

Communications with Persons with Disabilities

334.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

334.1.1 DEFINITIONS

Definitions related to this policy include:

[CRS 13-90-202\(6\)](#) **Deaf, hard of hearing (hearing impaired)**– A person who has a functional hearing loss of sufficient severity to prevent aural comprehension, even with the assistance of hearing aids or who has a substantial limitation in the major life activity of hearing, a record of having such a limitation or is regarded as having such a limitation.

Auxiliary Aids and Services - Options include:

- (a) Use of a qualified oral or sign-language interpreter, as stated above. – See below for requirements and interpreter resources.
- (b) Use of Portable Audio Loop System – Available in Detentions, the Detention lobby, Civil, Records Section lobby. See below for details on using these.
- (c) Use of a Text Telephone machine (commonly called TTY or TDD) - See below for TTY/TDD machine locations.
- (d) Use of a phone or other available electronic communication device.
- (e) Use of computers, and mobile phone texting function.
- (f) Use of family members or friends. (Approval of this option must be approved by the on-duty supervisor. Best only in emergencies)
- (g) Hand gestures or visual aids to supplement oral communication.
- (h) Use of a pen or pencil to exchange written notes (except for arrestees).
- (i) Facing an individual who uses lip reading and speaking slowly and clearly. (This option should only be used if the examples provided previously have been exhausted).

"Auxiliary Aids and Services" shall have the meaning set forth. C.F.R. § 35.104 as currently in effect and, accordingly, include Qualified Interpreters on-site or through video remote interpreting ("VRI") services; note takers; computer-aided real-time transcription services ("CART"); written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones ("TTYs"), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing.

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Qualified interpreter – means an interpreter who, via a "video remote interpreting" (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary, and who has a valid certification of competency accepted by the Commission for the Deaf and Hard of Hearing. Qualified interpreters include, for example:

- sign language interpreters onsite or through VRI.
- oral transliterators,
- cued language transliterators, including oral interpreters, and intermediary interpreters.

334.2 POLICY

It is the policy of the Clear Creek Sheriff's Office to provide disabled and impaired individuals with meaningful access to law enforcement services when they are victims of, or witnesses to, alleged criminal activity, other emergencies, or are seeking more routine access to services and information. Sheriff's Office personnel will make every reasonable effort to promptly accommodate hearing-impaired individuals utilizing auxiliary aids and services (listed below).

The Sheriff's Office will offer and provide requested auxiliary aids and services to any person with a communication disability. The individual's choice of a communication method shall be given primary consideration and shall be honored unless the employee can demonstrate that a more effective method of communication exists.

Knowing that law enforcement encounters could be potentially volatile and/or emotionally charged, Sheriff's Office employees should be alert to the possibility of communication problems. The employees should exercise special care in the use of all gestures and with verbal and written communications to minimize confusion or misunderstanding when dealing with any person with known or suspected disabilities or communication impairments.

In an effort to be effective, auxiliary aids and services must be provided and used, in a timely manner, and in a way as to protect the privacy and independence of the hearing-impaired person. Staff should refer to the following guidelines when in contact with hearing-impaired persons:

Resources and Services. The employees shall offer and provide appropriate auxiliary aids and services when communicating with a hearing-impaired person. The employees should use resources immediately available to them in any contact with a known or suspected disabled or hearing-impaired person, then as required or needed, move to other better resources as appropriate.

334.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

1. The ADA Coordinator shall maintain records of all forms and information generated. The ADA Coordinator shall be the point of contact for and resolve

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complaints made in conjunction with Grievance Procedures set forth in paragraph 3 of this policy, and preserve and maintain all records relating to each complaint.

2. The CCSO shall publicize to all inmates, and make available to visitors, inmate advocates, inmate family members, and representatives upon request, the contact information for the CCSO ADA Coordinator. Such information shall be included in the inmate handbook and on conspicuous posters of suitable size posted in locations where notices to inmates are normally posted. Further, such information shall be available in an accessible manner on the CCSO's website. 28 C.F.R. § 35.107.

Every six months, the ADA Coordinator will review the CCSO's interactions with Persons with Auditory Disabilities and send out clarifications or reminders regarding policy to address compliance issues.

334.4 FACTORS TO CONSIDER

Knowing that law enforcement encounters could be potentially volatile and/or emotionally charged, Sheriff's Office employees should be alert to the possibility of communication problems. The employees should exercise special care in the use of all gestures and with verbal and written communications to minimize confusion or misunderstanding when dealing with any person with known or suspected disabilities or communication impairments.

