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To: Mary Lou Mobley, via email

From: Kevin Williams

C: Andrew Montoya, via email
Briana McCarten, via email

Re: Colorado County Sheriffs' Offices and Policies Regarding Auxiliary Aids and Services

Date: October 16, 2012

Thank you for your interest in our investigation and litigation concerning the failure of County Sheriff's Offices to provide auxiliary aids and services to arrestees and detainees who are deaf. As you know, CCDC sent open records act requests to all Colorado County Sheriffs' Offices asking them for records regarding the subject. On October 2, I sent you the Colorado Open Records Act ("CORA")/Colorado Criminal Justice Records Act ("CCJRA") request letter and the responses we received.

Many Sheriff's offices didn't respond at all. Of those who did respond, only twelve had records that had any bearing on the subject matter of our open records act requests.¹ Of those remaining twelve, you asked for us to provide you with information as to which counties had the best policies in place. Douglas, Otero, Logan and Weld counties have the "best" policies; however, the best policies we received fall far short of the policies that CCDC and our deaf plaintiffs have been able to get implemented in our litigation with Jefferson County and Adams County Sheriffs², which closely follow the DOJ's published guidance regarding law enforcement and deaf individuals.³

¹ We were mistaken. Garfield County and Routt County do not have any policies responsive to our requests.

² [Jefferson County litigation](#) and [Adams County litigation](#).

³ See, e.g., AMERICANS WITH DISABILITIES ACT INFORMATION FOR LAW ENFORCEMENT <http://www.ada.gov/policeinfo.htm>.

What is set forth below is a breakdown of the remaining twelve Counties' policies. I provide a brief description followed by excerpts of all of the language in each Sheriff's policies that address the subject matter of our requests. Some policies sent were not directly relevant.

The key elements we were looking for in our Open Records Act requests that are discussed below were whether the Sheriff's Office provided the following: 1) sign language interpreters, 2) telecommunications equipment equivalent to telephones, 3) any other auxiliary aids and services, 4) detailed procedures regarding how their employees are to offer and provide auxiliary aids and services, and 5) training.

Arapahoe County

Arapahoe County has a TTY policy. There is no policy regarding providing interpreters or any other auxiliary aids and services. Arapahoe County provided no procedures regarding any auxiliary aids and services, except for what is set forth below. Arapahoe County provided no policies regarding training. Arapahoe County Sheriff is the defendant in the Lawrence case, for which I have provided you information.⁴

Detentions Facility - TDD/TTY phones located in the detentions facility are available only for initiating TDD/TTY calls

1. TDD/TTY phones will be made available to Communications Impaired arrestees who require the use of TDD/TTY's.
 - a. TDD/TTY phones will be available to inmates under the same terms and conditions as telephone privileges that are offered to all inmates.
 - b. Information indicating the availability of TDD/TTY's will be provided to Communications Impaired arrestees.

Broomfield County

They have policies re TTY and training, but none regarding how to provide interpreters or any other auxiliary aid or service. Access to a TTY is given to inmates who are "medically designated as" hearing impaired. They have a fairly comprehensive training policy, but they did not provide any policies regarding how, if at all, the training is implemented. Colorado law requires RID certification under its deceptive trade practices law for any individual who claims to be a "sign language interpreter."⁵ Broomfield addresses this. Colorado law also

⁴ Now, since we have been in litigation, Arapahoe County has put into place a policy. See Exhibit A. As happens in nearly all of these cases, Defendant has amended its Answer to include a defense of mootness.

⁵ See Colo. Rev. Stat. § 6-1-105.

requires appointment of a qualified sign language interpreter when a deaf person is arrested, and the appointment "shall be made prior to any attempt to interrogate or take a statement from such person." Although this law states what should be a clear obligation with respect to deaf arrestees and suspects, unfortunately, there is no apparent enforcement mechanism.

Broomfield does provide telecommunications devices, procedures for how to provide auxiliary aids and services and training for its employees, as set forth below.

Policy re: TTY

TELEPHONE USE (8.9.10 Inmate Telephone Use)

TTY/TDD: Inmates who are medically designated as hearing impaired shall be given access to any one of the three TTY/TDD machines located within the facility. Inmates will be given access to these assistance machines any time they are on regularly scheduled time out. Inmates can verbally request access to the machines or submit an inmate request form to your pod officer.

Training re: interaction with disabled persons includes:

BACKGROUND

1. Colorado Revised Statute 13-90-201, "Appointment Of Qualified Interpreters For Deaf Or Mute," provides that a qualified interpreter shall be appointed when a person who is deaf or mute or both, is arrested for an alleged violation of a criminal law of this state or any of its political subdivisions. Such appointment shall be made prior to any attempt to interrogate or take a statement from such person.

Section 504 of the Rehabilitation Act of 1973 (Federal law) extends the requirement for provision of a qualified interpreter to victims, witnesses and complainants as well.

