



U.S. Department of Justice

Office of Justice Programs

*Office for Civil Rights*

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Washington, D.C. 20531

June 7, 2019

VIA CERTIFIED MAIL

Natalie Scruggs  
Senior Assistant General Counsel  
Pasco Sheriff's Office  
8700 Citizen Drive  
New Port Richey, FL 34654

Re: Notice of Findings  
[REDACTED] v. *Pasco Sheriff's Office (17-OCR-1976)*

Dear Ms. Scruggs:

Thank you for the documentation that you submitted to the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice (DOJ) on behalf of your client, the Pasco Sheriff's Office (PSO), in connection with the administrative Complaint that [REDACTED] (Complainant) filed against the PSO. In his Complaint, the Complainant alleges that the PSO discriminated against him based on his disability when it failed to accommodate his hearing impairment during a [REDACTED], arrest and subsequent detention.

The OCR has completed our review of the documentation provided by both the PSO and the Complainant. As for the PSO's [REDACTED], arrest of the Complainant, the OCR has determined that there is insufficient evidence of a violation of Title II of the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) and the DOJ's implementing regulations. In regard to the PSO's subsequent detention of the Complainant at the Pasco County Detention Center (Detention Center), based on the available evidence, it appears that the PSO may not have consistently ensured effective communication with the Complainant as required by the ADA and Section 504. However, the evidence demonstrates that the PSO has taken steps since the time of the Complainant's detention to help ensure that it is effectively and consistently communicating with deaf or hard of hearing inmates at the Detention Center. The OCR's findings and recommendations for further strengthening the PSO's services to hearing impaired individuals are set forth below for your review.

## I. Factual Background

### A. The Complainant's Allegations

The Complainant alleges the following:

The Complainant has been deaf since birth and relies primarily upon American Sign Language (ASL) to communicate with others. On [REDACTED], at approximately [REDACTED], two PSO detectives arrived at the Complainant's residence and asked the Complainant to step outside his home. The detectives began to interrogate the Complainant outside his front door regarding the Complainant's alleged involvement in a crime. The Complainant asked his fourteen-year-old son who was at the scene to tell the detectives that he wanted an ASL interpreter, but the detectives denied his request for an interpreter. The detectives instead questioned the Complainant in writing, writing questions that were unclear and confusing to the Complainant. The Complainant had difficulty communicating with the detectives in this manner, and notes that it can often be difficult for people to understand his writing because his primary language is ASL. At the end of the interrogation, the detectives arrested the Complainant for using a computer to seduce/solicit a child. The detectives handcuffed the Complainant with his hands behind his back, so that he was unable to communicate and transported him to the Detention Center.

On [REDACTED], the Complainant participated in an advisory hearing at the Detention Center where a judge from the Sixth Judicial Circuit Court for Pasco County appeared via video. There was no ASL interpreter present at the hearing; instead, a PSO deputy used pen and paper to relay the judge's questions and statements to the Complainant and to have the Complainant write his answers. The judge ultimately re-scheduled the advisory hearing until July 21, when an ASL interpreter was present at the Detention Center and provided interpretation for the Complainant during the video hearing. However, the judge did not have any further questions for the Complainant as he had already asked them the previous day.

Following his [REDACTED] arrest, the Complainant was detained at the Detention Center from [REDACTED] [REDACTED], and from [REDACTED] [REDACTED], through [REDACTED] [REDACTED]. During these periods of detention, the PSO never granted the Complainant's requests for an ASL interpreter, including during lengthy and complex interactions such as intake processing, medical screenings, and registration as a sex offender, but instead attempted to communicate with the Complainant in writing. For example, on [REDACTED] [REDACTED], a PSO deputy took the Complainant to the PSO's Registration Department to register him as a sex offender, but did not provide him with an ASL interpreter during the registration process; instead, for approximately one hour, the deputy communicated with the Complainant in writing to obtain the Complainant's answers to numerous questions. The PSO refused to provide the Complainant with free writing materials so that he could communicate with Detention Center staff, but instead required him to purchase legal pads and pens through the Administrative System Kiosk.

