With approximately 185,000 amputation surgeries taking place each year in the United States, it is estimated there are about 1.9 million amputees here currently. Similarly, there are also millions of people wearing medical appliances, such as Foley® catheters. Unlike Transportation Security Administration (TSA) officers who conduct these unique pat-downs and searches on a daily basis, LEOs, too, will someday be required to pat down or search a person wearing one, or more, of these devices. The sheer amount and different types of removable and permanent medical appliances possibly encountered during a citizen contact are too numerous to describe within this limited space. Medical devices include, but are not limited to, Cochlear™ implants, catheters, urine and colostomy bags, nasal cannula, and oxygen tanks. Common prosthetic devices include artificial limbs and wheelchairs, as well as dental implants, pacemakers, braces, and artificial eyes. Many individuals who wear these appliances and devices may be disabled per the Americans with Disabilities Act (ADA) which also requires specialized training; however, this is an entirely different issue.

**LEO Core Task**

Prior experience and foreseeability show that LEOs have, or will, encounter a person wearing a medical appliance or a prosthetic device; therefore, the need to be trained about how to conduct pat-downs and searches on people wearing them is a core task of officers. The Supreme Court of the United States (SCOTUS) held in City of Canton, Ohio v. Harris that municipalities must train their officers in core tasks and may be held liable for their failure to conduct such training. Municipalities must also provide guidance to LEOs on these and similar issues through policies and procedures. There may also be liability for the failure to train LEOs under one or more negligent theories.

**Information Increases Safety**

Before touching individuals who are wearing these devices, officers should ask the person if he/she is wearing a medical appliance and/or a prosthetic device. If so, the type of device and where it is located should also be determined. Subjects may also be asked if their limbs move or if their prosthetic device is mechanized. LEOs are generally prohibited per the ADA from directly asking about the person’s disability. The Health Insurance Portability and Accountability Act (HIPAA) may also restrict sharing information about a person’s medical status, in, say, a correctional setting. Remember: An artificial limb such as a “hooked hand” or another hard surface may be used as an improvised weapon. Keep a safe distance.

Before approaching the subject, use a contact and cover method and request assisting officers. Officers should use their body-worn or vehicle cameras to their advantage by recording the contact. Prior to manipulating a disabled individual or a wheelchair, visually inspect the person and wheelchair and ask if there are any movement concerns to the subject which may cause injury.

After obtaining consent or establishing the legal authority to conduct a search has been satisfied, LEOs (barring exigent circumstances) should be prepared to slow
down the contact and conduct a safe and thorough search. When searching individuals, LEOs must remember that the term “search” implies more than just a pat-down or a frisk. At the point of contact, the officer should take a moment to visually scan the individual for any obvious weapons, contraband or known and obvious disabilities. Once a disability has been observed or stated, the LEO must formulate a plan to work within the ADA standard of reasonable accommodations (modifications).

During an encounter with an individual using a wheelchair, LEOs must understand that the wheelchair is a separate article, similar to that of a vehicle being separate from a driver. In short, the individual and the wheelchair cannot be viewed as one. Remember: Consent to search a wheelchair user does not necessarily imply consent to search the wheelchair.

Avoid Distractions, Firm Squeezing and Sudden Movements

Coauthor John Peters, when working as a sworn officer many years ago, recalls staring at a colostomy bag attached to a suspect who was lying in bed. “After my partner had pulled down the bed sheet, I saw this plastic bag with stuff in it on the suspect’s left side and stared at it for a few moments. If the suspect had a gun, he could have shot me.” Seeing a leaking urine or colostomy bag for the first time is distracting. That is why it is so important to see and handle these items during training simulations. Such training will help officers avoid the “shock” factor. Distractions may also follow the firm squeezing of a urine bag, particularly when bodily fluids come into contact with fingers, clothing or boot tops. Remember: Wear Body Substance Isolation (BSI) equipment (gloves, masks, etc.) prior to making physical contact with the person to increase safety.

When conducting pat-downs and searches of the legs, arms and waist areas, officers should not squeeze too hard because they could injure the person by forcing liquid into the bladder; for example, by firmly squeezing a urine bag. Unless the urine bag is designed to prevent liquid from returning through the catheter tube, a hard squeeze can forcefully push urine into the bladder, causing serious injury.

Many common encounters a LEO may have with a disabled individual will include him/her using a wheelchair or similar assistive device (with a bodily waste collection bag) or who has an extremity prosthetic device. Officers should avoid suddenly moving the person, as this will help to protect a medical appliance from coming loose or injuring the person (e.g., stoma). Sudden movement of the wheelchair and/or the person may cause such devices to dislodge and/or injure the subject. Remember: A wheelchair is considered a prosthetic device, so LEOs should always ask the person prior to touching or moving it, unless, of course, exigent circumstances exist.

Secure Evidence Save Money Save Time Digital Backup

Medic Mirror Duplicator backs up memory card/ USB device to Blu-ray and DVD/ CD disc.