2. Sign language interpreters are required to be certified by a national board, thereby having legally recognized qualifications. These are the only interpreters to be used in these procedures. Under no circumstances are family members, friends or other individuals to be used as interpreters for criminal interviews.

3. If a deaf person is taken into custody their right to communicate with his/her family or attorney cannot be denied because of deafness.

4. Colorado Relay is a 24-hour-a-day service funded through the Public Utilities Commission to provide telephone accessibility to and from the deaf, hard of hearing, or speech disabled. This relay service receives voice calls from hearing individuals, and via TTY/TDD relays this message to the deaf individual or vice versa. Colorado Relay can be contacted using the following phone numbers: (Voice) 1-800-659-3656, (TTY/TDD) 1-800-659-2656, or (ASCII [computer]) 1-800-659-4656.

5. At the time a Summons and Complaint is issued to a deaf or hearing impaired person, a qualified interpreter's presence may be desirable depending on the circumstances. Factors may include weighing any possible misunderstanding against the inconvenience to the individual in awaiting the arrival of the interpreter. The basic rule should be, when in doubt as to the effectiveness of communications, or if the deaf person requests, summon an interpreter.

PROCEDURE A Interacting with Deaf or Hearing Impaired Persons

1. Unless such restraint is necessary for officer safety reasons, officers avoid immediately restraining the arms and/or hands of a deaf person, as this is their mode of communication and can cause a sense of panic.

2. When dealing with deaf or hearing impaired persons, employees request an interpreter be called via the Communications Center.

3. Until an interpreter arrives, employees write messages in simple language explaining what is transpiring, or will transpire, and that an interpreter has been called. Under no circumstances should the employee do anything more without the aid of an interpreter in criminal situations.

4. Employees utilize the interpreter to facilitate communication using the following guidelines:

a. Speak directly to the deaf or hearing impaired person.

b. Do not ask advice of the interpreter or say things you do not want communicated to the deaf person. Interpreters are bound by Code to interpret through sign language everything said in the presence of the deaf person. This protects not only the deaf person, but also the law enforcement agency and its personnel.

5. At the conclusion of the advisement and interrogation, if the deaf person is to be placed in jail, the officer directs the interpreter to also respond to the jail and stay to interpret during the booking procedure.
6. Officers allow suspects to communicate with his/her family or attorney using the Victim Services Unit's or Detention Center's Teletypewriter / Telecommunications Device for the Deaf (TTY/TDD).
7. If that telephone call needs to be made to another individual who does not have a TTY/TDD, the Employee may use the services of Colorado Relay.
8. Issuing officers use appropriate discretion in deciding whether or not to call an interpreter to the scene. On any Summons and Complaint issued to a deaf person, the officer writes on the face of the form in bold lettering: "Deaf person - Interpreter Required." This alerts court officials to summon an interpreter for the court proceedings, minimizing delays and postponements.

Douglas County

Douglas County has a policy re TTY and one regarding providing interpreters. Douglas County's policy regarding initial contact with a person who is deaf is to "locate a staff members trained in sign language." Then, "if an interpreter is unavailable," pen and paper is acceptable. They have written procedures consistent with the state statute regarding providing interpreters. There is a policy re providing TDDs. There are no policies regarding other auxiliary aids and services, except for providing batteries for hearing aids upon request. There is no training policy.

Policies regarding compliance with all laws regarding disabled persons:

E. Telecommunications for the Hearing Impaired. Upon the arrival of a hearing impaired inmate, booking may attempt to locate a staff member trained in sign language. If an interpreter is unavailable, communication can be attempted by the use of paper and pen. TDD machines are located in booking. Detention staff will use the available machines to assist the hearing impaired inmates with making phone calls. The TDD line in booking is recorded like all other inmate telephones. The inmate must input their PIN to use this telephone. We will follow E-302 Inmate Phones SOP for guidance. Upon request, detention staff also provides batteries for inmates with hearing aids. Inmates with hearing aids should keep them turned on at all times with the volume at a level that they can hear emergency communications.

Policies regarding "Questioning Arrested Deaf/Hard of Hearing Persons"

I. RELEVANT STATUTE

13-90-204 C.R.S. Appointment of interpreter – when.

(1) A qualified interpreter or auxiliary service shall be appointed by an appointing authority to interpret the proceedings of a person who is deaf or hard of hearing and to interpret the statements of the person who is deaf or hard of hearing in the following instances: . . .

(d) When a person who is deaf or hard of hearing is arrested and taken into custody for an alleged violation of a criminal law of the state or any of its political subdivisions. Such appointment shall be made prior to any attempt to notify the arrestee of his or her constitutional rights and prior to any attempt to interrogate or to take a statement from such a person; except that a person who is deaf or hard of hearing and who is otherwise eligible for release shall be held pending the arrival of a qualified interpreter. . . .

