



Policy Brief:

A Voluntary License Identifier to Support People with Disabilities

For more information, please contact:

Teresa Anderson, Executive Director
CA Policy Center for Intellectual and Developmental Disabilities
teresa@cpcidd.org

Alison Yoshimoto-Towery, Executive Director
UC/CSU Collaborative for Neuroscience, Diversity, and Learning
alisontowery71@ucla.edu

Liz Steyer, Executive Director
California Institute for Law, Neuroscience, and Education
steyerliz@uclawsf.edu

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Background

People living with mental illnesses and developmental disabilities are disproportionately represented in contacts with the police, and these interactions can lead to stressful and dangerous conditions for everyone involved.^[1] Research estimates that between one-third and one half of all people killed by law enforcement officers have a disability.^[2] People with intellectual and developmental disabilities and mental health conditions encounter law enforcement at significantly greater rates than the general public. Some law enforcement data suggests that people with disabilities are seven times more likely to have police encounters than people without disabilities.^[3] A recent study *Measuring Disparities in Police Use of Force and Injury Among Persons with Serious Mental Illness* found that persons with serious mental illness (SMI) are 12 times more likely to experience use of force and 10 times more likely to suffer injuries from that force than persons without SMI.^[4]

The International Association of Police Chiefs Law Enforcement (IACP) Policy Center has published a Model Policy and Concepts and Issues paper that recognizes the challenging nature of interactions between law enforcement officers and people with intellectual and developmental disabilities.^[5] The purpose of the policy is to provide law enforcement officers with guidelines for appropriately accommodating, interacting, and communicating with individuals with intellectual and individual disabilities. The Model Policy general rules for de-escalation and encounters with individuals with intellectual and individual disabilities includes first recognizing that the individual may have difficulty following instructions, commands, statements, or questions, and that the mere presence of the officer may be a stress inducing event for the individual.

One of the guidelines set forth in the Model Policy is for officers to look for personal identification when safe and appropriate to do so during the interaction, as well as understand that some individuals carry identification cards and they have been taught to automatically retrieve and show that card when interacting with law enforcement.

The use of identification cards or information cards is not a new concept as community based organizations such as Autism Speaks, and the Wallet Card^[6] have offered cards to individuals with communication challenges for many years. However, in recent years several states have codified the right for individuals with an intellectual and individual disabilities and/or other specified communication challenges to voluntarily opt-in to obtain a state issued identification with a disability identifier for the purposes of communicating with law enforcement officers or other first responders.

Suggested Legislation

California should pass legislation to make an Invisible Disability Designator available to those who choose to have it. California-specific legislation should be subject to federal appropriations. It should facilitate the placement of a voluntary program that allows identifier symbols on certain identification cards. The disability symbol is voluntary for Californians who might not be able to effectively communicate with first responders due to a cognitive, neurological, mental health, sensory needs, chronic illness, chronic pain and/or physical disability. Eligible Californians would be able to voluntarily add the disability identifier. The identifier voluntarily allows individuals with eligible disabilities to have a disability identifier symbol placed on an identification card of such individuals. The term “eligible disability” shall have the meaning given the term “disability” in section 3 of the American with Disabilities Act of 1990 (42. U.S.C. 12102).

Training to Support First Responders

The right way to communicate at the time of an emergency is not always clear-cut, despite the general legal requirement for police departments to provide effective communication pursuant to Title II of the Americans with Disabilities Act.^[9] Title II of the Americans with Disabilities Act (ADA) requires that public entities (which includes law enforcement) communicated effectively with people who have communication disabilities. Covered entities must provide auxiliary aids and services when needed to communicate effectively with people who have communication disabilities.^[10] The ADA also specifies that the key to communicating effectively is to consider the nature, length, complexity, and context of the communication and the person’s normal method(s) of communication. Title II entities are required to give

primary consideration to the choice of aid or service requested by the person who has the communication disability. As discussed above, it may be commonplace for an individual with a disability, in particular a communication disability, to rely on an aid such as an identification card to communicate their disability to law enforcement officers.