Forensic HDD Duplicator makes secure digital evidence collection for law enforcement.

www.ily.com 888-742-5459

Circle 5051 for More Information

Emergency Restraint Equipment

Control Spitters! TranZport Hood

Restraint Equipped Humane TranzBoard

Restraint Chair

Use Protective Helmets

CALL FOR A CATALOG TODAY!

912 Bethel Circle • Waunakee, WI 53597
800/356-7472 • FAX 608/849-6315
www.humanerestraint.com

Circle 5052 for More Information
Control the subject’s hands using appropriate techniques (front control or placement on top of the head). LEOs should not allow the person being searched to manipulate items on the wheelchair during the search. Officers should look for decoy items or false compartments as items can easily be hidden in the tubing and bags attached to the wheelchair or inside a prosthetic device. Remember: Anywhere the disabled person can reach or touch is an area which must be inspected or searched.

If in a public setting, LEOs should expect their actions to gain people’s attention and scrutiny, and should prepare and act as if they are being recorded. All contacts and/or searches should be made with a minimum of two officers for witness purposes.

Generally, do not conduct K-9 narcotic-related searches of a wheelchair while it is occupied. The K-9’s alert may potentially cause injury to the wheelchair user.

**Prosthetic Devices**

When conducting searches on individuals wearing prosthetic devices, LEOs must understand that the device will not always be readily apparent or obvious (i.e., prosthetic leg under the pants; prosthetic foot in a shoe).

After identifying or being informed about a prosthetic device, LEOs must be careful to not violate an individual’s civil rights, particularly ADA rights. Removing a prosthetic device in a public setting, without exigent circumstances, may cause the individual undue embarrassment and attention from the public which may violate the ADA. Officers should not ridicule the individual, the prosthetic device or “parade” the person in public.

If reasonable grounds exist to believe contraband is being concealed in the device, removal of prosthetic devices may be easier with the assistance of the disabled individual, help from his/her attendant, and/or help from another LEO. After the prosthetic is searched and deemed safe, LEOs should try to reattach or assist the individual in connecting it.

The handcuffing of an individual’s prosthetic arm is not recommended as the arm can be removed from the limb/socket and then used as a weapon. It is recommended that LEOs consider alternate restraint methods (e.g., belly chain, leg restraints) or, in some cases, removing the prosthetic device and transporting it separately.

*After the prosthetic is searched and deemed safe, officers should try to reattach or assist the individual in connecting it.*
Transportation Concerns

The Freddie Gray incident – sudden death following transport in a police van – highlights the public’s demand for accountability and transparency of LEOs and investigations. While Freddie Gray was not reported to be wearing a medical appliance, in another high profile incident, arrestee Jeffrey Barnes was wearing a urine bag at the time of his arrest. While at a bar, after attacking a bouncer, Mr. Barnes was removed from his wheelchair and placed on a narrow bench inside a transport van. His request to use a bathroom to empty his urine bag was denied by LEOs. A seat belt was used to secure him to the bench which also pressed against the urine bag. During transport, the belt loosened, causing Mr. Barnes to fall onto the van’s floor. He sued and, eventually, his case went to SCOTUS where it let his $1 million in compensatory damages awarded by a jury stand. He also claimed LEOs violated the ADA and similar laws (see Barnes v. Gorman, 536 U.S. 181 (2002)).

Tips for Minimizing Liability and Increasing Your Safety

Law enforcement administrators must train their LEOs about the ADA and how to interact with disabled individuals. Defensive tactics and restraint trainers must teach LEOs how to contact, and then search, disabled individuals who are wearing medical appliances and/or prosthetic devices. Competency-based testing must follow the training to quantitatively prove the LEOs have learned the information and developed the skills necessary for detaining, discussing with and searching disabled individuals. The use of real-world scenarios during the training to illustrate key points, and then to assess skills, is of critical importance to demonstrate job-related training and quantitative testing.

How to make reasonable accommodations when handcuffing and transporting a disabled person inside a patrol car should also be taught to LEOs. After officers have discovered, or have been informed about, a person’s disability, medical appliance and/or wearing a prosthetic device, they must recognize the need for making reasonable accommodations (e.g., handcuff in the front) per the ADA.

LEOs must consider using medical transport vans or services which may include transporting the subject to jail in a municipal ambulance. When the disabled person is separated from his/her prosthetic device, including a wheelchair, make certain that the device and/or wheelchair are safely transported, as well. Replacing a prosthetic arm or leg can cost more than $50,000, with motorized wheelchairs costing about the same price.

Officers should always be considerate of disabled individuals; always act as a professional; and always act as if their actions are being videotaped because they probably are being recorded. P&SN

John G. Peters, Jr., Ph.D., CTC, CLS, serves as president of the internationally recognized training firm, Institute for the Prevention of In-custody Deaths, Inc. (IPICD), based in Henderson, NV. Author of more than 250 publications, including a text of wheelchairs and a program of the same name, he has extensive experience as an expert witness.

Michael Coleman is a sworn peace officer with a Southern Nevada police agency and staff instructor with the IPICD. Coauthor of the IPICD wheelchair training program and wheelchair text, he serves as his agency’s ADA Coordinator and is also assigned to his agency’s training bureau.