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<sup>1</sup> The Complainant was temporarily detained at the Pinellas County Jail operated by the Pinellas County Sheriff's Office from July 25 to September 26, 2017.

During the Complainant's periods of detention, PSO deputies at the Detention Center often made verbal announcements to inmates, but the Complainant could not hear these announcements and the deputies did not write them out for the Complainant. Additionally, when deputies who are responsible for collecting the inmates' laundry came by the cells in the morning, they verbally announced their presence, which the Complainant could not hear; as a result, he frequently missed calls for laundry service. The Complainant asserts that many PSO deputies at the Detention Center were surprised when they discovered that the Complainant is deaf, and to the Complainant's knowledge, there was nothing near the Complainant's cell or in the Detention Center's database that identified him as deaf. The PSO provided the Complainant and other inmates with tablets by which they can view and listen to educational programming and movies; however, the programs did not have closed-captioning and were not accessible to the Complainant, including programming on the Prison Rape Elimination Act (PREA).

When the Complainant first arrived at the Detention Center, the teletypewriter (TTY) was not working. While the TTY became functional on [REDACTED], the Complainant could only use it to call hearing individuals, as very few individuals who are deaf use or possess TTY devices anymore. Additionally, the TTY was stored in the shift commander's office and the Complainant had to request a correctional deputy to bring it to him, and he often had to wait several hours before a deputy did so. The Complainant was also limited to using the TTY to make a phone call once per day for a maximum of fifteen minutes, while hearing inmates could make unlimited phone calls and had easy access to telephones on the pods.

#### B. The PSO's Response

The PSO responded to the OCR's initial Data Request and subsequent inquiries on October 22, 2018 and March 21, 2019. In the PSO's responses, it denied that it failed to provide the Complainant with effective communication in violation of the ADA or Section 504. The PSO indicated that it evaluates how to communicate with deaf or hard of hearing individuals on a case-by-case basis, and that depending on the circumstances, it uses pen and paper, a TTY, sign language, or a sign language interpreter to communicate. The PSO has a contract with Purple Communications, Inc. ((Purple) which provides on-site ASL interpreting services. According to the PSO, in the event an individual requests an interpreter or a deputy is unable to communicate through writing, the deputy will obtain an interpreter from Purple. The PSO indicated that it has six TTY devices at the Detention Facility for inmates to use.

As of October 22, 2018, the PSO employed five employees who can communicate in sign language. The PSO indicated that it has not authorized any of these employees to serve as an interpreter, and that two of these employees have served as an unofficial interpreter on two or three occasions to determine whether a scene was safe or to let a hearing impaired individual know that the deputy would be writing questions.

The PSO said that it does not maintain a searchable database to determine the number of deaf or hard of hearing inmates it has served. The PSO provided the OCR with invoices from Purple documenting forty-five instances from January 1, 2016 to October 22, 2018 where the PSO obtained the services of a sign language interpreter; according to the invoices, interpreting



services were provided for a variety of situations including interviews, interrogations, first appearances, and advisory hearings.

As for the PSO's questioning and arrest of the Complainant on [REDACTED], the PSO disputed the Complainant's assertion that the Complainant's son told the detectives that the Complainant wanted an interpreter, and indicated that both detectives said that neither the Complainant nor his son requested an interpreter during the incident. The detective who wrote questions for the Complainant said that had the Complainant requested an interpreter, he would have stopped the interview and obtained an interpreter. The PSO said that the detectives believed the Complainant understood the information that they were conveying and that the Complainant was able to answer their questions. The PSO provided the OCR with the written notes exchanged between a detective and the Complainant, where the detective wrote his question and the Complainant responded appropriately. In this written exchange, the Complainant never asked for an interpreter or indicated that he could not understand a question.

As for the detectives handcuffing the Complainant with his hands behind his back, the PSO said that the detectives restrained the Complainant pursuant to applicable PSO general orders. The PSO indicated that there is no video or audio footage of the [REDACTED] interview and arrest.