II. PROCEDURES

State law requires that hearing-impaired persons taken into custody be provided with a qualified interpreter prior to right's advisement or questioning. In the past, officers have questioned arrested deaf persons using pen and paper. This is now statutorily prohibited. The decision to use an interpreter will be made either by Investigations personnel (in the case of felonies), or by a Patrol lieutenant. In the event of an emergency, the on-duty Patrol supervisor may authorize the use of an interpreter. As stated in the statute above, we cannot delay an arrestee's release to await the arrival of the interpreter.

The Colorado Department of Human Services has a Commission for the Deaf and Hard of Hearing. The commission maintains a list of qualified interpreters and, through the state's Legal Auxiliary Services, pays for the provided service. The following are the

24/7 contact phone numbers for our area:

24 Hour Sign Language Services	1-888-811-2424
SLA - Sign Language Associates	303-321-6772
PSLI - Professional Sign Language Interpreters	303-920-7330
CART (Claudette Mondragon)	720-838-3737

The agencies listed above will provide a legally qualified interpreter. CART is the acronym for Communication Access Real Time Translation. This service is for those deaf persons who do not know or use sign language.

When an interpreter responds, they will 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 '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.

General policies regarding Inmate Telephones – Procedures”

G. Speech and/or Hearing Disabilities: Inmates with speech and/or hearing disabilities and inmates who wish to communicate with parties who have such disabilities will be afforded access to a Telecommunication Device for the Deaf (TDD) or comparable equipment. <5B-11> The process is as follows:

1. Plug power cord into wall socket near Telmate phone.
2. Plug phone cord into back of TTY machine (either port will work) and the other end into the Telmate phone with the port at the bottom of the phone.
3. Turn power to TTY on.
4. Hold down CTRL and 1 key at the same time = dial
5. Inmate presses 7 on the keypad
6. Inmate should be prompted to enter his/her PIN Number
7. Inmate should be prompted to dial the destination number 18006592656 (Colorado Relay), this is also written on the TTY phone.
8. He/she will then be prompted by Colorado Relay to type the number of the person he wants to communicate with
 - a. for example he should dial 555-555-5555, the dialed person is hearing impaired using a video sign language interpreter, he will then be prompted to enter his phone number have him enter 3036607550, he will then be able to communicate with the caller using the two interpreter services.
 - b. for others who are not hearing impaired he can dial the person's number and communicate using Colorado relay.
9. When done using the TTY the inmate needs to return it to the deputy station with all cords.

El Paso County

El Paso County has a policy regarding TTY usage and a policy regarding providing interpreters for disciplinary procedures, but not at any other time. There are no other policies regarding additional auxiliary aids and services.

General policies regarding "Justice: Access to Courts:"

POLICY:

...

Further, all inmates will be afforded lawful and reasonable access to public telephones. Inmates with hearing and/or speech disabilities, and inmates who wish to communicate with parties, who have such disabilities, will be afforded access to a Telecommunications Device for the Deaf (TDD), or comparable equipment

...

IV. PROCEDURE:

C. TELEPHONE SERVICES

5. Hearing Impaired calls. TDD Phones: Inmates with hearing and/or speech disabilities, and inmates who wish to communicate with parties who have such disabilities, will have access to a Telecommunications Device for the Deaf (TDD), or comparable equipment. Inmates who wish to communicate with persons, who have such disabilities, will also have access to a TDD. The guidelines and restrictions for these calls are the same as calls from the Floor Security Housing Wards, however the allowed time may vary.

- a) Hearing impaired inmates will be able to place calls free of charge.
- b) All calls will be monitored by Ward/Floor Deputy to prevent abuse of phone privileges.
- c) Reasonable time will be allowed for phone calls made by inmates requiring the use of a TDD.
- d) Phone calls placed with the use of a TDD unit will be conducted and documented as follows:
 - 1) Step One: The deputy will access a TDD unit and hook up the phone line to the Mod phone if unit is used in Alpha/Bravo Towers. If the TDD unit is needed in the Echo Tower, the Ward Deputy will access a unit from one of the Echo Tower Control Rooms. The unit will be connected to the deputy's station phone jack. The deputy will notify the Echo Control Room Technician and the adjacent ward deputy that phone communication will not be available during this time. Upon completion of the call, the ward deputy will again notify the Echo Control Room Technician that phone communication is again available.
 - 2) Step Two: The deputy will place the requested phone call and ensure the receiving party will accept the phone call (verify no contract to protected

parties under restraining orders, check Booking Drawer, Inmate Maintenance Folder, Notification Tab).

(a) Local - Regular and Legal Calls.

Dial 9-711 on the phone before placing the telephone on the TDD Machine. Place the telephone handset on the TDD machine with the telephone cord to the LEFT.

Using the keyboard, the deputy will identify him/herself and tell the relay operator what number is to be called. Once connected, the deputy can allow the inmate to continue with the call.

(b) Long Distance - Deaf inmate calling hearing person or hearing inmate calling a deaf person (TDD to person or person to TDD Dial 9-1-800-659-3656.

The deputy will identify themselves and tell the relay operator that this is a collect call.

