

MENTAL HEALTH RESPONSE ADVISORY COMMITTEE

ALBUQUERQUE, NEW MEXICO

February 16, 2022

Introduction

Pursuant to the Court Approved Settlement Agreement in *U.S. v. The City of Albuquerque*, the Mental Health Response Advisory Committee (MHRAC) was created to “assist in identifying and developing solutions and interventions that are designed to lead to improved outcomes for individuals perceived to be or actually suffering from mental illness or experiencing a mental health crisis.” *See* Second Amended and Restated Court-Approved Settlement Agreement (Doc. 465-1), ¶ 111 (July 30, 2019). Additionally, it is the responsibility of MHRAC to “analyze and recommend appropriate changes to policies, procedures, and training methods regarding police contact with individuals with mental illness.” *Id.*

Accordingly, MHRAC members have been given an opportunity to analyze:

SOP 2-18 CONTACT WITH PERSONS WITH DISABILITIES

MHRAC Recommendation(s)

1. The title of the SOP has been edited to state “persons with disabilities,” replacing “deaf, hard of hearing or speech impaired persons.” However, the SOP still appears to deal primarily with deaf, hard of hearing, or speech impaired persons. Because disability is broadly encompassing of both physical and mental impairments, it may be more clear to either retain the original language or enlarge the scope of the SOP to consider all disability-related accommodations.
2. In all interactions with the public, sworn personnel should consider if the person’s disability is open, obvious, and apparent, showing a clear need for accommodation, even if the disability has manifested later in the course of interaction.
3. The SOP should recognize that physical or mental disability may not be immediately apparent to a responding officer. In which case, the officer should note whether the individual asserted, verbally or nonverbally, that they need an accommodation.

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4. In the absence of exigent circumstances, the officer should ask if the individual needs a disability-related accommodation. One way of uncovering this information is to plainly ask how sworn personnel can best assist the individual.
5. Under 2-18-3(A), there's reference to American Sign Language (ASL) as being used predominately in the United States and many parts of Canada. The "many parts of Canada" language can be removed as we are not so concerned with ASL in Canada as we are with our border with Mexico.
6. The SOP should specify that that officer lapel camera capture both the interpreter signing and interviewee to adequately record the conversation. Under 2-18-3(b), for "arrest investigations" it only says officer should "visually and audibly record interviews and interrogations." Officers should know that ought to mean recording both the interpreter and interviewee, not just one of them.
7. For those who are hard of hearing, the officer should determine if ASL is the primary or preferred language of the individual.
8. In 2-18-3(C)(2), there is a qualifier on visual impairment "that resulted from disease or trauma, or a congenital or degenerative conditions that cannot be corrected." Qualifications on visual impairment here are unnecessary because it should not make a difference how an impairment came about, but that it is there as a fact.
9. Society often places an unfair burden of communication on the deaf person, which both increases the stress a deaf person in crisis and makes it more difficult to communicate that distress. With this, MHRAC is concerned about the advisements of *Miranda* rights and Consent to Search, given the limited vocabulary and syntax of ASL. Because the reading of *Miranda* warnings requires reading at a sixth to eighth grade level of reading ability; there should be a determination of reading level and communication capacity, prior to advisement. The same should be made for obtaining consent to search.

Without an SOP, training, or process in place to address this, MHRAC suggests law enforcement err on the side of non-waiver of constitutional rights, unless an attorney and interpreter are both present and video recorded.

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10. Beyond this SOP, MHRAC suggests for the Albuquerque Community Safety Department and Mobile Crisis Teams, who are not engaging in evidence collecting pursuant to criminal investigations, that they have a tablet available with Video Relay Service to access a crisis line for those with hearing impairments and who are ASL-fluent. MHRAC recommends utilization of this service until an interpreter can be physically present, if possible.

2022

Thank you for the opportunity to submit this feedback and for the continued collaboration on improving outcomes for our community

Respectfully Submitted,

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MHRAC Co-Chairs