According to the PSO, when the PSO arrests a hearing impaired individual, its general policy is for the booking supervisor to contact Purple prior to the advisory hearing obtain a sign language interpreter. However, the PSO acknowledged that due to an error, the PSO did not request an interpreter from Purple prior to the Complainant's initial [REDACTED] advisory hearing. The PSO said that deputies communicated with the Complainant during the [REDACTED] hearing via pen and paper, and that it is "without knowledge" as to whether the judge posed any questions to the Complainant through the interpreter during the re-scheduled [REDACTED] advisory hearing. The PSO said that it only maintains video footage of advisory hearings for approximately thirty-five days, and no longer has video footage of the [REDACTED], hearings.

As for the Complainant's period of detention, when asked whether the Complainant ever requested an interpreter, either verbally or in writing, the PSO said that all requests for sign language interpreters must be submitted by an inmate via the PSO's messaging system, and that the Complainant only sent one request for an interpreter, and that was to request that an interpreter be present at the courthouse during an upcoming court proceeding. The PSO said that it communicated with the Complainant during his detention with pen and paper or simple sign language. The PSO said that the Complainant never requested free writing materials but if he had, the PSO would have provided them. The PSO indicated that upon the Complainant's arrival at the Detention Center, a deputy updated the electronic jail management system to indicate that the Complainant needed "communication assistance" and issued him a green identification tag, which signifies that an inmate needs communication assistance.

When asked whether the PSO deputies at the Detention Center consistently wrote down their verbal announcements for the Complainant, the PSO said that is "unable to respond to this query." In regard to laundry announcements, the PSO said that unless notified by the housing deputy of an inmate's communication needs, deputies make verbal announcements regarding laundry services. When asked if the housing deputy provided the appropriate notification of the

Complainant's communication needs, the PSO again said that it is "unable to respond." The PSO provided the OCR with a [REDACTED], request that the Complainant submitted via the messaging system requesting a new bunkmate who would wake him up when the PSO deputies make verbal announcements for breakfast, laundry, and other services; in that request, the Complainant noted that there are other inmates next to his bunk who interpret for him with sign language and fingerspelling every day. The PSO responded to the Complainant's request by telling him to contact the housing deputy.

Regarding the tablets that the PSO provides inmates with, the PSO indicated that the vendor who supplies the tablets told the PSO that subtitles are available for some of the movies that are available for rent on the tablets. The PSO generally said that information on PREA is available to read and review on the tablet; in response to a [REDACTED], request that the Complainant submitted regarding the lack of subtitles in the PREA video, the PSO said that the Complainant can read about PREA on the Inmate Rules and Information posting on the tablet.

Lastly, regarding the Complainant's allegations regarding the TTY, the PSO said that inmates must request the TTY from a pod deputy and that the receipt of the TTY is dependent on the pod deputy's schedule and availability, and that the PSO is unaware whether the Complainant ever had to wait several hours to receive a TTY. The PSO indicated that hearing impaired inmates may request use of the TTY during the same hours that hearing inmates are permitted to use the regular telephones, and that hearing impaired inmates are permitted a reasonable amount of calls on the TTY, subject to deputy availability, up to forty-five minutes per call.

In its March 21, 2019, response to the OCR, the PSO discussed some actions that it has taken since the time of the Complaint to improve its services to deaf or hard of hearing individuals. The PSO said that as of January 2019, it replaced the TTY devices and installed a video sign language application from Purple on four tablets at the Detention Center, which allows hearing impaired inmates to access a video relay service to communicate in sign language directly or through a Purple interpreter. The PSO also said that in October 2018, it informed all Detention Center staff verbally and in writing to physically notify hearing impaired inmates of daily activities within the housing units. The PSO also said that it now posts a "Hearing Impairment" sign outside the housing unit of a hearing impaired inmate and will be issuing a green "hearing impairment" bracelet to all deaf or hard of hearing inmates.