In an effort to be effective, auxiliary aids and services must be provided and used, in a timely manner, and in a way as to protect the privacy and independence of the hearing-impaired person. Staff should refer to the following guidelines when in contact with hearing-impaired persons:

Resources and Services. The employees shall offer and provide appropriate auxiliary aids and services when communicating with a hearing-impaired person. The employees should use resources immediately available to them in any contact with a known or suspected disabled or hearing-impaired person, then as required or needed, move to other better resources as appropriate.

334.5 INITIAL AND IMMEDIATE CONSIDERATIONS

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under

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the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service.

Ongoing Need for Communication Assessments and Consultation.

In addition to the initial communication assessment done at the time the need for auxiliary aids and services is first identified, Personnel will reassess communication effectiveness regularly throughout the time the Person with an Auditory Disability is in custody and will consult with the Person with an Auditory Disability on a continuing basis to assess what measures are required to ensure Effective Communication. For inmates, such reassessment will take place on at least a monthly basis.

Reasonable Modification of Handcuffing Policies. Personnel will handcuff a Person with an Auditory Disability in the front unless, considering the totality of the circumstances, Personnel have an articulable reason why handcuffing that person in the front would present an immediate safety risk to Personnel or Members of the Public. Instances where a Person with an Auditory Disability is not handcuffed in the front shall be tracked and reported as part of the Log of Interactions with Persons with Auditory Disabilities. When a Person with an Auditory Disability is not handcuffed in the front and it appears that the immediate safety risk to Personnel or Members of the Public has passed but the Person with an Auditory Disability must still remain handcuffed, the responsible Personnel shall reposition the handcuffs to the front.

334.6 QUALIFIED INTERPRETERS

The shift supervisor (Detentions / Investigations / Patrol) is responsible for ensuring a qualified sign-language interpreter service is provided when employees make the request and the shift supervisor must respond to all requests from the employees for interpreters. The response time for the interpreter should be reasonable.

The Colorado Department of Human Services has a Commission for the Deaf and Hard of Hearing. The commission maintains a very comprehensive list of qualified interpreter and hearing-impaired services on their website at www.ccdhh.com. The following are the 24/7 contact phone numbers for our area:

- LanguageLine 24/7 via phone call (not applicable for Auditory Disability).
- LanguageLine 24/7 via phone app (InSight)
- PSLI - Professional Sign Language Interpreters 303-920-7330 www.PSLI.net

*As advanced notice as possible. Currently only has two LEGAL certified ASL interpreters with limited availability.

When an interpreter responds, they will likely bring with them a state Legal Services Billing Statement and Authorization form. The form will be completed by the interpreter, but an Office member is required to sign and complete the information at the bottom of the form under

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'Attestation'. This information is required to verify that the service was requested by a law enforcement agency and that it was provided as indicated on the form. The interpreter will submit the form for payment, but a copy of the completed form should be included in the report whenever possible.

- (a) For interpreter requests made more than forty-eight (48) hours before the services of an interpreter are required, the CCSO shall arrange for a Qualified Interpreter to be present at the time of the scheduled appointment. If an interpreter fails to arrive for the scheduled appointment, upon notice that the interpreter failed to arrive, the CCSO will immediately call an interpreter service for another Qualified Interpreter.
- (b) For Non-scheduled Interpreter Requests, CCSO shall make reasonable efforts to provide an interpreter no more than (a) three hours from the time of the request for an interpreter if the service is provided through a contract interpreting service or a staff interpreter who is located off-site; or (b) 30 minutes from the request for an interpreter if the service is provided through a VRI service. The CCSO will address deviations from these response times with the interpreting service provider and will review performance goals with the Department as needed. For interactions with Persons with Auditory Disabilities in the field, CCSO will ensure that Personnel have access to a VRI service on their mobile phone.

Qualified interpreter required in arrests. A deputy who arrests a person who, due to deafness or a physical speaking impairment, cannot readily understand or communicate in the English language or cannot understand the proceedings, shall inform his/her supervisor of the arrest and ensure a qualified interpreter or auxiliary service, as specified by law, is available at public expense to the arrestee before an interrogation or the taking of a statement.