The deputy must confirm with the operator that the other party has accepted the collect call.

After confirmation has been made, the deputy can allow the inmate to continue with the call.

(c) Long Distance-Deaf inmate calling deaf person (TDD to TDD)

Dial 9-1-800-659-2656.

The deputy will identify themselves and tell the relay operator that this is a collect call.

The deputy must confirm with the operator that the other party has accepted the collect call. After confirmation has been made, the deputy can allow the inmate to continue with the call.

Place the telephone handset on the TDD machine with the telephone cord to the LEFT.

3) Step Three: The be logged in the inmate's

(a) date and time the phone call is placed.

(b) will be left blank.

(c) Select TDD Phone Call from-

(d) inmate's location (generally assigned housing ward)

(e) the phone number dialed.

(f) person called i.e. mother, attorney, etc.

(g) Enter any necessary comments such as, "In accordance with SOP 06.01."

(h) When the call is complete, return to the select the TDD entry and enter the time the call was completed in the

7. Inmate telephones are equipped with a volume switch for inmates with a hearing impairment.

- a) Identification Tab: verify all personal information previously entered by Pre-Admit Unit personnel, if necessary complete remaining information.
 - 1) If the inmate requires an interpreter, assistance will be provided by staff members who have of the inmate's language or problem.
 - 2) The will be accessed and the will take place.
 - 3) Step One a comment will be entered in the comment block requesting an interpreter for the specific language is needed such as, Spanish or sign language.
 - 4) Step Two: The Intake Unit Supervisor will ensure that a copy of this inmate's Booking Report will be compiled by the Midnight Admin Court Technician who will assign this report to Court Services for delivery to the specified courtroom. When the specified court reviews the inmate's Booking Report Profile, the court will request an officially recognized interpreter through an outside contract agency.

General policies regarding "Order: Rules and Discipline:"

- IV. PROCEDURES: Disciplinary procedures governing inmate rule violations address the following [4-ALDF-3A-02]: (A) INMATE ORIENTATION, (B) RULES-MINOR AND MAJOR VIOLATIONS, (C) MINOR INMATE INFRACTIONS, (D) DISCIPLINARY REPORTS, (E) PRE- HEARING INVESTIGATION AND ACTION, (F) PRE-HEARING DETENTION, (G) HEARING BOARD PROCEDURES, (H) INMATE RIGHTS, (I) APPEALS, and (J) CRIMINAL OFFENSES.
- A. INMATE ORIENTATION 14-ALDF-2A-27 and 4-ALDF-2A-281:
3. For inmates who do not speak English, and for inmates with a language or literacy disability, to include deaf and mute inmates, interpretive services for orientation materials will be provided [4-ALDF-2A-28].
 - a) If available, assistance will be provided by staff members who are able to communicate in the inmate's language.
 - b) If this is not possible to complete by internal means, an outside contractual arrangement agency may be notified and used to provide officially recognized language interpretation.
 - 1) The Intake and Release Supervisor will call the emergency number posted on the Intake and Release Bulletin Board (Spanish Connection 719-459-5499, Foreign Language Center 719-636-1713) and schedule the arrangement.

2) The courts will be notified by Intake and Release to schedule an official interpreter of the proper language for court. After an inmate is pre-admitted the inmate's will be accessed and the following will take place.

1) Step One In the inmate's open the a comment will be entered in the comment specific language needed.

2) Step Two: The Intake and Release Supervisor will ensure that a copy of this inmate's Booking Report will be compiled by the Midnight Admin Court Technician who will assign this report to Court Services for delivery to the specified courtroom.

Lake County

Lake County's policies reference Colorado's law as set forth below. Lake County does not provide any policies regarding the requirements of federal law, the provision of auxiliary aids and services for anything except questioning of arrested deaf/hard of hearing persons. Lake County does not provide any policies regarding telecommunications.

RE : Questioning Arrested Deaf / Hard of Hearing Persons

References: 13-90-204 CRS

Reevaluation Date: Annually or as needed

I. RELEVANT STATUTE

13-90-204 C.R.S. Appointment if interpreter

(l) A qualified interpreter or auxiliary service shall be appointed by an appointing authority to interpret the proceedings a person who is deaf or hard of hearing and to interpret the statements of the person who is deaf or hard of hearing in the following instances:...

(d) When a person who is deaf or hard of hearing is arrested and taken into custody for an alleged violation of a criminal law of the state or any of its political subdivisions. Such appointment shall be made prior to any attempt to notify the arrestee of his or her constitutional rights and prior to any attempt to interrogate or to make a statement from such a person; except that a person who is deaf or hard of hearing and who is otherwise eligible for release shall be held pending the arrival of a qualified interpreter.

II. PROCEDURES

State law requires that hearing-impaired persons taken into custody be provided with a qualified interpreter prior to right's advisement or questioning. In the past, officers have questioned arrested deaf persons using pen and paper. This is now statutorily prohibited. The decision to use an interpreter will be made either by investigations personnel (in the case of

felonies), or by a Patrol lieutenant. In the event of an emergency, the on-duty Patrol supervisor may authorize the use of an interpreter. As stated in the statute above, officers cannot delay an arrestee's release to await the arrival of the interpreter.