Critical to improving outcomes of law enforcement interactions with people with intellectual and individual disabilities is law enforcement officer training. Implementation of a statewide voluntary identification card policy would also require officers to be trained to recognize that the person may have a disability that impacts their ability to communicate, and that they may have been taught to reach for their identification even in the absence of a request to produce by a law enforcement officer. Without proper training the risk to individuals with intellectual and individual disabilities or communication disabilities could actually increase if they attempt to rely on or reach for an identification card during an encounter (field encounter) with law enforcement as Title II of the ADA does not apply to officer's on-the-street responses to disturbances or other similar incidents, whether or not the encounter involves a person with a disability or not, prior to the officer securing the scene and ensuring that there is no threat to human life.^[11] Law enforcement officers are not expected to diagnose, or attempt to diagnose, a person's disability but officers do need to be able to recognize cues and other indicators that may indicate a person has a disability in order to make appropriate intervention strategies.^[12]

Other States are Taking Action on Voluntary License Identifiers

Law enforcement officer training is critical to improving outcomes of interactions between public safety personnel and people with intellectual, developmental disabilities. The Invisible Disabilities Association is pursuing legislation via its National Disability ID Initiative in all 50 states. This would allow for voluntary disclosure with placement of the universal disability symbol on government IDs for anyone with any disability, illness or chronic pain. The universal disability symbol will help provide recognition of a disability and the possible need for reasonable accommodations. Alaska is the first state to have passed this much needed legislation and IDA is currently working directly with legislators across the nation to advance this initiative. See Appendix for specific examples.

Appendix

A number of states have enacted laws to permit individuals with disabilities to receive a state identification with a disability identifier.

Relevant sections of law for each state are as follows:

Alaska

The department shall provide a method for a person to designate voluntarily on an identification card that the person has a disability, including a cognitive, mental, neurological, or physical disability, or a combination of those disabilities. The department shall create a discreet symbol to place on the identification card of a person requesting the designation. The method must provide a means by which the person may cancel the designation. The department may not charge a fee solely for the designation. To receive the designation, the person shall provide proof of the disability from a person licensed as a physician or physician assistant under AS 08.64, as a naturopath under AS 08.45, as an advanced practice registered nurse under AS 08.68, or as a licensed psychologist under AS 08.86. *Alaska Stat. § 18.65.310*

Colorado

At an applicant's request, and upon completion of the application pursuant to subsection (6)(a)(II)(A) of this section, the department shall issue to the applicant an identification card bearing a disability identifier symbol if the applicant has a disability as defined in the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and the disability interferes with the person's ability to effectively communicate with a peace officer. *Colo. Rev. Stat. § 42-2-303*

Florida

Upon request by a person who has a developmental disability, or by a parent or guardian of a child or ward who has a developmental disability, the department shall issue an identification card exhibiting a capital "D" for the person, child, or ward if the person or the parent or guardian of the child or

Florida (cont.)

ward submits payment of an additional \$1 fee; and proof acceptable to the department of a diagnosis by a licensed physician of a developmental disability as defined in s. 393.063. *Florida Statute, Title XXIII, Motor Vehicles § 322.051. Identification Cards*

Illinois

The Secretary of State shall issue a special Illinois Identification Card, which shall be known as an Illinois Person with a Disability Identification Card, to any natural person who is a resident of the State of Illinois, who is a person with a disability as defined in Section 4A of this Act, who applies for such card, or renewal thereof.¹⁵ *ILCS 335* Note: The Illinois Identification Card Act covers several areas of the law and serves as proof of eligibility for other services.^[7]

Kansas

The Act is known as “Joey’s Law” authorizes issuance of placards to persons who need assistance with cognition including, but not limited to, persons with autism spectrum disorder, for use in a vehicle. The bill also authorizes a decal to be affixed to a license plate in addition to a placard and placement of an indicator the person needs assistance with cognition on a driver’s license or non-driver identification card issued by the Division of Vehicles (Division). Issuance of a placard will require an application submitted to the Division, and placement of an indicator on a driver’s license or non-driver identification card will be upon request to the Division. *K.S.A. 2016 Supp. 8-243(f) and K.S.A. 2016 Supp. 8-1324(n)*

Maryland

The Maryland Motor Vehicle Administration shall develop a form for a voluntary developmental disability self-disclosure card. A voluntary developmental disability self-disclosure card shall be approximately the same size as a driver’s license, be printed on blue paper, Include space for an individual to provide details on a developmental disability; and include

Maryland (cont.)

written guidance on effective communication between law enforcement officers and people with developmental disabilities. In developing the form required by this subsection, the Administration shall consult with the Maryland Chiefs of Police Association and at least one independent organization that advocates on behalf of individuals with developmental disabilities. *MD Transportation Code, Title 16, Section 16-118.1 Voluntary Developmental Disability Self-Disclosure Cards – Design and Issuance*

New Jersey

New Jersey Motor Vehicle Commission shall allow the holder of a driver's license or non-driver identification card to indicate that the person has been diagnosed with an autism spectrum disorder or communication disorder...The Commissioner of Human Services and the Attorney General, in consultation with the Department of Law and Public Safety, and at least one organization that advocates on behalf of persons that have been diagnosed with autism spectrum disorder or a communication disorder, shall provide written, jointly developed guidance to assist law enforcement officers in effectively communicating with a person who has been diagnosed with autism spectrum disorder or a communication disorder. *[Effective 12/1/2024]*
New Jersey Motor Vehicle Code, Title 39, Section 39:3-1-f8