The arresting deputy shall immediately make arrangements to provide a qualified interpreter or auxiliary service at the earliest possible time at the place of detention. If an interpreter is to be used, prior to the arrival of the interpreter, the deputy should write messages to the suspect in simple language explaining what is transpiring or will transpire. In writing, the deputy will notify the hearing impaired person that an interpreter has been requested. No other questioning, interviews or interrogations will be conducted without an interpreter present. Do not advise the hearing impaired person of their Miranda Rights without the interpreter present.

Once an interpreter has arrived, use him or her to facilitate all communication with the hearing impaired person, including issues related to needed medical attention, if any. Explain to the person all charges filed and all procedures relating to the person's detainment and release.

At the conclusion of the arrest, if the hearing impaired person is to be placed into jail, the interpreter will be asked, when possible to accompany the deputy to the jail to help in the completion of the booking process.

334.7 TTY AND RELAY SERVICES

A TTY/TDD machine is a teleprinter, an electronic device for text communication over a telephone line, which is designed for use by persons with hearing or speech difficulties. They are

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especially helpful in communicating with people who cannot speak. Other names for the device include teletypewriter (or TTYs) and textphone or other Video Relay Services.

Individuals contacted by members of this office who are hearing-impaired must be given the opportunity to use available text telephones or other Video Relay Services in situations where non-hearing impaired persons would have access to a telephone. All calls placed by such individuals through these services shall be accepted by this agency. TTY/TDD or Video Relay Services machines are available in the following places for your use in helping communicate:

- All Dispatch consoles are equipped with an integrated 911 TTY/TDD module to allow typed messages between callers and call takers.
- Detention's maintains portable Video Relay Service machines in booking and they are also compatible with their inmate phone system.
- Records Lobby at the Sheriff's Office has a comparable service.

334.8 FAMILY AND FRIENDS

While family and friends of a hearing-impaired person may frequently offer to assist with interpretation; staff should carefully consider the circumstances before relying on these family members.

The children of those that are disabled should not be relied upon except in an emergency or critical situation. The relationship of the individual and family member should be a factor too. An example would be a victim/suspect situation and using either to interpret for the other would not be appropriate and therefore not advisable to use as an interpreter.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

334.9 REPORTING

Whenever any member of this office is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Office or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

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334.10 CUSTODIAL INTERROGATIONS

Interrogations and bookings. The rights of all disabled and impaired persons are protected during arrest and custodial interrogation. This agency will provide qualified interpreters or auxiliary services during such situations. It is further recognized that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution.

Employees providing assistance shall also be aware of the inherent impediments to gathering information from disabled or impaired individuals throughout the booking process or any other situation in which a disabled or impaired individual is under the control of the Sheriff's Office personnel. When a hearing-impaired detainee enters the facility, the agency will inquire of the hearing-impaired detainee if he/she wants a sign language interpreter or auxiliary service. If the detainee makes a request for a sign language interpreter or auxiliary service, such services will be provided.

- Individuals who require and possess personally owned communication aids (hearing aids) shall be permitted to retain such personally owned devices while in custody.
- Individuals in custody who have been allowed to retain communication devices that help them communicate with agency members shall be allowed to use said devices for that purpose.

Specific Restrictions –

- State law requires that hearing-impaired persons taken into custody be provided with a qualified interpreter or auxiliary service prior to advisement of rights or questioning. In the past, officers have questioned arrested hearing-impaired persons using pen and paper. This is now statutorily prohibited.
- The imminent threat exception in this paragraph and its subparts is not intended to apply to the typical and foreseeable emergency situations that are a part of the normal operations of CCSO's programs, services, and activities. Personnel may rely on an accompanying individual to interpret or facilitate communication under this paragraph only in truly emergency circumstances, where any delay in providing immediate services to the individual could have life-altering or life-ending consequences. 28 C.F.R. Part 35, App. A. Once the emergency has lifted, Personnel should revisit the decision of what auxiliary aids and services are appropriate and give Primary Consideration to those preferences.
- If the situation is not urgent or exigent, hearing-impaired persons who will be questioned or interrogated shall be offered and, if the offer is accepted, provided a qualified sign language interpreter or auxiliary service for the communication.
- The hearing-impaired person should be given the choice of either a qualified interpreter or an auxiliary service, and if possible, their choice should be honored.
- As stated in the statute above, we cannot delay an arrestee's release to await the arrival of the interpreter.
- The Sheriff's Office shall not require an individual with any disability to bring another individual to interpret for him or her.