### C. PSO Policies and Procedures Relevant to the Allegations

The PSO has a number of written policies in place relevant to the Complainant's allegations that were in effect during the Complainant's periods of detention. The PSO's General Order No. 100.1, *Americans with Disabilities Act (ADA)* (effective Oct. 26, 2016) states that every member of the PSO will afford people with disabilities the same rights, privileges, and access to the agency's services as those without disabilities. The order indicates that when a PSO deputy is arresting a person with a disability, the deputy should know how to access support systems such as interpreters to protect the rights of the individual. The order further indicates that PSO members should use notes or other means available to communicate with hearing impaired

people to obtain basic information. According to the order, an arresting deputy should notify the PSO's Court Services Bureau (CSB) of any known disabilities of an arrestee.<sup>2</sup>

In regard to inmates, the CSB has issued several directives regarding inmates with disabilities. According to CSB Directive No. 555.11, *Handicapped Inmates (Court Appearances)* (effective June 7, 2013, and revised effective Jan. 31, 2018), when an intake deputy discovers that an inmate has a disability, the deputy shall stamp the inmate's printout indicating the existence of a disability. The deputy shall also issue the inmate a green coded identification card indicating that the inmate requires special assistance.

CSB Directive No. 555.04, *Disabled Inmates* (effective June 7, 2013, and revised effective Jan. 24, 2018), indicates that the PSO does not discriminate against inmates based on disability in any PSO services, programs, or activities. Both the 2013 and 2018 directives note that PSO members should make special accommodations to have an interpreter available for advisory hearings as necessary. The 2018 directive also specifically indicates that deaf or hearing impaired inmates requiring the services of a qualified interpreter should be provided an interpreter through Language Line or Purple. In regard to telephone calls, the 2013 directive states that inmates with hearing or speech disabilities shall be afforded access to a Telecommunications Device for the Deaf (TDD) or comparable equipment for up to thirty minutes per phone call, and that TDD machines are available in booking and accessible to all housing units. The 2018 directive revises this provision to state that inmates with hearing or speech disabilities shall be afforded access to a TTY or telecommunications relay service (TRS), and that inmates are allowed to use a TTY or TRS a minimum of three times the length of time permitted for voice communications, or forty-five minutes.

Inmate telephone use is also addressed in CSB Directive No. 565.02, *Inmate Access to Telephone* (effective June 7, 2013, and revised effective Jan. 25, 2018); the 2013 and 2018 directives contain the same language regarding TDD, TTY, and TRS use discussed above. The 2013 directive notes that inmates are permitted daily use of the TDD machine, and if time permits, the housing unit deputy may allow the inmate to make more than one call; the 2018 directive does not address the number of permitted daily calls via a TTY or TRS.

The PSO's policies and procedures regarding the use of handcuffs are discussed in PSO General Order No. 71.2, *Restraint Devices* (effective July 22, 2013). This directive states that for maximum security, deputies should apply handcuffs with an arrestee's hands behind the back. The directive notes that under special circumstances, a deputy may apply handcuffs with the arrestee's hands in front of the body, such as when the arrestee has a physical disability.

As for training PSO deputies on how to communicate with deaf or hard of hearing individuals, the PSO told the OCR that on multiple dates during the period of November 2016 to April 2017 the PSO conducted Deaf and Hard of Hearing Awareness Training for all certified deputies. This training provided an interview of the ADA and of PSO General Order No. 100.1, and discussed various methods of communicating with deaf or hearing impaired individuals and how

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<sup>2</sup> According to the PSO's website at <https://pascosheriff.com/court-services-bureau.html>, the Court Services Bureau is responsible for the care, custody and control of inmates detained in the Detention Center.

to determine when an interpreter is required. The training materials indicated that when deputies are interviewing or engaging in a complex conversation with an individual whose primary language is sign language, a qualified interpreter is usually needed to ensure effective communication.

#### D. Legal Analysis

Title II of the ADA provides that “no qualified individual shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”<sup>3</sup> Additionally, Section 504 prohibits agencies that receive federal financial assistance from discriminating against otherwise qualified individuals on the basis of a disability in their programs and activities.<sup>4</sup> An individual is considered to have a disability under the ADA and Section 504 if the individual has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having an impairment.<sup>5</sup> Since the PSO is a public entity and is receiving financial assistance from the DOJ, it is subject to the provisions of both the ADA and Section 504.