New York

The Commissioner of the Office for People with Developmental Disabilities shall develop an identification card denoting that a person has been medically diagnosed with a developmental disability. Such identification card may be presented to law enforcement, firefighters, and emergency medical services personnel as necessary. Upon the request of a person with developmental disabilities, or the guardian or caregiver, the office shall issue such developmental disabilities identification card in accordance with the eligibility and documentation criteria established by the office for a fee to be determined by the Commissioner. *New York, Mental Hygiene Law, Section 13.43*

Ohio

Enacted The Communication Disability Law which requires the Ohioans with Disabilities Agency to develop a verification form for a person diagnosed with a communication disability or a disability that can impair communication to be submitted voluntarily to the department of public safety so that the person may be included in the database established under section 5502.08 of the Revised Code. The communication disabilities database is connected to the Law Enforcement Automated Data System (LEADS) that Ohio Law Enforcement Officers use during traffic stops. Participation in the database is voluntary. Individuals with a medically diagnosed communication disability who drive, or families that regularly have someone with this type of disability in their vehicle, can obtain a verification form that their physician validates and send it to the Ohio Bureau of Motor Vehicles. *Ohio Revised Code, Title 33, Chapter 3304, Section 3304.23.*

Utah

Senate Bill 148 amends Utah Code to establish the Invisible Condition Alert Program, effective July 1, 2023. The statute authorizes a voluntary program, under the Department of Public Safety, to allow a symbol sticker to be placed on a driver's license or state identification. The symbol serves to communicate that the individual has a physical or mental condition, as specified, that may interfere with the ability to communicate with law enforcement officers. The enacted law also creates an outreach and education program specific to invisible conditions.^[8]

Washington

Any person may apply to the department to obtain a medical alert designation, a developmental disability designation, or a deafness designation on an identification card issued under this chapter by providing: (a) Self-attestation that the individual: (i) has a medical condition that could affect communication or account for a health emergency; (ii) is deaf or hard of hearing; or (iii) has a developmental disability as defined in Revised Code of Washington 71A.10.020; (b) a statement from the person that they have voluntarily provided the self-attestation and other information verifying the

Washington (cont.)

condition; and (c) for persons under eighteen years of age or who have a developmental disability, the signature of a parent or legal guardian. *Revised Code of Washington, Title 46, Chapter 46.20, Section 46.20.117(5)*

[1] Vera Institute, *Serving Safely: National Initiative (2019) to Enhance Policing for Persons with Mental Illness and Developmental Disabilities*
<https://www.vera.org/downloads/publications/serving-safely-fact-sheet-policing-mental-illness-disabilities.pdf>

[2] Ruderman Foundation (2016) *White Paper on Media Coverage of Law Enforcement Use of Force and Disability*
https://rudermanfoundation.org/wp-content/uploads/2017/08/MediaStudy-PoliceDisability_final-final.pdf

[3] Autism Speaks, *How Better Understanding Can Support Better Outcomes in Police Interactions with Autistics*
<https://www.autismspeaks.org/science-news/how-better-understanding-can-support-better-outcomes-police-interactions-autistics>

[4] *Measuring Disparities in Police Use of Force and Injury Among Persons with Serious Mental Illness (2021)*
<https://bmcpsychiatry.biomedcentral.com/articles/10.1186/s12888-021-03510-w>

[5] International Association of Police Chiefs, *Interactions with Individuals with Intellectual and Developmental Disabilities (2017)*
<https://www.theiacp.org/sites/default/files/2018-08/IntellectualDevelopmentalDisabilityBinder.pdf>

[6] The Wallet Card Project, *Helping People with Disabilities Communicate with First Responders* <https://www.justdigit.org/wallet-cards/>

[7] Illinois Legal Aid <https://www.illinoislegalaid.org/legal-information/id-cards-people-disabilities>

[8] Utah State Legislature, *SB 148 Invisible Condition Information Amendments* <https://le.utah.gov/~2023/bills/static/SB0148.html>

^[9] Engelman and Deardorff (2016)

^[10] ADA Requirements: Effective Communication,
<https://www.ada.gov/resources/effective-communication/#effective-communication-provisions>

^[11] *Hainze v. Richards*, 207 F.3d 795 (5th Cir. 2000).

^[12] Commission on Peace Officer Standards and Training, Basic Course Learning Domain 37, People with Disabilities
https://post.ca.gov/portals/0/post_docs/basic_course_resources/workbooks/LD_37_V-6.0.pdf