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- The Sheriff's Office shall not rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public welfare where there is no interpreter available.
- The Sheriff's Office shall not rely on an adult accompanying an individual with a hearing disability to interpret or facilitate communication, except:
- In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or
- The individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.
- The imminent threat exception in this paragraph and its subparts is not intended to apply to the typical and foreseeable emergency situations that are a part of the normal operations of CCSO's programs, services, and activities. Personnel may rely on an accompanying individual to interpret or facilitate communication under this paragraph only in truly emergency circumstances, where any delay in providing immediate services to the individual could have life-altering or life-ending consequences. 28 C.F.R. Part 35, App. A. Once the emergency has lifted, Personnel should revisit the decision of what auxiliary aids and services are appropriate and give Primary Consideration to those preferences.

334.10.1 WAIVER

Any waiver to a qualified interpreter or auxiliary service shall be in writing. The person may have access to counsel for advice and shall have actual, full knowledge of the right to effective communication (CRS § 13-90-208).

If there is no waiver, *Miranda* warnings shall be given by the interpreter prior to any attempt to interrogate or take a statement from the person (CRS § 13-90-204(1)(d)).

334.11 ARRESTS AND BOOKING

Qualified Interpreters for Jail Programs. The following non-exhaustive list provides examples of activities, services, programs or circumstances wherein it may be necessary to provide Qualified Interpreters to ensure effective communication with Persons with Auditory Disabilities in the Jail. In the event a Qualified Interpreter is necessary to provide effective communication, then the activity, service or program may be delayed until the Qualified Interpreter is made available, or the Person with an Auditory Disability may elect to delay his or her participation in the program, activity or service until the Qualified Interpreter is available, except in situations or circumstances involving a medical emergency :

- Medical care and health programs such as physicals, medical screenings, and treatment, dental or visual examinations or treatment, and drug and alcohol recovery services;
- All mental health services;

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- Critical communication or complex information such as lengthy exchanges or anything involving legal processes;
- Educational and enrichment classes and activities;
- Any hearings at the Jail in which the inmate or detainee is a participant and a Qualified Interpreter is not provided by the agency conducting the hearing;
- Hearings regarding internal Jail rule or other disciplinary violations;
- Criminal investigations conducted at the correction facility in which the inmate or detainee is involved and a Qualified Interpreter is not provided by the agency conducting the investigation;
- Classification review interviews;
- Religious services;
- Non-criminal investigations conducted by Personnel;
- Inmate Worker Programs;

Visual Alerts.

- Persons with Auditory Disabilities incarcerated at the Jail should not miss announcements, alarms, or any other auditory information from Personnel to the general inmate population solely because of their disability.
- The CCSO shall provide an effective visual notification system that will notify Persons with Auditory Disabilities of prison-wide events and events specific to inmates who are deaf or hard of hearing.
- The CCSO will provide Persons with Auditory Disabilities with an effective visual notification system which will advise them of an emergency evacuation or other emergency. CCSO Personnel shall be responsible for the evacuation of inmates who are deaf, during an emergency.

Hearing Aid and Cochlear Processor Batteries. The CCSO shall supply appropriate types of hearing aid and cochlear processor replacement batteries for distribution to Persons with Auditory Disabilities utilizing such hearing devices in the Jail at no cost to the inmate or detainee. Replacement batteries will be provided to those requesting them as soon as possible, but no later than forty-eight (48) hours after such request, including weekends and holidays. Nothing in this Agreement requires the CCSO to purchase or replace a hearing aid or cochlear implant processor for a Person with an Auditory Disability who does not already own such a device.

Repair of Hearing Aids and Other Such Personal Devices. The CCSO shall send Persons with Auditory Disabilities' hearing aids, cochlear processors, and other such devices to appropriate repair companies as soon as possible, but no later than twenty-four (24) hours (excluding weekends and holidays) following a request for the repair of such device. The CCSO shall inform the Person with an Auditory Disability when the device was sent for repair and when it is expected to be returned by the repair company. The Person with an Auditory Disability will be provided with written documentation of all such repairs, including detailed information regarding the vendor

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used, the date of the repair, and the specific repairs performed. The cost of all repairs, including shipping costs, if any, shall be borne by the Person with an Auditory Disability unless the repairs are required due to Personnel's negligence or another inmate's actions.