The Colorado Department of Human Services has a Commission for the Deaf and Hard of Hearing. The commission maintains a list of qualified interpreters and, through the state's Legal Auxiliary Services, pays for the provided service. The following are the 24/7 contact phone numbers for our area:

24 Hour Sign Language Services
SLA - Sign Language Associates
PSLI - Professional Sign Language Interpreters
CART (Claudette Mondragon)

1-888-811-2424

1-303-321-6772

1-303-920-7330

1-720-838-3737

The agencies listed above will provide a legally qualified interpreter. CART is the acronym for Communication Access Real Time Translation. This service is for those deaf persons who do not know or use sign language.

When an interpreter responds, they will 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 '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.

Larimer County

Larimer County has very limited policies regarding auxiliary aids and services. The policies do not address the provision of sign language interpreters. Larimer County has a TTY "procedure" but it too is very limited. Larimer County does allow a person to keep their hearing aids.

Policy regarding "Prostheses and Other Aids to Impairment:"

DEFINITIONS

Prostheses: Any devices, such as wheelchairs, walkers, canes, limbs, dentures, eyeglasses, hearing aids and/or other aids worn by an inmate to approximate normal physical functions.

POLICY

The Larimer County Detention Center will provide resources to inmates for medical and dental prostheses when the health of the inmate would otherwise be adversely affected, as determined by the responsible physician or dentist. Inmates may retain their prostheses, provided there is no threat to the safety and security of the facility. The prosthetic device is subject to search by security staff to exclude contraband.

PROCEDURE

...

4. The Larimer County Detention Center has telephone communication devices for use by hearing impaired inmates.

...

Las Animas County

Las Animas County has a very limited policy regarding providing "adequate" means of communication via TDDs or interpreters.

General policy regarding "Telephone Calls:"

The detention facility affords all newly admitted arrestee's reasonable and ample opportunity to contact persons to secure release, seek legal counsel, and notify family and friends of incarceration, as long as such opportunity does not affect inmate or staff safety or facility security and order. Hearing impaired persons are allowed adequate means of communication via TDD phones or interpreters.

General "Intake Medical Screening Form:"

8. Do you have any type of disability?(Hearing, Speaking, Seeing, other)

Logan County

Logan County has a policy regarding providing a TTY and for providing interpreters at arrest, booking and for "any services."

Policy regarding "Hearing Impaired Inmates:"

Policy

Reasonable accommodation of a substantial hearing impairment will be afforded to prisoners, inmates and visitors if known or identified during court appearances, programs, and other activities. It is essential that those with a hearing impairment have reasonably the same access and receive the same benefits as those prisoners, inmates and visitors without a disability.

Definitions:

Hearing-Impaired Person-a person who has a functional hearing loss of sufficient severity that limits auditory comprehension even with assistance of hearing aids.

TDD-acronym for Telecommunications Device for the Deaf; a small portable device with a keyboard that connects to digital telephone equipment enabling text communication with another similar device.

Procedures

All employees are responsible to access resources necessary to ensure a hearing impaired prisoner, inmate or visitor receives general information as to the nature of an arrest and the booking, bail bonding, housing and court process.

Qualified sign language interpreters are required whenever a hearing impaired person has been taken into custody and will be booked for a violation of the criminal law. Qualified sign language interpreters are available from a list of services maintained in booking.

Notify the Court Services Division of the need for a sign language interpreter in advance of a court appearance.

Qualified sign language interpreters are required whenever any person with a substantial hearing loss receiving any services from the Sheriff's Office requests an accommodation

Contact booking to obtain sign language interpreter services

Digital TDD's are available for use In the Booking area.

In booking, connect the TDD to the phone jack in one of the interview rooms dial into the Telecommunication Relay Center, 1-800-659-2656, and limit the call to 15 minutes. In housing units, The inmate will be sent to the booking area.

Notify the inmate that calls using the TDD will be billed as collect calls to the party accepting a call.

Dial SECURUS Inmate Telephone Services, 1-800-659- 2656 for the call to be connected as a collect call

Otero County

Otero County has a policy regarding providing a TTY and policies regarding when and how to provide an interpreter. They have a training policy that requires annual review of compliance with the ADA to include specific training on communication with deaf inmates.

Policy regarding "Americans with Disabilities Act (ADA):"

DEFINITIONS:

Deaf or Hard of Hearing: a person who has a functional hearing loss of sufficient severity to prevent aural comprehension even with the assistance of hearing aids.

Qualified Interpreter: a person who has a certificate of competency by the Colorado Commission of the Deaf or Hard of Hearing and includes but is not limited to oral interpreters and sign language interpreters. The interpreter must also be certified to provide legal interpretation.