In accordance with the DOJ’s regulations implementing the ADA, to comply with the ADA, “[a] public entity shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.”<sup>6, 7</sup> Additionally, the DOJ’s regulations implementing Section 504 state that recipients of federal financial assistance must ensure that communications with their beneficiaries are effectively conveyed to those with hearing impairments.<sup>8</sup> Under the ADA, a public entity is required to provide appropriate auxiliary aids and services where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, a service, program or activity.<sup>9</sup> Auxiliary aids and services include a variety of services such as qualified interpreters on-site or through video remote interpreting services, written materials, the exchange of written notes, assisted listening devices, and text telephones.<sup>10</sup> The type of auxiliary aid or service necessary to ensure effective communication depends on the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place.<sup>11</sup> While exchange of

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<sup>3</sup> 42 U.S.C. § 12132 (2018).

<sup>4</sup> 29 U.S.C. § 794 (2018).

<sup>5</sup> 42 U.S.C. § 12102; 29 U.S.C. § 705(9)(B).

<sup>6</sup> 28 C.F.R. § 35.160(a)(1) (2018).

<sup>7</sup> The DOJ’s regulations implementing the ADA explicitly note that the regulations shall not be construed to apply a lesser standard than the standards applied under Section 504 or the regulations issued by federal agencies implementing Section 504. 28 C.F.R. § 35.103(a). Accordingly, the principles associated with the DOJ’s regulations implementing the ADA apply equally to the Complainant’s allegations of discrimination under Section 504.

<sup>8</sup> 28 C.F.R. § 42.503(e) (2018).

<sup>9</sup> 28 C.F.R. § 35.160(b)(1).

<sup>10</sup> 28 C.F.R. § 35.104.

<sup>11</sup> 28 C.F.R. § 35.160(b)(2). *See also* DOJ, Disability Rights Section, THE AMERICANS WITH DISABILITIES ACT: TITLE II TECHNICAL ASSISTANCE MANUAL COVERING STATE AND LOCAL GOVERNMENT PROGRAMS AND SERVICES, § II-7.1000 (Nov. 1993) (stating that that “[f]actors to be considered in determining

notes likely will be effective in situations that do not involve substantial conversation, an interpreter should be used when the matter involves greater complexity.<sup>12</sup>

Additionally, an entity shall give primary consideration to the service that is requested by the individual with the disability.<sup>13</sup> A public entity shall honor the choice of an individual with a disability unless it can demonstrate that another effective means of communication exists or that the requested means would not be required under 28 C.F.R. § 35.164.<sup>14,15</sup>

The DOJ has published several guidance documents that address a law enforcement agency's responsibility to ensure effective communication with a deaf or hard of hearing individual, including during an arrest. The DOJ states that individuals who are deaf or hard of hearing are entitled to the same services law enforcement provides to everyone else, and that they may not be excluded from or denied services or otherwise be treated differently than other people.<sup>16</sup> When an officer is interviewing a witness or suspect or engaging in any complex conversation with an individual whose primary language is sign language, a qualified interpreter is usually needed to ensure effective communication.<sup>17</sup> However, the DOJ also advises that police officers do not have to arrange for a sign language interpreter every time an officer interacts with a person who is deaf, and that whether a qualified sign language interpreter or other communication aid is required will depend on the nature of the communication and the needs of the deaf individual.<sup>18</sup>

Case law has also found that a failure to provide an interpreter for a deaf individual during a law enforcement encounter does not automatically violate the ADA or Section 504. The Eleventh Circuit Court of Appeals found that an officer's communication with a deaf individual through lip reading during an arrest was not so ineffective that an oral interpreter was necessary to guarantee that the individual was on equal footing with hearing individuals.<sup>19</sup> The court noted that while the communication "may not have been perfect" the individual was able to respond to the officer's directions and communications.<sup>20</sup> Similarly, the Sixth Circuit Court of Appeals has held that law enforcement officers' failure to provide an interpreter during an arrest did not violate the ADA, as the officers effectively communicated with the arrestees using a pen and paper and there was no evidence that the provision of a sign language interpreter would have

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whether an interpreter is required include the context in which the communication is taking place, the number of people involved, and the importance of the communication.").