Identification. The CCSO will take appropriate steps to ensure that all Personnel having contact with Persons with Auditory Disabilities are made aware of the individual's disability and his or her preferred Auxiliary Aids and Services so that effective communication with the Person with an Auditory Disability will be achieved. A Person with an Auditory Disability's identity as someone needing appropriate Auxiliary Aids and Services for effective communication will not be treated as confidential medical information.

Pre-release Instructions

Processes that will presumptively meet the needs and thus require the provision of a Qualified Interpreter include medical screenings, taking criminal and personal histories, obtaining or transmitting information for classification and housing assignments, court appearances, disciplinary hearings, communications with bail bond providers, and any other communications involving legal processes.

334.12 GRIEVANCE PROCEDURES

For complaints or disagreements that arise during a Person with an Auditory Disability's intake, booking, or incarceration with CCSO that involve a request for immediate action regarding auxiliary aids and services, the Person with an Auditory Disability will submit a "kite" and an on-duty supervisor will attempt to resolve the issue within 48 hours. The on-duty supervisor will communicate the resolution to the individual, if still in CCSO custody, and document the resolution or inability to resolve the complaint in writing. Nothing in this provision precludes a Person with an Auditory Disability from submitting an ADA grievance.

Retaliation and Coercion. The CCSO will not discriminate against an individual because that individual has opposed any act or practice made unlawful by Title II of the ADA, or because the individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Title II of the ADA. The CCSO will not coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any individual in the exercise or enjoyment of, any right granted or protected by Title II of the ADA. See 28 C.F.R. § 35.134.

334.13 TRAINING

Training to prepare members for the proper and professional service to hearing impaired citizens, will be conducted annually. Training will be delivered through either instructors/s and or through a PoliceOne module. Training will be focused on ensuring members are able to deliver professional service to hearing impaired citizens as well as ensuring the service the Clear Creek County Sheriff's Office provides to the hearing impaired is ADA compliant. This training may include but is not limited to:

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- Employee awareness of related policies, procedures, forms and available resources including having a working knowledge of the publication, "Communicating With People Who Are Deaf and Hard of Hearing".
- Working effectively with in-person and telephone interpreters and related equipment

Training shall specifically address:

- (a) Prohibitions against discrimination, coercion, intimidation, retaliation, or threatening behavior toward individuals who have complained or opposed any practice made unlawful by the ADA or this Agreement, or who have made or participated in any complaint or investigation under the ADA or this Agreement, or who may have requested, sought, or obtained the enforcement of any right, benefit, aid or service under or required by the ADA or this Agreement.
- (b) Procedures on how to obtain Qualified Interpreters: (a) in the field using VRI on a mobile device; and (b) in the Jail by scheduling an in-person interpreter or using VRI.
- (c) "Emergency Situation," as defined by this Agreement, particularly with regard to those situations in which an individual or minor child accompanying an individual who is deaf or hard of hearing may be available to interpret or facilitate effective communication, and with regard to the definition of "Emergency Situation" not including typical and foreseeable emergency situations that are a part of the normal operations of the CCSO's programs, services, and activities.
- (d) The use of the forms and data-collection requirements.
- (e) The CCSO will ensure that all new Personnel who are CCSO employees (other than deputies) will receive the training as a component of pre-service training and orientation.
- (f) The CCSO will maintain records of all training provided in accordance with this paragraph, which will include the names, and respective job titles of the attendees; the date and time of the training session; and copies of all curricula, presentations, slide decks, or other materials used in each session.

334.14 LOG OF INTERACTIONS WITH PERSONS WITH AUDITORY DISABILITIES

The CCSO will maintain a log of all encounters with individuals who Personnel know or reasonably believe to be a Person with an Auditory Disability. This log will include interactions with any Member of the Public encountered in the course of CCSO programs, services, or activities, including but not limited to suspects, victims, witnesses, and family members, both in the field and at the Jail.

334.15 EVIDENCE AND REPORTING

Any written correspondence exchanged with a hearing- impaired person in a criminal case will be placed into evidence following the guidelines set forth in the Clear Creek County Sheriff's Office Policy and Procedure manual. This includes any notes exchanged with victims, witnesses or suspects.

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When dealing with a hearing-impaired person, employees should document the type of communication resources offered, requested, and used to communicate in their incident/offense report, CAD notes, Detentions Incident report, etc.