



**Rhode Island
Disability Law Center**

The Designated Protection and
Advocacy System for Rhode Island

January 23, 2018

Amy R. Romero
Assistant U.S. Attorney
District of Rhode Island
50 Kennedy Plaza, 8th Floor
Providence, RI 02903
Via Mail and email Amy.Romero@usdoj.gov

Re: Request for Compliance Review/Technical Assistance to RI Law Enforcement Entities
Regarding Communication with People Who Are Deaf and Hard of Hearing

Dear Attorney Romero:

I am writing on behalf of the Rhode Island Disability Law Center (“RIDLC”) and the American Civil Liberties Union of Rhode Island to formally request that the District of Rhode Island U.S. Attorney’s Office conduct a compliance review of, and/or provide technical assistance to, RI law enforcement entities concerning effective communication with people who are deaf and hard of hearing. See 42 U.S.C.A § 12206; 28 C.F.R. § 35.172; 28 C.F.R. § 35.160. RIDLC is Rhode Island’s federally funded office designated to protect and advocate for the rights of Rhode Islanders with disabilities. Our services include individual representation to protect rights or secure benefits; self-help information; educational programs and systemic advocacy. All States have federally funded programs such as those implemented by RIDLC. Our advocacy efforts concerning effective communication by law enforcement fall under the Protection and Advocacy of Individual Rights program. See 29 U.S.C.A. § 794e. The ACLU of Rhode Island is a non-profit organization dedicated to protecting and promoting the civil rights and civil liberties of Rhode Islanders.

In 2016, the RI Disability Law Center and the ACLU of Rhode Island sued the Woonsocket Police Department on behalf of a profoundly deaf person, David Alves, who was arrested and detained overnight in jail on a minor offense. See RI Federal District Court Case 16-cv-00192; <http://www.riaclu.org/news/post/woonsocket-police-sued-for-unlawful-arrest-and-detention-of-deaf-person>. Mr. Alves was not provided technology to allow him to place a phone call, nor was

he provided an interpreter to enable him to communicate with the police during his detention. Among other issues raised, the lawsuit argued that the Department's failure to procure an interpreter or provide other means to effectively communicate with Mr. Alves violated a number of federal and state laws barring discrimination on the basis of disability. The lawsuit settled. The Woonsocket Police Department agreed, among other provisions in the settlement agreement, to adopt and implement a detailed "Effective Communication Policy" which provides guidance to officers on how to meet their legal obligations in working with people who are deaf or hard of hearing. The Department also agreed to provide communication devices, and notice to the public about their rights to auxiliary aids and services free of charge as required by law. Additionally, the Department agreed to train staff on how to obtain an interpreter and utilize communication devices, and on best practices in working with people who are deaf or hard of hearing.

In March of 2017, the ACLU and the RI Disability Law Center corresponded with RI law enforcement entities urging them to review their policies, practices and technologies for compliance with the Americans with Disabilities Act (ADA) in light of the resolution of the Woonsocket case. See attached Press Release posted March 31, 2017 and Letter dated March 28, 2017. Among other issues raised, the letter noted that reliance on a communication technology called TTY is no longer prudent because TTY is outdated and not accessible to people who rely on sign language.

In August of 2017, the ACLU and the RI Disability Law Center executed the following Access to Public Records Act (APRA) request to RI law enforcement entities, asking for:

A copy of all police department policies, procedures or any other documents of general guidance, however designated, that address police communication with persons who are deaf or hard of hearing. This request includes, but is not limited to, documents that address or relate to (1) department steps to ensure that police communications with victims, witnesses, suspects, arrestees and other members of the public with such a disability are as effective as communications with others; (2) department provision of appropriate auxiliary aids, services and communication technologies for such individuals; (3) department procedures for obtaining and providing a sign language interpreter for communication when necessary; and (4) department training of officers on responsibilities for ensuring effective communication with individuals who are deaf or hard of hearing.

The APRA Responses from 37 municipalities and the State Police demonstrate that a compliance review or technical assistance by your office would help to ensure that law enforcement entities in Rhode Island are in compliance with their responsibilities under the ADA and DOJ regulations. Our review and analysis of the APRA responses produced the following findings:

- Each of the law enforcement entities either identified TTY as the communication device in place that would enable a detainee to make a phone call *or* left it unclear as to the technology that is in place in their departments.
- 20 law enforcement entities, including but not limited to entities that adopted a version of the Woonsocket Effective Communication policy, offer the RI Relay Service as an option that would allow a detainee to place a phone call. However, the entities did not produce

documentation that they have the technological capacity to make this service, which requires a video phone or video component, available to a detainee.

- 24 law enforcement entities produced policies that were either not relevant to effective communication with people who are deaf and hard of hearing *or* were not up to date and did not reflect important requirements set forth in DOJ Regulations that went into effect in 2011. See 28 C.F.R. Pt. 35, App A.
- 10 law enforcement entities produced responses that were unclear as to whether the entity staff knows how to contact a sign language interpreter when needed.
- 35 law enforcement entities were unclear as to whether they have provided adequate training to staff on effective communication with people who are deaf or hard of hearing.
- 5 law enforcement entities expressed an interest in, or openness to, training on this issue.

Our findings reveal that many law enforcement entities in Rhode Island have inadequate or non-existent policies and practices concerning effective communication with people who are deaf or hard of hearing, while other entities have policies but lack technical information and/or technology to properly implement said policy. We call upon the District of Rhode Island U.S. Attorney's Office to address this important issue with the RI law enforcement entities.

Thank you for your attention to this.

Sincerely,

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