety for inclusion in a database. This database would be available to state and local law enforcement officers through the law enforcement automated data system (LEADS).

In this testimony two major points will be addressed: First, the importance of being aware that each individual's ability to communicate varies depending on his or her disability and also how the Americans with Disabilities Act (ADA) obligates law enforcement officers to communicate effectively with people with disabilities; and second, with proper training on how to interact with people with communication disabilities, law enforcement officers will be given the necessary tools to communicate effectively and also to de-escalate confrontational interactions.

COMMUNICATION DISABILITIES, THE ADA, AND OHIO

The ADA obligates public entities, including police departments and law enforcement agencies, to ensure communication with people with disabilities is as equally effective as communication with others without disabilities. 28 C.F.R. § 35.160(a)(1).² Importantly, this includes

¹ The bill defines "communication disability" as a "human condition involving an impairment in the human's ability to receive, send, process, or comprehend concepts or verbal, nonverbal, or graphic symbol systems that may result in a primary disability or may be secondary to other disabilities."

² According to the U.S. Department of Justice, the ADA "affects virtually everything that officers and deputies do, for example: receiving citizen complaints; interrogating witnesses; arresting, booking, and holding suspects; operating telephone (911) emergency centers; providing emergency medical services; enforcing laws; and other

communications not only with suspects or arrestees but also victims and witnesses. Under the ADA, the provision of auxiliary aids and services is required when necessary to accomplish effective communication with people with disabilities. 28 C.F.R. § 35.160(b)(1).³

The ability to convey and receive information effectively and accurately during interactions with law enforcement officers is an essential issue for people with disabilities throughout Ohio, particularly people who are deaf or hard of hearing, people who are blind or visually impaired, and people who are diagnosed with a mental illness, a cognitive impairment, speech disabilities, or autism or other type of developmental disability.

Statistically, people with disabilities come into contact with law enforcement far more frequently than people without disabilities. Miscommunications occurring during these interactions with law enforcement officers as well as the lack of adequate training on interactions with people with disabilities can result in very serious and even fatal consequences. For example, on November 13, 2014, in Cleveland, Tanisha Anderson, who had been experiencing a mental health crisis, subsequently died after she was physically restrained in a prone position by a Cleveland police officer. Because of this, the U.S. Department of Justice (DOJ) issued a report the next month concluding that Cleveland police officers are not properly trained in handling encounters with people experiencing mental health crises, do not utilize appropriate de-escalation techniques in these circumstances, and often use excessive force against people with mental illness and other disabilities.

Beyond the tragic incident in Cleveland, here in Columbus the Columbus Police Department is currently investigating the death of Jaron Thomas, a man with schizophrenia who died in police custody earlier this year after he called 911 to seek help as he was experiencing a mental health crisis.

LAW ENFORCEMENT TRAINING

Extensive and comprehensive training is the most important element of any effort to improve interactions between law enforcement officers and people with disabilities and avoid situations like those mentioned in this testimony. According to the DOJ, which enforces the ADA, “[u]nexpected actions taken by some individuals with disabilities may be misconstrued by

duties.” See DOJ’s publication entitled “Commonly Asked Questions about the Americans with Disabilities Act and Law Enforcement” available at https://www.ada.gov/qanda_law.pdf.

³ For people who are blind or have a vision impairment, auxiliary aids and services include providing a qualified reader; information in large print, Braille, or electronically for use with a computer screen-reading program; or an audio recording of printed information. For people who are deaf or have a hearing impairment, auxiliary aids and services include providing a qualified notetaker; a qualified sign language interpreter, oral interpreter, cued-speech interpreter, or tactile interpreter; real-time captioning; and written materials. See 28 C.F.R. § 35.104; see also the DOJ’s publication on effective communication, available at <https://www.ada.gov/effective-comm.htm>. “In determining what types of auxiliary aids and services are necessary, a public entity shall give primary consideration to the requests of individuals with disabilities.” 28 C.F.R. § 35.160(b)(2).

officers or deputies as suspicious or illegal activity or uncooperative behavior.”⁴ Some people with disabilities “may not recognize or be able to respond to police directions.” To avoid miscommunications and misunderstandings, the DOJ concludes that “[t]raining, sensitivity, and awareness will help to ensure equitable treatment of individuals with disabilities as well as effective law enforcement.” Furthermore, “it is important that police officers are trained to distinguish behaviors that pose a real risk from behaviors that do not, and to recognize when an individual, such as someone who is having a seizure or exhibiting signs of psychotic crisis, needs medical attention. It is also important that behaviors resulting from a disability not be criminalized where no crime has been committed.”

Comprehensive training helps officers to better identify and recognize the needs of people with disabilities and to choose a more effective course of conduct (for example, communicating in simple, concise, easily understandable language with people with intellectual disabilities or others who have cognitive limitations). Training must also acknowledge that people with disabilities have varying, individualized needs, even amongst those with the same types of disabilities. People with all types of disabilities should be included within the training, and collaboration with advocacy groups and community-based organizations is vital.

CONCLUSION

Again, we thank the sponsors for offering legislation that would create one piece of this complex puzzle. Still, “communication disabilities” is a broad definition that does not entirely encompass the differentiation in disabilities and how they impact a person’s ability to communicate, and being cognizant of these differences is important during law enforcement interactions.

Law enforcement officers can be better equipped with the necessary tools to communicate with people with communication disabilities by working with individuals with disabilities, advocacy groups, and community-based organizations. With proper training law enforcement officers will be better able to communicate with individuals with disabilities and de-escalate any confrontational situation.

It is important to note that a more comprehensive approach to this issue not only supports the person with a disability. It also provides a more supportive environment for the law enforcement officers, whose interactions on the street are already stress-filled and unpredictably dangerous. Taking necessary steps to remove uncertainty about communication with people with disabilities removes one variable from that interaction.

Thank you again for the opportunity to provide this written interested party testimony. If you have any questions or want to discuss this matter further, please contact me at your convenience.

⁴ See DOJ’s publication entitled “Commonly Asked Questions about the Americans with Disabilities Act and Law Enforcement” available at https://www.ada.gov/qanda_law.pdf.