Effective Communication: methods of communication that are individualized and culturally appropriate to a person who is deaf or hard of hearing so that he or she can easily understand all auditory information.

PROCEDURES:

Deaf or Hard of Hearing

Under the Americans with Disabilities Act (ADA), people who identify themselves as deaf or hard of hearing are entitled to a level of service equivalent to that provided to hearing persons. Otero County Sheriff's Office personnel will make reasonable efforts to communicate effectively with those who identify themselves as deaf or hard of hearing.

Sheriff's office personnel encountering any individual/detainee/inmate(s) who identifies themselves as deaf or hard of hearing will immediately notify the shift supervisor. The shift supervisor will determine if the person requires auxiliary aids or services necessary to effectively and accurately communicate. The sheriff's office will provide auxiliary aids and services in order to ensure effective communication with the deaf and hard of hearing. Such auxiliary aids include, but are not limited to:

- use of gestures or visual aids to supplement oral communication
- use of a pen or pencil to exchange written notes
- use of phone or other electronic communication device available
- use of an assistive listening system or device to amplify sounds
- use of a qualified legal, oral or sign interpreter
- use of computers or typewriter
- use of Teletypewriters (TTY) or Videophones (VRS)
- use of family members or friends of the individual (patrol and investigations only)

Deputies should refrain from using family members or friends of the deaf individual, unless it is urgent or necessary to communicate immediately and no other option is available. The nature, level of importance, and duration of the communication issue will be weighed before using family members or friends of the deaf individual.

Primary consideration will be given to providing the type of communication aid or service requested by the individual. Attempts should be made to determine what type of auxiliary aid or service the individual requires. The individual's choice should be accommodated unless another equally effective form of communication is available given the circumstances, importance of the communication, as well as the communication skills of the person who is deaf or hard of hearing.

Qualified Sign Language Interpreting Services

The detentions sergeant will maintain a list of qualified sign language interpreting services that are available/on call 24 hours per day, and are able to provide qualified interpreters as needed. The interpretation services will have legally recognized qualifications. The list will be made available to all sheriff's office personnel.

If an interpreter is needed, the employee will:

- contact the on-duty supervisor for approval
- contact an approved sign language interpreting service and request the use of a qualified interpreter.
 - o specify whether a legal, oral or a sign language interpreter is needed.
- if contact is made with a service and an interpreter is scheduled, do not attempt to contact another service.
- if after normal business hours, page a service and allow 10 minutes for a return call before moving to the next service.
- document the use of the interpreting service in the appropriate reporting location (incident report, supplemental report, booking report records).
- notify the business office by email that an interpreter was used.

Persons who are deaf or hard of hearing will not be charged for the cost of an auxiliary aid or service needed for effective communication.

INITIAL CONTACT

The use of a qualified legal interpreter is not necessary for routine questioning during an initial contact with an individual who is deaf or hard of hearing.

SUMMONS AND COMPLAINT

At the time that a summons and complaint is issued to a deaf or hard of hearing person, the deputy must ensure that effective communication is utilized. Issuing deputies are to use appropriate discretion in deciding whether or not to call an interpreter to the scene. This should include weighing any possible misunderstanding against the inconvenience to the individual in awaiting the arrival of the interpreter.

On any summons and complaint issued to a deaf or hard of hearing individual, the deputy will write on the face of the summons: "Deaf or Hard of Hearing Individual - Interpreter Required". This note alerts court officials to summon a qualified interpreter for the court proceedings, minimizing delays and postponements.

ARREST PROCEDURE

When a deputy has probable cause to arrest an individual who is deaf or hard of hearing, they must ensure that the individual has access to effective

communication. The type of communication necessary may depend on the circumstances of the arrest.

□ When possible, an interpreter will be requested prior to a deaf or hard of hearing individual being arrested; however, deputies are not required to delay an arrest of a deaf or hard of hearing person based solely on the lack of an interpreter.

□ Arrest of a deaf or hard of hearing person must be supported by probable cause developed without questioning or interrogation of the deaf or hard of hearing person. An interpreter will be provided before any questioning of the suspect takes place and before advising the suspect of their Miranda Rights.

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 deaf or hard of hearing individual that an interpreter has been requested. No other questioning, interviews or interrogations will be conducted without an interpreter present. Do not advise the deaf person of their Miranda Rights without the interpreter present.

Once an interpreter has arrived, use him/her to facilitate all communication with the deaf or hard of hearing individual.

At the conclusion of the arrest, if the deaf or hard of hearing individual is to be placed into jail, the interpreter will be asked, when possible, to accompany the deputy to the jail to complete the book-in process.

INTERVIEW/INTERROGATION

When a person who is deaf or hard of hearing is arrested and taken into custody for an alleged violation of criminal law, the services of a qualified legal interpreter must be used to notify the arrestee of their constitutional rights prior to any attempt to interrogate or take a statement from such person.

