ARAPAHOE COUNTY SHERIFF’S OFFICE, THE U.S. DEPARTMENT OF JUSTICE, AND DISABILITY RIGHTS ORGANIZATIONS REACH A SETTLEMENT AGREEMENT ENDING FEDERAL COURT LAWSUIT

Police Will Provide Sign Language Interpreters to Deaf Individuals

Today the Colorado Cross-Disability Coalition (CCDC), the Colorado Association of the Deaf (“CAD”), the United States Department of Justice (“DOJ”), and the Arapahoe County Sheriff’s Office (“ACSO”) entered into a settlement agreement. The agreement requires that the ACSO provide qualified sign language interpreter services to deaf persons who are arrested, questioned, or detained. (See Arapahoe County Sheriff’s Office Settlement Agreement.)

The agreement is the result of a lawsuit filed by CCDC and William Lawrence on May 31, 2012. Mr. Lawrence is deaf. He was arrested and taken to the Arapahoe County Detention Facility. The lawsuit claims that ACSO refused to offer or provide Mr. Lawrence with a sign language interpreter when they booked him, asked him medical and mental health questions, and took him into custody. The ACSO admitted that Mr. Lawrence posed no threat during the course of the detention.

Mr. Lawrence, who has been deaf since birth, uses American Sign Language (“ASL”) to communicate. ASL is Mr. Lawrence’s primary means of communication. Like many deaf individuals, Mr. Lawrence’s understanding and comprehension of written English is diminished. ASL and English are different languages. ACSO claimed its deputies communicated effectively with Mr. Lawrence during his arrest by passing handwritten notes back and forth and talking with Mr. Lawrence’s hearing roommate. The lawsuit claims this form of communication, particularly during an event as important as being detained in jail, is unlawful under the Americans with Disabilities Act (“ADA”).

In addition, the complaint alleges Plaintiff Teresa Fekany was not provided sign language interpreters at her home when Sheriff’s deputies questioned her. Ms. Fekany, who has
also been deaf since birth, alleges deputies returned to her home, knowing she was deaf, and did not offer or provide sign language interpreters.

The ADA requires that law enforcement agencies take appropriate steps to ensure that communication with deaf individuals is “as effective as” communication with hearing individuals. (See ADA Communications Regulation.) It requires that the ACSO provide appropriate “auxiliary aids and services”, which includes providing sign language interpreters, for individuals whose primary mode of communication is sign language. (See ADA Definitions.) The lawsuit alleged the ACSO did not take appropriate steps to be able to provide an interpreter in this situation. It alleged Mr. Lawrence was deprived of and denied communication that was as effective as required under the ADA.

All of the ADA regulations that apply to Government entities like police departments regarding effective communication with deaf individuals can be found at the DOJ website.

During the course of the litigation, Plaintiffs also contacted the DOJ. The DOJ filed a separate complaint and opened an investigation of ACSO.

Rather than continue with potentially lengthy and costly litigation, the parties agreed to negotiate a resolution of the lawsuit and the DOJ complaint. The settlement agreement is available now on CCDC’s website.

“Without the help and guidance of the U.S. Department of Justice,” said Kevin Williams, CCDC Legal Program Director, “this case would have been far more difficult. We sincerely thank Mary Ann Mobley, the attorney here in Colorado, working for the Civil Rights Division, for her assistance in getting this case resolved. It is great to have them as an ally in CCDC’s continuing fight against disability discrimination.”

The Department of Justice issued its own press release today about this case and the recent settlement with Englewood Police that was also part of this lawsuit.

The 21 page agreement is comprehensive. For example, a Sheriff’s deputy, upon discovering an individual is deaf, must offer the individual an opportunity to request a sign language interpreter. One way the officer may do so is by providing the deaf individual with a visual representation (depicted above) allowing the deaf individual to make a choice. It depicts the ADA recognized symbol for sign language and includes two hands signing “yes” and “no”. The deaf individual can select “yes” or “no” by pointing to, circling, or signing the choice.
Along with Mr. Lawrence, CCDC and the Colorado Association of the Deaf (“CAD”) joined the lawsuit as Plaintiffs. This is the fifth settlement involving CCDC with CAD addressing ADA discrimination against law enforcement agencies. One of the most important factors the DOJ requires a law enforcement agency to consider when providing a sign language interpreter is the “importance” of the communication. During detention in a jail, it is critical for both the person being detained and the deputy detaining the person to be able to communicate effectively. Personal liberty is at stake for the person being detained; accuracy of information is at stake for the officer’s criminal investigation. The DOJ’s website provides publications that explain exactly how law enforcement officers should address communication with deaf individuals: Communicating with People Who Are Deaf or Hard of Hearing ADA Guide for Law Enforcement Officers and Model Policy for Law Enforcement on Communicating with People Who Are Deaf or Hard of Hearing.

Williams, who was lead counsel for the Plaintiffs, said, “Imagine what it would be like when your only means of communication is using your hands to sign, and then suddenly your hands are handcuffed behind your back. You are arrested, booked and thrown into jail with no ability to speak or understand. This is what law enforcement officers fail to understand, this is now CCDC’s fourth lawsuit involving law enforcement agencies and their obligation to deaf individuals. It is time they all comply with the ADA.”

CCDC sent open records act requests to all County Sheriffs’ Offices in Colorado. CCDC requested all policies and documents related to compliance with the ADA with respect to providing sign language interpreters and other auxiliary aids and services required under the ADA. The results of this investigation are available on CCDC’s website. Of the more than 60 requests, 35 counties had no written policies in place. Of those that had policies, nearly all were inadequate. Few demonstrated that the Sherriff’s Office had procedures in
place to ensure that sign language interpreters would be offered and provided to deaf individuals who need them for effective communication. How can a police officer get a sign language interpreter during an arrest if there are no policies in place? This does not meet the ADA’s requirement that the Sheriff’s Office “take such steps as may be necessary to ensure that communication with [deaf individuals] are as effective as communications with others.”

“We are pleased that the Arapahoe County Sheriff’s Office made the choice to resolve this case without lengthy litigation,” said CCDC Executive Director Julie Reiskin. “CCDC is extremely happy with the terms of the settlement. We are also very thankful to attorney Mary Lou Mobley and the DOJ for its support, interest and involvement in this very important case.”

- For more information about some of CCDC’s other lawsuits involving other law enforcement agencies, please visit CCDC’s website: Jefferson County, Adams County, Englewood Police
- For more information about CCDC generally, please visit the website.
- For more information about CAD please, visit their website.
- For more information about the ADA please, visit DOJ’s website.
- For more information about this case in particular, go to Arapahoe County Sheriff & Englewood Police.
- **There is an ongoing lawsuit against Denver County Jail** in which CCDC is not involved for failing to provide sign language interpreters and other accommodations to deaf persons.