<sup>12</sup> 28 C.F.R. app. A at 608 (2018).

<sup>13</sup> 28 C.F.R. § 35.160(b)(2).

<sup>14</sup> 28 C.F.R. app. B at 717 (2018).

<sup>15</sup> 28 C.F.R. § 35.164 (2018) states that a public entity is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of the service, program, or activity or in undue financial and administrative burdens.

<sup>16</sup> DOJ, Disability Rights Section, COMMUNICATING WITH PEOPLE WHO ARE DEAF OR HARD OF HEARING: ADA GUIDE FOR LAW ENFORCEMENT OFFICERS (Jan. 2006).

<sup>17</sup> *Id.*

<sup>18</sup> DOJ, Disability Rights Section, COMMONLY ASKED QUESTIONS ABOUT THE AMERICANS WITH DISABILITIES ACT AND LAW ENFORCEMENT, § III.10 (Apr. 4, 2006).

<sup>19</sup> *Bircoll v. Miami-Dade Cty.*, 480 F.3d 1072, 1086 (11th Cir. 2007).

<sup>20</sup> *Id.*



changed the events in any way.<sup>21</sup> To constitute a violation of the ADA or Section 504, the failure to provide an interpreter during an arrest must result in the arrestee suffering greater injury or indignity than other arrestees due to the lack of an interpreter.<sup>22</sup>

The ADA and Section 504 also require agencies to make reasonable modifications to their policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of a disability, unless the agency can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.<sup>23</sup> An example of a reasonable modification is when a law enforcement agency modifies its regular practice of handcuffing arrestees behind the back, and instead handcuffs deaf individuals in front so that the individual may sign or write notes.<sup>24</sup>

Based on the OCR's review of the information that has been submitted by both the Complainant and the PSO, in regard to the PSO's [REDACTED], arrest of the Complainant, the OCR finds that the evidence is insufficient to demonstrate that the PSO failed to provide the Complainant with reasonable accommodations under the ADA or Section 504. As an initial matter, the Complainant's hearing impairment clearly constitutes a disability. As discussed above, the DOJ regulations implementing the ADA and Section 504 require that an agency provide appropriate auxiliary aids and services to ensure that deaf or hard of hearing individuals have an equal opportunity to participate in a service, program or activity. When a law enforcement officer engages in any complex conversation with an individual whose primary language is sign language, a qualified interpreter will usually be needed to ensure effective communication. However, when a hearing impaired individual is able to respond to an officer's questions, or there is no evidence that the provision of a sign language interpreter would have changed the events, federal case law holds that the failure to provide a sign language interpreter during an interview or arrest does not violate the ADA or Section 504.

In the evidence before the OCR, the Complainant and the PSO disagree on whether the Complainant or his son requested an interpreter during the Complainant's interview and arrest, and without audio or video footage the OCR is unable to conclusively determine what occurred. Nonetheless, the evidence presented by the PSO, including the written interview notes exchanged between the PSO and the Complainant, appears to demonstrate that the Complainant understood the questions that the PSO was posing and was able to respond in an appropriate and understandable manner. The overall evidence is insufficient to demonstrate that the detectives were not able to effectively communicate with the Complainant to obtain the Complainant's version of what occurred or that the provision of a sign language interpreter would have changed the outcome in any way.

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<sup>21</sup> *Tucker v. Tennessee*, 539 F. 3d 526, 536 (6th. Cir. 2008), *abrogated on other grounds by Anderson v. City of Blue Ash*, 798 F.3d 338 (6th. Cir. 2015).

<sup>22</sup> *See Valanzoulo v. City of New Haven*, 972 F.Supp.2d 263, 273 (D.Conn. 2013); *Ulibarri v. City & Cty. Of Denver*, 742 F.Supp.2d 1192, 1213 (D.Colo. 2010).

<sup>23</sup> 28 C.F.R. § 35.130(b)(7).

<sup>24</sup> DOJ, Disability Rights Section, COMMONLY ASKED QUESTIONS ABOUT THE AMERICANS WITH DISABILITIES ACT AND LAW ENFORCEMENT, § V.23.