Lengthy or complex interviews of individuals who identify themselves as deaf or hard of hearing should only be completed using the services of a qualified interpreter. These would include any interviews with victims, witnesses, suspects, arrestees or inmates. Individuals will be notified that the service of a qualified interpreter will be provided free of charge.

Sheriff's office personnel in an interview or interrogation situation with a victim, witness, suspect, arrestee or inmate who has been identified as suffering from loss of hearing will utilize a qualified legal interpreter for

effective documented communication. Procedures for utilizing an interpreter are as follows:

- contact a supervisor to obtain approval for contact and use of a qualified legal interpreter.
- contact an interpreter from the approved sheriff's office list of qualified sign language interpreting services.
- establish the location of the interview/interrogation with the interpreter and supervisor, as necessary.
- document all aspects of the interview/interrogation in the original report or supplemental report pertaining to the case. Documentation can also be accomplished through the use of an electronic recording of the interview.
- advise the Business Office via email or voicemail that an interpreter was used. Evidence

All written correspondence exchanged with a person who is deaf or hard of hearing in a criminal case will be placed into the evidence vault under the appropriate case report number. This includes any notes exchanged with victims, witnesses or suspects. Placement of any notes into evidence does not take the place of documenting the conversation in the narrative section of the case report.

As determined to be necessary, in non-custodial interactions (i.e. traffic stops) deputies are encouraged to place any written notes exchanged with a deaf or hard of hearing individual into evidence under the appropriate case report or summons number.

IN CUSTODY, CHARGED WITH NEW CRIME

When an inmate who is deaf or hard of hearing is in custody and is being charged with a new crime, the services of a qualified interpreter will be used to notify the inmate of his constitutional rights prior to any attempts to interrogate or take a statement from such person.

OTHER SITUATIONS

In situations that are less complex, gestures and/or an exchange of written notes will likely be sufficient to communicate efficiently without the need of an interpreter. Urgent or exigent situations may also necessitate the use of gestures or an exchange of notes.

TELEPHONE SERVICE

Access to TDD, TTY or equivalent telephone services will be made available to all inmates who are deaf or hard of hearing.

TRAINING

Training will adhere to procedures outlined in Otero County Sheriff's Office Policy and Procedures Manual,

All personnel will attend all mandatory annual in-service training as designated by the sheriff's office.

Mandatory annual in-service training will be monitored by the Undersheriff to ensure that required personnel attend.

Annual in-service training for sworn personnel will include, but is not limited to: first aid, CPR, emergency driving, all hazards, arrest control, instruction on use of force policies, Taser, and lethal weapons training. In-service training for less lethal weapons and weaponless control techniques will occur at least biennially.

All sheriff's office employees will receive annual training on compliance with the Americans with Disabilities Act (ADA), to include specific training on communicating with deaf or hard of hearing individuals as well as awareness training regarding interaction with persons suspected to be suffering from physical and/or mental impairment.

Available training will be posted on bulletin boards by means of training schedules/announcements.

Phillips County

Phillips County has a policy for interviewing and arresting a deaf person. Phillips County does not have policies regarding providing a TTY or any other auxiliary aids and services.

Policy regarding "Guidelines for interactions with deaf or hearing impaired:"

Definitions:

PHILLIP'S COUNTY SHERIFFS OFFICE ADMINISTRATION POLICY AND PROCEDURE MANUAL

- 1) Hearing impaired: Any person who has difficulty hearing without the use of a mechanical amplification devise (hearing aid), or louder than usual voice infliction.
- 2) Deaf: Any person who cannot hear, or must use any type of mechanical devise.

3) Sign language interpreter: Any person who has had formal training in the administration of sign language.

OBJECTIVE

It is the objective of this office to set a guideline to assist the public and Deputies of this office in way to effectively and curiously assist those persons who may be hearing impaired or deaf.

INTERVIEW PROCESS

If a Deputy has occasion to interview a deaf or hearing impaired person during the regular course of duty he may call for a sign language interpreter. The Phillips County Communication Center has a list of these interpreters and will summons one where and when Deputy Orders. The interpreter may be called at any time only after the scene is safe. The interpreters' lime will be reimbursed by the Sheriff's Office. The interpreter may be used as long as the Deputy and the impaired person feel it is warranted. If in the event that the interpreter is unavailable or situation demands a faster response the Deputy my employ pen and paper. If this method is employed then it should be done in a discrete manor as not to cause embarrassment or stress to the impaired person.

ARREST PROCESS

If a hearing disabled citizen or non-citizen is arrested by this office or any Police agency in this county the Deputy may follow the above, "interview process." The only exception is that the interpreter and the arrest subject may NEVER be left together without a Deputy present. The interpreter will not be transported with subject to which ever jail the subject will be housed. Upon arrival at that jail the procedures or guidelines of that jail will be followed. Also notice must be provided to the Clerk of the Court as to the subjects' disability so they may have adequate assistance for this subject at the time of his next court hearing.

San Miguel County

San Miguel County has an interpreter policy which states, "If an interpreter is unavailable, then use pen and paper." There is nothing that makes providing an interpreter an obligation. San Miguel County has no policies regarding telecommunications, despite the title of the policy. In addition, the policy appears to require deaf inmates to "purchase" pen and paper and requires those with hearing aids to use them all the time and keep them turned up!

General policy regarding "Americans with Disabilities Act Compliance:"

6) TELECOMMUNICATIONS FOR THE HEARING IMPAIRED:

If an interpreter is unavailable, communication will be attempted by the use of paper and pen.

a) Upon request, staff may provide batteries for inmates with hearing aids as necessary.

Inmates must purchase these items from commissary. Inmates with hearing aids should keep them turned on at all times and the volume to a level so that the inmate can hear emergency communications

Weld County

Weld County's policy covers TTY usage and when and how to provide interpreters.

Policy regarding "Prisoner Disabilities:"

Guidelines:

...

If the disability relates to hearing, speech, or vision, the booking officer is responsible to access agency and community resources and insure the prisoner or inmate receives general information as to the nature of the arrest and the booking, housing, bonding, and court processes.

Definitions

Disability—Any physical or mental impairment that substantially limits one or more major life activities, OR, a record of such an impairment, OR, someone is regarded as having such an impairment.

Major Life Activities—Seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, caring for oneself, and working. Examples include, but are not limited to, epilepsy, paralysis, HIV infection, AIDS, a substantial hearing or visual impairment, mental retardation, or a specific learning disability. Someone with a minor, non-chronic condition of short duration, such as a sprain, broken limb, or the flu generally would not be a major life activity.

Qualified interpreter—A sign language or oral interpreter whose name has been listed by the Colorado Division of Rehabilitation as a referral source for qualified sign language or oral interpreting services.

Reasonable Accommodation—Includes, but is not limited to making existing facilities used by inmates readily accessible to and usable by an inmate with a disability such as handicap accessible vehicles, restructuring work, modifying work schedules or equipment, providing qualified readers or interpreters, or appropriately modifying examinations, training, or other program activities.

TDD—Telecommunications Device for the Deaf; device which allows the user to send and receive typed messages on an attached screen.

Procedure

1. If disability related to hearing or speech:

- A. Contact the Department of Communications (dispatch) to obtain a qualified sign language or oral interpreter.
- B. Provide TDD for use by the hearing or speech impaired
 - 1) One TDD in booking officer island and a second TDD is in the pod vestibule areas of each wing at the North Jail Complex
 - a. Analog telephone connections for TDD's are in professional visiting rooms of each housing unit
 - b. Analog telephone connection for TDD in booking area professional visiting room
 - 2) One TDD in Master Control at the Centennial Jail
 - a. Analog telephone connection for TDD in third floor multipurpose room
 - b. Analog telephone connection for TDD at second floor officer's desk
 - c. Analog telephone connection for TDD in court holding

Policy regarding "Offender Supervision Bureau Procedure" "Hearing Impaired"

Rationale:

Reasonable accommodation of a substantial hearing impairment will be afforded to prisoners, inmates and visitors if known or identified during court appearances programs, and other activities. It is essential that those with a hearing impairment have reasonably the same access and receive the same benefits as those prisoners, inmates and visitors without a disability.

Definitions:

Hearing-Impaired Person—a person who has a functional hearing loss of sufficient severity that limits auditory comprehension even with assistance of hearing aids

TDD—acronym for Telecommunications Device for the Deaf; a small portable device with a keyboard that connects to digital telephone equipment enabling text communication with another similar device

Procedure:

1. All employees are responsible to access resources necessary to ensure a hearing impaired prisoner, inmate or visitor receives general information as to the nature of an arrest and the booking, bail bonding, housing and court process
2. Qualified sign language interpreters are required whenever a hearing impaired person has been taken into custody and will be booked for a violation of the criminal law
 - a. Qualified sign language interpreters are available from a list of services maintained by booking technicians
 - b. Notify the Court Services Division of the need for a sign language interpreter in advance of a court appearance
3. Qualified sign language interpreters are required whenever any person with a substantial hearing loss receiving any services from the Sheriff's Office requests an accommodation
 - a. Contact a booking technician to obtain sign language interpreter services
4. Digital TDD's are available for use throughout the facility
 - a. Specific devices are available in booking, the 1-East vestibule and second floor locker storage area in 2-East
 - i. In booking, connect the TDD to the Booking Post county telephone extension, dial into the Telecommunication Relay Center, 1-800-659-2656, and limit the call to 15 minutes
 - ii. In housing units, activate the telephone wall jack in the professional visiting room by calling the support services supervisor
 1. Notify the inmate that calls using the TDD will be billed as collect calls to the party accepting a call
 2. Connect the county extension telephone provided with the TDD to the activated telephone wall jack
 3. Connect the TDD to the receiver of the county extension telephone
 4. Dial SECURUS Inmate Telephone Services, 1-800-659- 2656 for the call to be connected as a collect call