The information provided by the PSO confirms the Complainant's allegation that the deputies handcuffed him behind his back. As explained above, when interacting with a hearing impaired individual, a reasonable accommodation under the ADA and Section 504 may involve handcuffing the individual in front, unless doing so would fundamentally alter the nature of the activity. The PSO's general order on restraint devices also provides that under special circumstances, such as when an arrestee has a disability, deputies may apply handcuffs in front of an individual's body in lieu of the usual practice of cuffing an individual behind the back. The OCR has concerns that the arresting deputies did not exercise their discretion to handcuff the Complainant in front of his body, as there is nothing in the incident report or in the record that indicates that the Complainant was posing a security threat to the detectives. Going forward, the PSO should ensure that it is training its employees on the provisions of the ADA and Section 504 and PSO General Order No. 71.2 that may lead deputies to handcuff a hearing impaired individual in front so that the individual may continue to communicate via hand gestures and sign language.

The OCR commends the PSO for entering into a contract with Purple to obtain qualified sign language interpreting services and for having a general policy to obtain an interpreter for all advisory hearings. However, as for the Complainant's initial [REDACTED] advisory hearing, the PSO did not follow its stated practice of contacting Purple prior to the hearing to obtain an interpreter. In this particular instance, the evidence is insufficient to demonstrate that the Complainant did not understand the information that the PSO was relaying via written notes, and a sign language interpreter was present during the re-scheduled [REDACTED] hearing when the Complainant could have asked any clarifying questions. To prevent this situation from occurring in the future, the PSO should remind its employees to make every effort to immediately contact Purple when a hearing impaired inmate arrives at the Detention Center to ensure that an interpreter is present during the initial advisory hearing.

Regarding the Complainant's detention, while the evidence demonstrates that the PSO did make an attempt to notify deputies of the Complainant's hearing impairment via its jail management system and the Complainant's identification badge, the PSO was unable to explain whether deputies consistently made an effort to notify the Complainant of verbal announcements. Additionally, based on the available evidence, it is unclear whether a sign language interpreter may have been necessary during certain interactions to ensure effective communication, such as during the Complainant's registration as a sex offender or intake processing. While the Complainant may not have requested an interpreter via the formal messaging system, he alleges that he did otherwise request an interpreter during his detention and the PSO has not refuted this. While several TTY devices were available for the Complainant's use, the PSO was also unable to explain whether the Complainant may have had to wait long period of time to use a TTY, and it is unclear whether the PSO provided the Complainant with sufficient time to use the TTY in accordance with its relevant directives. And while some information on PREA was available in written format on the tablet, and some offered movies apparently contained subtitles, it appears that much of the tablet content did not.

Accordingly, it appears that the PSO may not have been consistently effectively communicating with the Complainant throughout his detention or ensuring that its services, programs, or activities were accessible to the Complainant, as required by the ADA and Section 504 and the

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PSO's relevant policies. The PSO has provided evidence demonstrating that it has taken steps since the time of the Complainant's detention and subsequent Complaint to improve its services to hearing impaired inmates, such as by replacing the TTY devices with video relay systems and notifying Detention Center staff to physically notify hearing impaired inmates of all announcements. The PSO should ensure that its Detention Center staff are consistently notifying hearing impaired inmates of all announcements, and should continue to periodically train all PSO deputies on communicating with hearing impaired individuals and specifically when a qualified sign language interpreter is necessary to ensure effective communication. The PSO should also add subtitles or closed captions to the movies and programming offered on the inmate tablets, in particular any audio programming on PREA or other significant topics, to ensure that deaf or hard of hearing inmates have equal access to the PSO's programs and activities and fully understand important procedures.

Based on the foregoing, the OCR's is administratively closing our review of the Complaint. Thank you for your cooperation in this review. If the PSO desires any technical assistance in implementing the recommendations contained in this Notice, please do not hesitate to contact OCR attorney Shelley Langguth at [REDACTED].

Sincerely,

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Michael L. Alston

Director

Signed by: MICHAEL ALSTON